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CHAPTER 106

THE UGANDA COMMUNICATIONS ACT.

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CHAPTER 106

THE UGANDA COMMUNICATIONS ACT.

Commencement: 15th September, 2000.

An act to provide for the restructuring of the communications industry in Uganda by establishing the Uganda Communications Commission, providing for its functions and administration; providing for the incorporation of Uganda Telecom Limited and Uganda Post Limited, to liberalise and introduce competition in the industry, and for other purposes connected to the above.

PART I – PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires –

- (a) “authorised” in relation to an officer or employee of the Commission, means an officer or employee of the Commission authorised by the Executive Director to exercise the powers or perform the duties in respect of which an authorised person is required;
- (b) “broadcasting” means the transmission of sound, video and data, intended for simultaneous reception by the public; “commission” means the Uganda Communications Commission established under section 4 of this Act;
- (c) “Commission” means the Uganda Communications Commission established under section 3.
- (d) “communications” means telecommunications, radio communication and postal communications;
- (e) “communications services” means services performed consisting of the dissemination or interchange of sound, video or data content using postal, radio, or telecommunications media, excluding broadcasting;
- (f) “Corporation” means the Uganda Posts and Telecommunications Corporation established under the Uganda Posts and Telecommunications Corporation Act 1983; “Currency Point” represents the amount in Uganda shillings prescribed in the Third Schedule of this Act;
- (g) “Currency point” represents the amount in Uganda Shillings prescribed in the Third Schedule to this Act.

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- (h) “data” means the use of binary signals to transmit information from one computer or apparatus to another;
- (i) “eligible person” means a person with sound financial standing, who has not been subject to any criminal proceedings and who is capable of carrying out the functions of an operator;
- (j) “emission of electromagnetic energy” includes the deliberate reflection of electromagnetic energy by means of any apparatus designed or specially adapted for that purpose whether the reflection is continuous or intermittent;
- (k) “Executive Director” means the Executive Director established under section 15 of this Act;
- (l) “franking machine” means a machine for the purposes of making impressions on postal articles to denote prepayment of postage and includes any meter or meters and any franking or date stamping dies or dies incidental thereto;
- (m) “licence” means a licence issued under this Act;
- (n) “major licence” with reference to radio communications and telecommunications shall include a licence for the provision of local, long distance or international telephone services, trunk capacity resale, rural telecommunications, store and forwarding messaging, cellular or mobile services;
- (o) “major licence” with reference to postal services shall include the collection, conveyance and delivery by land, water or air of national and international postal articles throughout Uganda, the up keeping of places of postal services and the issuance of postage Stamps;
- (p) “Minister” means the Minister responsible for communications;
- (q) “minor licence” includes all other licences not being major licences;
- (r) “operator” means any licensee providing communication services under this Act;
- (s) “owner” means registered proprietor of land, or any person having a registrable interest in land;
- (t) “postal article” includes any letter, postcard, newspaper, book, document, pamphlets, pattern, sample packet, small packet, parcel package, or other article tendered for dispatch or specified in the International Postal Union or in the licence to an operator;
- (u) “postal services” means the services performed and facilities provided in connection with –
- (i) the collection, transmission and delivery by land, water or air

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of postal articles;

(ii) the issue of postage stamps and the use of franking machines;

(iii) the issue and payment of money from one place to another place or address commonly referred to as money ordering;

(v) “public operator” means an operator –

(ii) designated to be a public operator by the Commission under section 43 of this Act; and

(ii) who is licenced to offer services, for payment and without discrimination to the public, including other operators.

(w) “radio communication” means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy of a frequency not exceeding three million megahertz being energy which either;

(i) serves for the conveyance of messages, sound or visual images (whether messages are actually received by any person or not) or for the actuation or control of machinery or apparatus; or

(ii) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or, motion of any object or objects of any class;

(x) “radio communications apparatus” or “radio communications station” means any apparatus or station, as the case may be, for emitting or receiving of radio communication other than a domestic radio set and where:-

(i) that radio communications apparatus or station cannot lawfully be used without a radio communications licence or without an exemption under Section 25 of this Act;

(ii) radio communication in the form of messages sound or visual images is received or emitted by that apparatus or station.;

(iii) an apparatus is electrically coupled with another apparatus or station for the purpose of enabling any person to receive or emit messages, sound or visual images;

(y) “radio communications services” means services performed and the facilities provided in connection with communication by means of radio communications apparatus;

(z) “Second National Operator” means the first public operator

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other than Uganda Telecom Limited, licensed to provide local, long distance and international trunk capacity resale, rural telecommunications, store and forwarding messaging, cellular or mobile radio services, at the commencement of this Act;

(aa) “telecommunication” means the emission, transmission or reception through the agency of electricity or electromagnetism of any sounds, signals, signs, 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, emission or reception;

(bb) “telecommunication apparatus” or “telecommunication station” means any apparatus or equipment used or intended to be used in connection with the transmission of communication by means of electricity from one place to another place either along a wire joining those two places or partly by wire from each of those two places and partly by radio communication.”

(cc) “telecommunications line” means any wire, cable, equipment, tower, mast, antenna, tunnel, hole, pit trench, pole or other structure or thing used or intended to be used in connection with a telecommunications system;

(dd) “telecommunications services” means a service consisting of the conveyance or reception of any sounds, signals, writing or images by wire, optical or other electronically guided media systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other process by any means in the course of their transmission, emission or reception;

(ee) “telecommunications system” means a system for the conveyance through the agency of electric, magnetic, electromagnetic, electro-chemical, electro-mechanical or light energy of-

- (i) speech, music and other sounds;
- (ii) visual images;
- (iii) Signals serving for the importance (whether as between persons and things) of any matter otherwise than in the form of sounds, visual images; or
- (iii) Signals serving for the actuation or control of machinery or apparatus; and

including telecommunications apparatus situated in the Republic of Uganda.

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(ff) “telegraph services” means the services performed and facilities provided in connection with the transmission of communications by means of telegraph apparatus;

(gg) “wire” includes optical cable

2. Objectives of the Act.

The objectives of this act are to develop a modern communications sector and infrastructure by-

- (a) enhancing national coverage of communications services and products, with emphasis on provision of communications services;
- (b) expanding the existing variety of communications services available in Uganda to include modern and innovative postal and telecommunications services;
- (c) reducing Government direct role as an operator in the sector;
- (d) encouraging the participation of private investors in the development of the sector;
- (e) introducing, encouraging and enabling competition in the sector through regulation and licensing competitive operators to achieve rapid network expansion, standardization as well as operation of competitively priced, quality services; and
- (f) minimizing all direct and indirect subsidies paid by Government to the communications sector and for communications services;
- (g) establishing and administering a fund for rural communications development.

PART II – ESTABLISHMENT OF THE UGANDA COMMUNICATION COMMISSION

3. Establishment of the Commission

- (1) There is established a body to be known as the Uganda Communications Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- (3) The seal of the Commission shall be authenticated as is provided in the First Schedule.

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- (4) Every documents purporting to be an instrument issued by the commission and sealed with the seal of the commission, authenticate din the manner provided under subsection (3), shall be received in evidence and be deemed to be such instrument without further r proof unless the contrary is proved.

4. Functions of the Commission

The functions of the Commission shall be-

- (a) to implement the objectives of this Act;
- (b) to monitor, inspect, license and regulate communications services;
- (c) to allocate and license the use of radio frequency spectrum and to process applications for the allocation of satellite orbital locations;
- (d) to make recommendations to the Minister in relation to the issuance of major licenses under this Act;
- (e) to supervise and enforce the conditions of those licenses;
- (f) to establish a tariff system to protect consumers from excessive tariff increase and avoid unfair tariff competition;
- (g) to draw up, establish, amend and enforce a national numbering plan and perform block number allocations;
- (h) to conduct, or authorize any person to conduct under supervision, technical evaluation relating to communications services;
- (i) to set national communications standards;
- (j) to ensure compliance with national and international communications standards and obligations laid down by international communication agreements and treaties to which Uganda is a party and to issue certificates of compliance in relation thereto;
- (k) to establish and run frequency and other monitoring stations;
- (l) to receive and investigate complaints relating to communications services and to take necessary action upon them;
- (m) to promote the interests of consumers and operators as regards the quality of communications services and equipment;

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- (n) to promote research into the development and use of new communications techniques and technologies including those which promote accessibility of hearing impaired people to communication services;
- (o) to improve communications services generally and to ensure equitable distribution of services throughout the country;
- (p) to ensure that basic network operators provide leased lines for value added and other services as may be appropriate;
- (q) to safeguard the rights of operators and enforce the performance of their obligation;
- (r) to grant operators' rights to utilize public rights of way to construct facilities for the provisions of services regulated by the Commission, and to be responsible for coordination with the relevant bodies to effort compulsory purchase or utilization of private property for the provision of these service for public use;
- (s) to promote competition, including the protection of operations form acts and practices of other operators that are damaging to competition, and to facilitate the entry into markets of new and modern systems and services;
- (t) to regulate interconnection and access systems between operators and users of telecommunications services;
- (u) to comply with policy guidelines on sector policy given by the Minister, in accordance with section 12 of this Act;
- (v) to advise the Government on communications policies and legislative measures in respect of the Provision and operation of communication services;
- (w)to represent Uganda's communications sector at national and international fora and organizations relating to its functions and to coordinate the participation of any interested groups;
- (x) to represent the Government at international conferences and other organizations in the field of communications services to which Uganda is a member;
- (y) to collaborate with educational institutions in order to promote specialized education in the field of communications;
- (z) to establish, manage and operate a communications services training centre;
- (aa) to establish and administer a fund for rural communications development; and

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(bb) to carry on any other functions that are related or connected to the foregoing.

5. Powers of the Commission

(1) The Commission may-

- (a) borrow money, purchase, hold, manage and dispose of any property whether moveable or immovable;
- (b) enter into any contract or other transaction as may be expedient
- (c) charge for services provided by it;
- (d) arbitrate disputes arising between operators and consumers and to enforce its decision;
- (e) Institute a levy on the gross annual revenues from services licenced under this Act from operators as provided under the Third Schedule; or
- (f) Impose a fine on a person who unlawfully possesses, installs, connects or operates any communications equipment or apparatus, or unlawfully provides or performs any communications services.

(2) The Commission may confiscate any apparatus that is unlawfully possessed, installed, connected or operated provided that the owner of the confiscated apparatus may appeal against the confiscation of the apparatus to the Tribunal.

6. Composition of the Commission

(1) The Commission shall consist of seven members as follows:

- (a) the Chairperson of the Commission;
- (b) a representative of professional engineers recommended by the Institution of Professional Engineers;
- (c) a prominent lawyer recommended by the Uganda Law Society;
- (d) a member of the Broadcasting Council established under the Electronic Media Statute, 1996, recommended by the Council;
- (e) two eminent persons of good repute from the public;
- (f) the Executive Director of the Commission.

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(2) The members of the Commission, other than the Executive Director, shall be appointed by the Minister with the approval of the Cabinet.

(3) Members of the Commission, other than the Executive Director, shall hold office for a term of three years and shall be eligible for re-appointment.

7. Disqualification from membership

No person shall be appointed to the Commission who-

- (a) is engaged in a communications organisation which operates or provides communications services or is engaged in the manufacture or distribution of communications equipment in Uganda, as an owner, shareholder, partner, or otherwise whether directly or indirectly;
- (b) has a financial or proprietary interest in organizations referred to in paragraph (a) or in the manufacture or distribution of communications apparatus anywhere in Uganda;
- (c) is an undischarged bankrupt or has made any arrangement with creditors;
- (d) is incapacitated by mental or physical illness that renders him or her incapable of performing the functions of a member of the Commission; or
- (e) is otherwise unable or unfit to discharge the functions of the commission.

8. Vacation of Office of Commission

(1) The office of a member of the Commission shall fall vacant-

- (a) if that member is continuously and persistently unable to discharge the functions of the office;
- (b) if that member engages in misbehavior or abuse of office;
- (c) if that member is subsequently disqualified from membership in accordance with section 8;
- (d) if that member fails to disclose to the Commission any interest in contract or proposed contract or any other matter before the Commission.

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- (2) The Minister shall, on the recommendation of the Commission determine that a vacancy exists under paragraph (1) (a) and (b).
- (3) A member of the Commission may resign office upon written notification to the Minister.
- (4) Upon the resignation, falling vacant of office or removal of a member of the Commission, the relevant recommending body shall recommend another person to be appointed by the Minister and approved by Cabinet.

9. Meetings of the Commission

The Commission shall meet to discharge its functions at least once every three months in the manner specified in the Second Schedule.

10. Remuneration of members

The Chairperson and other members of the Commission shall be remunerated upon terms that the Minister shall approve.

11 Minister's powers

- (1) The Minister may, after consultation with the Commission give to the Commission guidelines on sector policy as may be appropriate.
- (2) The guidelines referred to under subsection (1) shall be in writing and shall be published by the Commission in the Gazette.

12. Independence of the Commission

Except as provided under this Act or any other law, the Commission shall exercise its functions independent of any person or body.

PART III – THE DIRECTORATE AND STAFF OF THE COMMISSION.

13. The Directorate.

There shall be a directorate of the Commission which shall carry on the day to day implementation of the decisions of the Commission

14 Executive Director

- (1) There shall be a full time Executive Director who shall be appointed by the Minister on the recommendation of the Commission on terms and conditions that the Commission may determine.

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- (2) The Executive Director shall be a person having considerable knowledge and experience in communications, commerce, finance, law or administration.
- (3) The Executive Director shall hold office for a period of five years and shall be eligible for re-appointment for a second term.
- (4) The Minister may, on the recommendation of the Commission, terminate the services of the Executive Director before the expiration of five years for justifiable cause.
- (5) The Executive Director shall be responsible for the day to day operations of the Commission.
- (6) Subject to the provisions of this Act and the general supervision and control of the commission, the Executive Director shall –
 - (a) be the Chief executive of the Commission;
 - (b) implement the policies and programmes agreed upon by the Commission;
 - (c) manage the funds and property of the Commission;
 - (d) administer, organise, supervise and generally control the staff of the Directorate;
 - (e) keep the Commission informed on the activities of the Directorate;
 - (f) Keep records of all the transactions of the Commission
- (7) The Executive Director shall in the performance of the duties of the office be answerable to the Commission.

15. Secretary to the Commission

- (1) There shall be a Secretary to the Commission who shall be appointed by the Commission on terms and conditions that the Commission may determine.
- (2) The Secretary shall be responsible for the taking of all the minutes of the meetings of the Commission and shall perform all other duties that may be assigned to the Secretary by the Commission or the Executive Director.
- (3) The Secretary shall, in the discharge of the duties of the office be answerable to the Executive Director.

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16. Other Staff

- (1) The Directorate shall have other officers and employees as the Commission may deem necessary for the effective discharge of its functions.
- (2) The Commission may establish pension or superannuation schemes and such other financial schemes as it may determine for the benefit of its officers and employees.

17. Protection of employees

No act or omission by any officer or employee of the Commission done in good faith in the execution of that officer or employee's duties shall render that officer or employee personally liable to any civil action or other civil proceedings in respect thereof.

PART IV – FINANCIAL AND RELATED PROVISIONS

18 Funds of the Commission

- (1) The funds of the Commission shall consist of –
 - (a) money appropriated by the legislature from time to time for enabling the Commission to perform its functions;
 - (b) licence fees and money paid for services rendered by the Commission;
 - (c) a percentage of the gross annual revenues of operators charged under Section 5;
 - (d) money borrowed by the Commission; and
 - (e) loans, grants, gifts or donations from government and other sources, acceptable to the Minister and the Minister responsible for Finance with the approval of Parliament.
- (2) The Commission shall operate its own bank account be as may determined by the Commission.
- (3) The percentage referred to under subsection (1)(c) shall be approved by the Minister in consultation with the Minister responsible for Finance.

19. Commission to prepare budget

- (1) In not less than two months before the beginning of each financial year, the Commission shall submit its budget to the Minister approval.

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(2) The Commission shall not incur any expenditure exceeding its budget without the approval of the Minister.

20. Application and investment of Funds

(1) The funds of the Commission may be applied-

- (a) in the payment or discharge of its expenses, obligations including international obligations, or liabilities incurred in connection with the performance of its functions or exercise of its powers under this act, and
- (b) in the payment of any remuneration or allowances payable under this Act;

(2) Subject to the provisions of subsection (1), the funds of the Commission may be invested-

- (a) on fixed deposit with a bank approved by the Commission;
- (b) in treasury bills and securities of the Government; or
- (c) in such other manner as may be approved by the Commission; but not being in the business licenced under this Act.

(3) If at the end of any financial year of the Commission, and after-

- (a) setting aside the amount required for its capital expenditure and operations;
- (b) making provision for bad and doubtful debts;
- (c) making provision for depreciation of assets;
- (d) taking into consideration any other contingencies; any surplus is made from its operations, the commission shall declare the surplus to the Minister of Finance.

21. Annual Accounts

(1) The Commission shall keep proper books of accounts and records of its transaction and affairs and shall prepare annual accounts within three months of the close of its financial year and shall promptly submit the accounts to the Auditor-General.

(2) The Auditor General shall audit the accounts within two months of receipt of the annual accounts of the Commission,

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and shall submit the report on the audited accounts to Parliament.

22. Financial year

The financial year of the Commission shall be the twelve months beginning on the first day of July of each year and ending on the last day of June in the following calendar year.

PART V-REQUIREMENT FOR RADIO COMMUNICATION AND TELECOMMUNICATION LICENCE.

23. Requirement of licence for radio communication

No person shall, without a licence issued under this Act-

- (a) establish or use any radio communication station, possess radio communications apparatus or provide radio communications services;
- (b) sell, let, hire or otherwise dispose of any radio communications apparatus to a person;
- (c) manufacture, possess, install, connect or operate any radio communications apparatus or interference-causing apparatus.

24. Requirement for telecommunications licence

No person shall without a licence issued under this Act-

- (a) establish a telecommunications station;
- (b) provide telecommunications services; or
- (c) construct, maintain or operate telecommunications apparatus.

25. Exemption from communication licence

The provisions of sections 23 and 24 shall not apply to communications apparatus-

- (a) exempted by regulations made under section 94;
- (b) capable only of the reception of broadcasts;
- (c) for use by the police, the armed forces or any other services directly employed by the State in the performance of their official duties and which communication apparatus complies with technical requirements specified by the Commission.

26. Frequency Spectrum use

To ensure the orderly development and efficient operation of radio communications in Uganda, the Commission shall be the exclusive authority to issue-

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- (a) licenses for radio communications apparatus and spectrum use, and licences for possession and operation of radio communications apparatus;
- (b) any licence as the Commission may consider appropriate and may fix the terms including the paying of fees, for those licences.

27 Management of radio frequency spectrum

Notwithstanding any other law, the Commission shall have the exclusive duty to-

- (a) plan, monitor, manage and allocate the use of radio frequency spectrum;
- (b) establish technical requirements and technical standards in relation to-
 - (i) radio communications apparatus;
 - (ii) interference-causing apparatus or any class thereof;
- (c) negotiate with the International Telecommunications Union or its affiliated bodies in matters referred to in paragraph (a).

PART VI – REQUIREMENT FOR POSTAL SERVICES LICENCE AND OTHER RELATED PROVISIONS.

28 Licensing of postal services

- (1) No person shall convey, deliver or distribute postal articles without a license issued under this Act.
- (2) A person conveying, delivering or distributing the postal articles specified below shall be exempted from the provisions of section (1), that is to say-
 - (a) articles for delivery to another person or persons to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them;
 - (b) articles sent on a purpose solely concerning the affairs of the sender or receiver thereof;
 - (c) articles solely concerning goods or other property sent by land, by water or by air, to be delivered with the goods or property to which the letters relate without hire, reward or the profit or advantage for receiving them, which articles are

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open to inspection, and have subscribed on them the words “consignee’s articles” or other words to that effect.”

29. Protection of postal articles

(1) A person carrying on postal services shall protect any postal article and ensure that no employee of that person:-

- (a) opens the article;
- (b) takes knowledge of or discloses the contents of a postal article;
- (c) delivers an article in the course of transmission to a person other than the addressee, without the consent of the addressee,
- (d) Permits the article to be opened by or delivered to a person other than the addressee, without the consent of the addressee, or permits anyone other than the addressee to take knowledge of or to disclose the content of a postal article.

(2) Any person who negligently or knowingly fails to comply with subsection (1) commits an offence and is liable to the penalties under section 70.

(3) Subsection (1) shall not apply to an article opened or disposed of under the provisions of-

- (a) the customs law;
- (b) any other law prohibiting or regulating the importation or exportation of an article;
- (c) any regulation permitting the opening of a postal article for purpose of ascertaining details pertaining to the sender or addressee which are necessary in order to return or deliver the postal article.

30. Investigation of postal articles

(1)The Executive Director by notice in writing require the addressee of a postal article, to appear, at his or her office at a time specified in the notice, and to open the article in the presence of a police officer where-

- (a) the Executive Director has reasonable grounds to believe that the postal article contains prohibited subject matter or has on it or enclosed in it any word, drawing or picture, threatening, obscene or of grossly offensive character; or

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- (b) the Inspector General of Police requests the action in connection with a criminal investigation.
- (2) If the addressee fails to appear in pursuance of the notice or refuses to open the postal article, it shall be opened by the authorised officer in the presence of a police officer of the rank of Assistant Superintendent of Police.
- (3) After the postal article has been opened under subsection (1) or (2), it shall be delivered to the addressee unless the police officer present states that it is required as an exhibit in court proceedings in which event it shall be delivered to the police officer after signing a receipt.

31. Limitation of liability of major licensee

(1) The liability of a holder of a major licence for-

- (a) the loss, mis-delivery or delay of or damage to, any postal article in the course of transmission by the licence;
- (b) the interception, detention or disposal of any postal article in accordance with this Act; or
- (c) the wrong payment of a money order

shall not exceed that provided by regulations made by the Commission, the contract governing the service contracted or the Universal Postal union.

- (2) The holder of a major licence shall give notice to the public as to which type of liability under subsection (1) the licence may be subjected to.

PART VII – GENERAL PROVISIONS RELATING TO COMMUNICATIONS LICENCES

32. Application for a Licence

An application for a licence under this Act shall be made in conformity with regulations made by the Commission.

33. Grant of a Licence

- (1) The Minister may, upon the recommendation of the Commission, grant an application for a major licence.
- (2) The Minister shall, where he or she refuses to grant a licence under subsection (1), give reasons for that refusal.
- (3) The Commission may grant the application for a minor licence.

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- (4) The grant of a licence shall, without limitation, take into account the following-
 - (a) whether the applicant is an eligible person;
 - (b) the applicant's capability to operate a system or service for which a licence is sought;
 - (c) the policy objectives under section 2;
 - (d) whether the grant of the licence is in the public interest.
- (5) A licence under this Section shall:-
 - (a) be issued on payment to the Commission by the applicant of the prescribed licence fee;
 - (b) state the terms and conditions upon which it is granted;
 - (c) specify the services to be provided by the operator;
 - (d) specify the network to be operated, if any.

34. Terms and conditions of a Licence

- (1) Notwithstanding the Minister's power to issue major licences, the Commission shall prescribe the terms and conditions of all operators, as it considers consistent with the policy objectives under Section 2 and such other circumstances as the Commission may consider appropriate and in particular-
 - (a) in the case of a licence to establish a radio communications station, the Commission will specify the positions and nature of the station, the purpose for and circumstances in which and the persons by whom the station may be installed or used;
 - (b) in the case of any other telecommunication licence, specifications as to the apparatus which may be installed or used, the places where, the purposes for, the circumstances in which and the persons by whom an apparatus may be used; and
 - (c) in the case of a postal services licence, specifications as to the services to be performed, the places of postal services and the geographical spreading of these services and places.
- (2) Without limiting the generality under subsection (1) a licence may include the provision of services to rural or sparsely populated areas or other specified areas and other conditions

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as provided under the Fourth Schedule.

- (3) An operator shall have an obligation to provide the service for which that operator has obtained a licence.

35. Modification of a Licence

- (1) The Commission may, upon reasonable grounds modify the conditions of any licence if the Commission considers modification necessary to achieve the objectives of this Act, or is in the public interest; taking into account the justified interests of operators and the principles of fair competition and equality of treatment.
- (2) Before modifying any condition of a licence the Commission shall give the operator sixty days notice stating the reasons for the intended modification and giving the operator opportunity to make any representation.
- (3) The Commission shall give due consideration to any representations made by the operator.
- (4) The Commission shall grant an operator a period of time to comply with the modification of the licence where modification causes undue hardship to the operator.
- (5) The Commission may, if it considers it appropriate to do so, in furtherance of the objectives of this Act, modify any condition of a licence on the application of the operator.
- (6) Without prejudice to subsections (1) to (5), the modification of major licences shall be approved by the Minister.
- (7) An operator may appeal to the Tribunal if the operator is aggrieved by a decision of the Commission or the Minister under this section.

36. Suspension and Revocation of a Licence

- (1) Every licence shall contain provisions for the suspension and revocation of the licence and the issuing authority may suspend or revoke a licence in accordance with those terms.
- (2) Without prejudice to the generality of subsection (1), the issuing authority may suspend or revoke a licence on the following grounds-

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- (a) serious and repeated breach of the licence conditions;
 - (b) any fraud or intentional misrepresentation by the operator applying for the licence;
 - (c) where the operator is engaged in or is supporting activities amounting to a reasonable offence under the Penal Code; or
 - (d) where the operator has ceased to be an eligible person.
 3. After due consideration of any representations by the operator the Commission may-
 - (a) prescribe time during which the operator is required to remedy the offending act or conduct;
 - (b) require the operator to pay a fine not exceeding the equivalent of 10% of its gross annual revenue;
 4. The Commission shall give the operator sixty days written notice with reasons, of the intended suspension or revocation, during which the operator shall have an opportunity to make representations to the Commission.
 5. Where the Commission is of the opinion that the measures under subsection (3) are not sufficient, the issuing authority may-
 - (a) Suspend the licence for a specified period of time;
 - (b) Revoke the licence;
37. Transfer of a Licence
- (1) A licence may not be transferred without the written consent of the Commission.
 - (2) An operator may apply to the Commission in a prescribed form and manner for the transfer of a licence.
 - (3) An application under subsection (2) shall be accompanied by an application, by the person to whom the operator intends to transfer the licence, for the grant of a licence under section 32.
 - (4) The Commission shall in considering an application for transfer of licence have regard to the same terms and conditions as in considering a grant of a new licence, provided that the Commission may in its absolute

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discretion refuse to grant the application under this section.

- (5) For the purposes of this section:-

“transfer of licence” includes the acquisition of control of the licence holder;

“control” as used with respect to any person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether through the ownership of shares, voting, securities, partnership or other ownership interests, agreement or otherwise.

38. Subcontracting by a Licensee

- (1) In the case of postal services, a license may use a subcontractor to perform the services subject to the licensee’s responsibility to comply with all obligations and conditions under this Act and under the licence.
- (2) The liability of a sub-contractor of a licensee under subsection (1) in the collection, transmission or delivery of any postal article or for loss or delay of or damage to the article or any other loss or damage in relation to the performance of postal services, shall be limited to the same extent as the liability of the licensee by regulations made under this Act, but this subsection shall not affect liability of the sub-contractor to the licensee.

39. Lapse and Renewal of a Licence

- (1) An application for the renewal of a licence shall be made at least two months before the expiration of the licence in the case of a major licence, and one month in the case of a minor licence.
- (2) In considering an application for a renewal of a licence, the Commission shall have regard to the performance of the operator during the period of the expiring licence.
- (3) For the avoidance of doubt, a renewal of a licence shall be made by the original issuing authority.

40. Operator to comply with conventions, etc

An operator under this Act shall comply with relevant international conventions, regulations and recommendations.

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41. Use of a licence

- . A licence shall not be used for a purpose other than that for which it was issued.

PART VIII – USE OF LAND FOR TELECOMMUNICATIONS LINES

42. Designation of a public operator

The Commission may designate a person licensed under Section 33 to be a public operator whose licence shall be subject to the following conditions:-

- (a) to provide communications services specified in the licence to the public, including other operators;
- (b) to connect to any telecommunication system or to permit the connection of any system or other system as may be specified in the licence;
- (c) not to show undue preference to or exercise undue discrimination against any person in respect of any service provided, connection made or permission given in its operation; and
- (d) other terms and conditions that the Commission may specify in the licence or under regulations.

43 Power of Operator to use land

- (l) Any operator authorised by the Commission either generally or on a particular occasion may place and maintain a telecommunications lines in, over or upon any land, and for that purpose it shall be lawful, upon written authorisation, for the operator, or representative:-
 - (a) at all times on reasonable notice, to enter upon any land and put up any posts which may be required for the support of any telecommunications lines;
 - (b) fasten or attach to any tree growing on that land a bracket or other support for the line;
 - (c) cut down any tree or branch which is likely to injure, impede or interfere with any telecommunications lines; and
 - (d) to perform any activities necessary for the purpose of establishing, constructing,

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repairing, improving, examining, altering or removing any telecommunications lines, or for performing any other activities under this Act.

- (2) An operator shall not in the exercise of the powers conferred under this section except with the consent of the owner of the land, under, over, along, across, in or upon which any telecommunications line is placed-
 - (a) acquire any right other than that of user of the land under, over, along, across, in or upon which any telecommunications line or post is placed and only for the reason of that exercise;
 - (b) exercise those powers in respect of any land vested in or under the control or management of a local authority or other public authority, except in accordance with the procedure set out in section 44.
- (3) An operator shall do as little damage as possible to the land and to the environment and shall pay fair and adequate compensation to all interested persons for any damage or loss sustained by reason of the exercise of the powers under this section.
- (4) Before entering any private land for the purposes specified under subsection (1) an operator shall give sixty days notice, stating as fully and as accurately as possible the nature and extent of the acts intended to be done.
- (5) The owner of the land for the purposes specified in sub-section (1) may within thirty days of the receipt of the notice under subsection (4), lodge a written objection with the Commission and the Commission shall specify a date to inquire into the objection.
- (6) If no objection is lodged within the time specified under subsection (3), the operator may forthwith enter the land and do all or any of the acts specified in the notice given under subsection (4).
- (7) Using the conclusion of the inquiry, the Commission may authorize either unconditionally or subject to terms, conditions and stipulations as it considers fit, any of the acts mentioned in the notice given under subsection (4).
- (8) A person aggrieved by determination of the Commission may within sixty days appeal to the Tribunal.

44. Procedure for using public land

- (1) Where an operator authorised by the Commission intends to enter any land under the management or control of an urban council or other public authority, the operator shall give thirty days notice to the urban

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council or other public authority stating the nature and extent of the acts intended to be done.

- (2) The urban council or other public authority may within thirty days of the receipt of the notice under sub-section (1) permit the operator to exercise any or all of the powers under section 43 subject to conditions, including the payment of any fee for the use of the property, the time or mode of execution of any works, or for any other related activity undertaken by the operator under that section.
- (4) (3) Where an operator considers unacceptable the terms set by the urban council or other public authority to use the land for the purposes specified in the notice referred to under sub-section (1), the operator may, after the expiration of the notice, apply to the Commission for a decision on the matter and the Commission may specify a date to inquire into and decide the matter.
- (4) A person aggrieved by the decision of the Commission may within thirty days appeal to the Tribunal.
decision on the

45. Removal or alteration of a Telecommunications Line

- (1) On application by an owner of land in, over or upon which an operator has placed a telecommunications line under section 43, the Commission may, upon presentation of convincing evidence, order the operator, subject to any conditions, to alter the position of the line or remove it.
- (2) On the application by a local council or other public authority the Commission may, upon presentation of convincing evidence:-
 - (a) Order an operator, subject to conditions that the Commission may determine to alter the route of any telecommunications line situated or proposed to be situated within the jurisdiction of the local Council or other public authority; or
 - (b) Prohibit the construction or maintenance by the operator of any telecommunications line except as directed by the Commission.
- (3) Any person aggrieved by the decision of the Commission may within thirty days appeal to the Tribunal.

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46. Compensation

- (1) Any question as to a person's entitlement to compensation for right of use or as to the sufficiency of the amount of compensation under subsection (3) shall in default of agreement be determined as if the land had been acquired under the Land Acquisition Act.
- (2) Any person aggrieved by the decision of the Commission may within thirty days appeal to the Tribunal.
- (3) A claim for compensation under this section shall be lodged with the Commission within three years of the date of the act of the operator giving rise to the claim.

47. Compulsory purchase of land

- (1) If an operator considers the acquisition of land, or an interest in land greater than the right of use, necessary for the purpose of providing communications services to the public, the operator may, with approval of the Commission, request action by the Minister responsible for lands.
- (2) The Commission shall provide a copy of its approval to the Minister responsible for land and to the owner of or person having interest in the land.
- (3) If the Minister responsible for land is satisfied that the land or interest in the land is required for the purpose of providing telecommunications services to the public, and it is in the public interest, then that Minister shall pursue the acquisition of the land on behalf of the operator in accordance with the Land Acquisition Act and the Constitution.
- (4) The operator shall, where the Minister acquires land on behalf of that operator under subsection (3), bear all the costs involved, and the provisions of section 43 shall apply.

PART IX – ENFORCEMENT OF THE LAW INVESTIGATION AND INSPECTIONS

48. Annual Report on operations of Licensee

Every licensee shall, at the end of each year of business prepare and submit to the Commission in a prescribed form, a report on the operations and services of the licensee and to the extent to which the condition of the licence are followed.

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49. Investigation of complaints

The Commission shall investigate any matter falling within its functions under this Act which relates to:

- (a) communications services provided or communications apparatus supplied in Uganda; and
- (b) any representation made to the Commission by or on behalf of a person whom the Commission considers to have an interest in the matter which is the subject of the representation.

50. Power to institute inquiries

- (1) The Commission may appoint any person on committee to inquire into and report to the Commission on any matter pending before the Commission.
- (2) The Commission shall institute an enquiry if so directed by the Minister.
- (3) The Commission may give to a person or committee appointed under this section directions regarding procedures for conducting an enquiry.

51. Report on Investigations

- (1) A person or committee appointed to carry out enquiries under section 50 shall submit a report to the Commission in a form and manner that the Commission may direct.
- (2) Where an enquiry is instituted pursuant to the direction of the Minister, the Commission shall submit a copy of the report to the Minister.

52. Directions to remedy breach of licence conditions

Where as a result of an investigation the Commission satisfied that an operator has breached a condition of a licence or an obligation under this Act, it may direct the operator in writing to remedy the breach or to do such act or acts as the Commission may specify in the direction, in accordance with the procedures specified in section 36.

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53. Appointment of Inspectors

- (1) The Commission may appoint inspectors for the purposes of verifying compliance with the provisions of this Act and the decisions of the Commission under this Act.
- (2) An inspector shall be provided with a certificate of identity which shall be presented at the request of any person appearing to be in charge of any place entered by the inspector in accordance with subsection (1).

54. Powers of an Inspector

- (1) Subject to the provisions of subsection (2), an inspector may:
 - (a) enter and inspect at any reasonable time any place owned by or under the control of an operator in which the inspector believes on reasonable grounds to be any document, information, or apparatus relevant to the enforcement of this Act and examine the document, information or apparatus or remove it from examination or reproduction as the case may be;
 - (b) enter any place on which the inspector has reason to believe that there is any radio apparatus or interference causing apparatus and examine any radio apparatus, logs, books, reports, data, records, documents or other papers and remove the information, document, apparatus, or equipment for examination or reproduction as the case may be;
 - (c) Make reasonable use of any copying equipment or means of communication located at the place.
- (2) The inspector shall sign for any information, document, article, apparatus or equipment removed by him or her under subsection (1) and shall leave a copy of the same with the operator.
- (3) Where a place referred to under subsection (1) is a dwelling house, an inspector may not enter that dwelling house without the consent of the occupant, except:
 - (a) Under the authority of a warrant issued under section 55; or
 - (b) Where by reason of exigent circumstances, it would not be practical for the inspector to obtain a warrant.

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4. For the purposes of subsection (3)(b), “exigent circumstances” include circumstances in which the delay arising from obtaining a warrant would result in danger to human life or safety, loss or destruction of evidence.
5. The owner or person in charge of a place entered by an inspector shall give the inspector all reasonable assistance to enable the inspector to carry out the inspector’s duties under this Act and shall give the inspector any information reasonably requested

55. Search Warrant

- (I) Where on application a Magistrate is satisfied by information on oath that:
 - (a) entry to a dwelling house is necessary for the purpose of performing any duty of an inspector under this Act; and
 - (b) entry to a dwelling house has been refused or is likely to be refused the magistrate may issue a warrant authorising the inspector named therein to enter that dwelling house, subject to conditions specified in the warrant.
- (2) In executing a warrant issued under this section, an inspector shall not use force unless accompanied by a police officer, and unless the use of force is specifically authorised in the warrant.
- (3) For the purposes of this section, “Magistrate” shall mean a Magistrate at the rank of Grade I or above.

PART X – FAIR COMPETITION AND EQUALITY OF TREATMENT.

56. Commission to encourage fair competition

The Commission shall, in the performance of its functions under this Act, promote, develop and enforce fair competition and equality of treatment among all operators in any business or service relating to communication.

57. Prohibition of acts exhibiting unfair competition

- (I) An operator shall not engage in any activities, whether by act or omission, which have, or are intended to or likely to have, the effect of unfairly preventing, restricting or distorting competition in relation to any business activity relating to communications services.

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- (2) Without limiting the generality of sub-section (1) an act or omission referred to under that sub-section shall include:
 - (a) any abuse by an operator, either independently or with others of a dominant position which unfairly excludes or limits competition between such operator and any other party;
 - (b) entering any agreement or engaging in any concerted practice with any other party, which unfairly prevents, restricts or distorts competition; or
 - (c) the effectuation of anti-competitive changes in the market structure and in particular, anti competitive mergers and acquisitions in the communications sector.
- (3) Neither Uganda Telecom Limited, nor any of its affiliates shall hold or acquire an ownership interest in the Second National Operator, or its affiliates.
- (4) Neither the Second National Operator, nor its affiliates shall hold or acquire an ownership interest in Uganda Telecom Limited, or any of its affiliates.
- (5) Affiliate as used with respect to any person shall mean “any other person directly or indirectly controlling, controlled by or under common control with that person and in the case where one person owns, directly or indirectly, 50% or more of the share capital, voting rights, securities, partnership or other ownership interests of another person, that person shall be deemed an affiliate.”
- (6) For the purposes of subsection (5) “control” has the meaning under section 37(5).

58. Exceptions to fair competition

The Commission may, in writing, allow an operator to carry on any act or omission prohibited under section 57 if, in its opinion, the act or omission:-

- (a) contributes to,
 - (i) the improvement of any goods or services;
 - (iii) the promotion of communications services in Uganda in accordance with the provisions of this Act; and
- (b) does not

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- (i) impose on the parties involved, restrictions which are not indispensable to attaining the objective specified under paragraph (a).
- (ii) give the parties involved the ability to substantially reduce competition in respect of the goods or services in question.

59. Breach of fair competition

- (1) The Commission may, by its own motion, investigate any operator who commits any act or omission in breach of fair competition.
- (2) Any person having a complaint of a breach of fair competition against an operator shall lodge a complaint to the commission and the commission shall, if it appears that a breach of competition has been committed, investigate the act or omission and give written notice to the operator stating:-
 - (a) that the Commission is investigating a possible breach of fair competition;
 - (b) the reasons for the suspicion of a contravention or breach, including any matter of facts or law which are relevant to the investigation;
 - (c) further information required from the operator in order to complete the investigations; and
 - (d) where appropriate, the steps to be taken in order to remedy the breach.
- (3) The operator may, within thirty days from the date of the notice make representations in response to the notice and give to the Commission all information required under the notice.
- (4) Any person affected by the contravention or breach of fair competition may make a representation to the Commission in relation thereto.
- (5) The Commission shall, after considering any representations of the operator or any other person, fix a date on which to make a decision on the matter.
- (6) The Commission may, upon satisfaction that an operator is competing unfairly:-
 - (a) order the operator to stop the unfair competition;
 - (b) require the operator to pay a fine not exceeding the

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equivalent of 10 percent of the annual turnover of the operator;

- (c) declare any anti competitive agreements or contracts null and void.
- (7) The provisions of subsection (6) shall not affect in any way the right of a person to take any other action against the operator under section 72 or any other law.
- (8) Any person aggrieved by the decision of the Commission under this section may appeal to the Tribunal.
- (9) The provisions of this section shall not limit or in any way affect the obligations of an operator under any condition of a licence.

60. Denial of Access or Service.

No operator shall deny access or service to a customer except for delinquency of payment of dues or for any other just cause.

61. Equality of treatment

An operator shall provide equal opportunity for access to the same type and quality of service to all customers in a given area at substantially the same tariff, limiting variations to available or appropriate technologies required to serve specific subscribers.

62. Interconnection of network facilities

- (1) A telecommunications operator may, with the approval of the Commission, enter into an agreement with any other operator for the purpose of connecting its network facilities with the network facilities of that other operator on terms and conditions that the first operator and the other operator may agree.
- (2) The operators referred to in subsection (1) shall submit to the Commission an application for approval of an interconnection agreement accompanied by a copy of the proposed interconnection agreement.
- (3) Upon receipt of the application and proposed interconnection agreement, the Commission shall within thirty days respond to the application in writing and on any failure of the Commission to respond in writing the application shall be deemed to be approved.

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- (4) The Commission:-
- (a) shall, within ninety days from the receipt of an application of an operator or within such other reasonable period in the circumstances; or
 - (b) may, on its own motion; impose an interconnection agreement on two operators if a negotiated agreement is not possible or if the Commission determines that such agreement promotes fair competition.
- (5) Before imposing an interconnection agreement between two or more operators, the Commission shall give each operator thirty days notice stating the reasons for the intended imposition, and giving the operators opportunity to make representations.
- (6) The Commission shall issue minimum guidelines in accordance with which telecommunications operators shall negotiate interconnection agreements.

PART XI – OFFENCES

63. Unlawful opening etc. of postal article

A person commits an offence and is liable to a fine of ten currency points or a period of imprisonment not exceeding six months or both who:-

- (a) opens or permits to be opened any postal article otherwise than in accordance with this Act;
- (b) knowingly reveals, discloses or in any way makes known the content of information in relation to a postal article opened under this Act or otherwise than in accordance with this Act;
- (c) knowingly destroys, detains or secretes any mail bag or postal article otherwise than in accordance with this Act;
- (d) knowingly permits any unauthorised person to interfere with any mail bag or postal article;
- (e) fraudulently or with intent to deceive, prepares, alters secretes or destroys any document used for purposes of postal services.

64. Issuing money order with fraudulent intent.

A person commits an offence who with intent to defraud or without a licence under this Act issues any money order or valuable security and is liable on conviction to a fine of ten

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currency points or to imprisonment not exceeding six months or to both.

65. Offences and penalties for unlicensed persons

Any person who establish, installs, maintains, provides or operates:

- (a) a radio communication station; or
- (b) a telecommunications system or service;
- (c) a postal service

contrary to the provisions of this Act, commits an offence and is liable on conviction to a fine not exceeding ten currency points and in case of a continuing offence, to a further fine not exceeding fifteen currency points for each day or part of a day during which the offence continues after conviction

66. Interception and disclosure of messages

Any operator of a communications service or system, or employee of an operator of a communications service or system who:-

- (a) unlawfully intercepts any communication between other persons, sent by means of that system or service; or
- (b) discloses any information in relation to a communication of which that operator or employee is aware,

commits an offence, unless done in accordance with a court order, and is liable on conviction to a fine not exceeding twenty currency points or a term of imprisonment not exceeding six months or both.

67. Interception of Government Communication

An operator of communications services or employee of such operator who, intentionally intercepts, disrupts, denies accessibility to, or diverts government communication, commits an offence and is liable on conviction to a fine not exceeding twenty currency points or a term of imprisonment not exceeding one year or both.

68. Sending false distress signals, etc

- (1) Any person who:-
 - (a) knowingly sends, transmits or causes to be sent or transmitted any false or fraudulent distress signal, message, call or

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radiogram of any kind; or

- (b) without lawful excuse, interferes with or obstructs any radio communication,

commits an offence and is liable on conviction to a fine not exceeding thirty currency points and in the case of a second conviction to a fine not exceeding fifty currency points, or a term of imprisonment not exceeding twelve months or both.

- (2) Any person who without lawful excuse:-

- (a) intercepts;
- (b) intercepts and makes use of; or
- (c) intercepts and divulges,

any communication except where permitted by the originator or in accordance with a court order, commits an offence and is liable on conviction to a fine not exceeding thirty currency points and in the case of a second conviction to a fine not exceeding fifty currency points, or a term of imprisonment not exceeding twelve months or both.

69. Offences in respect of radio communication

- (1) A person who:

- (a) installs, operates or possesses a radio communications apparatus except in accordance with the provisions of this Act; or
- (b) without lawful excuse manufactures, imports, distributes, leases, offers for sale, sells, installs, modifies, operates or possesses any apparatus or device or any component thereof under circumstances that give rise to a reasonable interference to another apparatus, device or component or if that apparatus, device or component has been used, or is or was intended to be used, for the purposes of contravening the provisions of this Act,

Commits an offence and is liable on conviction to a fine not exceeding thirty currency points and on a second conviction to a fine not exceeding fifty currency points.

70. Protection of telecommunications installations

- (1) A person who:-

- (a) prevents or obstructs the transmission or delivery of any message; or

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- (b) damages, removes or tampers with any installation or plant or any part thereof belonging to an operator;

commits an offence and is liable on conviction to a fine not exceeding thirty currency points and on a second conviction to a fine not exceeding fifty currency points.

- (2) In addition to the penalty under subsection (1), the court may order the person convicted to make good any damage occasioned.

71. False advertisement

A person who, without a licence, advertises or places a notice, mark or word at any place which notice, advertisement mark or word, signifies, implies or may reasonably lead the public to believe that the advertiser or other person is a holder of a licence under this Act, commits an offence and is liable on conviction to a fine not exceeding ten currency points and in case of a continuing offence, to a further fine not exceeding fifteen currency points for each day during which the offence continues after conviction.

72. Prosecution under other laws

This Act shall not prevent any person from being prosecuted under any other law in force in Uganda for an act or omission which constitutes an offence under this Statute or from being liable under that other written law to any punishment or penalty higher than that prescribed under this Act or regulations, but no person shall be punished more than once for the same offence.

73. Action for damages

- (1) Subject to this and any other laws, a person who sustains loss or damage as a result of any act or omission that is contrary to this Act, may in a court of competent jurisdiction, sue for and recover the loss and damage suffered from any person who engaged in, directed, authorised, consented to and participated in the act or omission;
- (2) Notwithstanding the provisions of any other law where any judgment or order has been obtained against a communications operator, no execution by attachment and sale shall be issued against the communications apparatus of that operator.
- (3) Notwithstanding subsection (2) execution by attachment and sale may be issued against the communication apparatus of the operator with the consent of the Commission where the operator fails to pay the decreed amount within a period of six

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months from the date of the judgment or decree.

74. General penalties

Any person found guilty of an offence under this Act for which no penalty is expressly provided is liable on conviction to a fine not exceeding thirty currency points.

PART XII – ESTABLISHMENT AND FUNCTIONS OF THE TRIBUNAL.

75. Establishment of the Tribunal and office of technical advisers

- (1) There is established a Tribunal to be known as the Uganda Communications Tribunal, consisting of a judge and two other persons appointed by the President on the recommendation of the Judicial Service Commission.
- (2) The judge shall be the Chairperson of the Tribunal.
- (3) The term of office of the members of Tribunal other than the Chairperson shall be four years and eligible for reappointment and the Chairperson shall continue to hold office for as long as the Chairperson remains a judge.
- (4) The Tribunal may, in the discharge of its functions be assisted by not more than four Technical Advisors to be appointed by the Tribunal from technical persons identified by the Minister.
- (5) A Technical Advisor shall be appointed for a specific assignment after which the appointment shall lapse.

76. Funds of the Tribunal

The Funds of the Tribunal shall consist of:

- (a) money appropriated by the legislature from time to time for enabling the Tribunal to perform its functions;
- (b) grants, gifts or donations from the Government or other sources acceptable to the Minister and the Minister responsible for finance; or
- (c) funds provided to the Tribunal by the Commission under paragraph 20 (1) (b).

77. Disqualification from appointment to the tribunal, etc

No person shall be appointed to the Tribunal or as a Technical Advisor who:

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- (a) is engaged in a communications organization which operates communications systems or provides services or is engaged in the manufacture or distribution of communications equipment in Uganda, as an owner, shareholder, partner, or otherwise whether directly or indirectly;
- (b) has a financial or proprietary interest in organizations referred to in paragraph (a) or in the manufacture or distribution of communications apparatus anywhere in Uganda;
- (c) is an undischarged bankrupt or has made any arrangement with creditors;
- (d) is incapacitated by mental or physical illness; or
- (e) is otherwise unable or unfit to discharge the functions of office of the Tribunal or Technical Advisor.

78. Vacation of office of the tribunal

- (1) The office of a Member of the Tribunal, shall fall vacant if:-
 - (a) the member is continuously and persistently unable to perform the functions of the office;
 - (b) the member engages in misbehavior or abuse of office;
 - (c) the member is subsequently disqualified from membership in accordance with section 77;
 - (d) the member fails to disclose to the Tribunal any interest in a contract or proposed contract or any other matter before the Commission.
- (2) A vacancy under subsection (1)(a) shall be determined by the President on the recommendation of the Minister.
- (3) A member of the Tribunal may resign office by notification in writing to the President.
- (4) Upon the resignation or removal of a member of the Tribunal, the recommending body shall recommend another person to be appointed by the President
- (5) A Technical Advisor shall cease to be a technical adviser if he or she:
 - (a) is subsequently disqualified from appointment in accordance with section 77;
 - (b) fails to disclose to the Tribunal any interest in the communication sector or in a contract or other matter before

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the Commission or the Tribunal.

- (c) Subsequently acquires any material interest in the communications sector.

79. Jurisdiction of the tribunal

- (1) The Tribunal shall have jurisdiction to hear and determine all matters relating to communications services arising under this Act.
- (2) For the avoidance of doubt, the jurisdiction of the Tribunal does not include the trial of any criminal offence.
- (3) The Tribunal shall in the exercise of its jurisdiction under this Act have all powers of the High Court and for that purpose the Civil Procedure Rules applicable to a Civil action in the High Court shall, with the necessary modification, apply to proceedings before the Tribunal.

80. Power of review and appeals from the Tribunal

- (1) The Tribunal shall have power to review its own judgments and orders.
- (2) Judgments and orders of the Tribunal shall be executed and enforced in the same manner as judgments and orders of the High Court.
- (3) Any person aggrieved by a decision of the Tribunal may within thirty days from the date of the decision or order appeal to the Court of Appeal.
- (4) The law applicable to appeals from the High Court in Civil matters shall, with the necessary modifications or the other written adjustments as the Chief Justice may direct, apply to appeals from the Commission to the Tribunal and from the Tribunal to the Court of Appeal.
- (5) Except in the case of an appeal under this section, it shall not be lawful for any court or tribunal to entertain action or proceeding of any nature for the purposes or questioning any judgment, finding, ruling, order or proceeding of the Tribunal.

81. Procedure of the Tribunal

- (1) The Tribunal shall meet as and when there is need to exercise its jurisdiction under this Act.
- (2) The Tribunal shall, in the exercise of its jurisdiction under this Act, be guided by the rules of natural justice.

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- (3) The Tribunal shall be duly constituted if the Chairperson and one other member are present.
- (4) Any decision of the Tribunal shall be binding if it is supported by a majority of the members.
- (5) A witness before the Tribunal shall have the same obligations, immunities and privileges as witness before the High Court.
- (6) A member of the Tribunal or a Technical Adviser attending a meeting of the Tribunal shall be paid an allowance that may be determined by the Tribunal in consultation with the Minister.
- (7) There shall be a Secretariat of the Tribunal which shall carry out the day to day functions of the Tribunal.
- (8) There shall be a Registrar of the Tribunal who shall be responsible for the day to day administration of the Tribunal and shall process all papers for the Tribunal.
- (9) There shall be such supporting staff as may be necessary for the functioning of the Secretariat.

PART XII – INCORPORATION OF UGANDA TELECOM LIMITED

82. Incorporation of Uganda Telecom Limited.

- (1) The Minister shall, within a period not exceeding one year from the date of the commencement of this Act, cause to be incorporated under the Companies Act, a company to be known as “Uganda Telecom Limited” to assume the telecommunications business of the Corporation under a licence.
- (2) On the incorporation of the Uganda Telecom Limited, the Minister shall grant a licence to Uganda Telecom Limited to offer telecommunications services including local, long distance and international services, cellular, pay phones rural telecommunications, terminal apparatus provisions and value added services, on terms and conditions to be determined by the Commission.

83. Uganda Telecom Limited radio frequency

- (1) The Commission shall permit Uganda Telecom Limited to operate radio frequency assignments previously allocated to the Corporation for the provision of radio and telecommunications services.

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- (2) Notwithstanding the provisions of sub-section (1), the Commission shall ensure the efficient and equitable use of the radio frequency spectrum, and to this end reallocate radio frequency in accordance with provisions of Section 26.

PART XIV – INCORPORATION OF UGANDA POST LIMITED

84. Uganda Post Limited.

- (1) The Minister shall, within a period not exceeding one year from the date of commencement of this Act, cause to be incorporated under the Companies Act a Company to be known as Uganda Post Limited to assume the postal services of the Corporation.
- (2) Upon the incorporation of Uganda Post Limited, the Minister shall grant a licence to the company to offer postal service on terms and conditions to be determined by the Commission.
- (3) The Commission shall include in the terms and conditions of the licence postal services that the company will provide exclusively as reserved postal services and the postal services that the company is required to provide as mandatory postal sources at uniform prices and conditions.

85. Stamps, etc to be issued; franking machines

- (1) Uganda Post Limited shall, exclusively, be responsible for, among other activities, the production and issuance of postage stamps, pre stamped envelopes, aerograms and international reply coupons bearing the official National Coat of Arms or the words “Republic of Uganda”, “Uganda” or “Uganda Post”.
- (2) Uganda Post Limited may, subject to such conditions as it may determine and without prejudice to the provisions of this Act or any regulation made under this Act, licence the use by any person of a franking machine.

PART XV – INCORPORATION OF POSTBANK UGANDA LIMITED

86. PostBank Uganda Limited

- (1) The Minister responsible for finance shall, within a period not exceeding one year from the date of commencement of this Act, cause to be incorporated under the Companies Act, a company to be known as Postbank Uganda Limited to assume the service of the

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Post office Savings Bank.

- (2) Upon the incorporation of the PostBank Uganda Limited, the bank shall operate and function under the Financial Institutions Act.
- (3) PostBank Uganda Limited and Uganda Post Limited shall enter into commercial arrangements for the Bank to utilize Uganda Post Limited network in the country.

PART XVI – TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES
OF THE CORPORATION

87. Transfer of assets and liabilities

- (1) All assets, rights and liabilities relating to telecommunications services to which the Corporation was entitled or subject to, before the commencement of this Act, shall vest in Uganda Telecom Limited.
- 2) All assets, rights and liabilities relating to postal services to which the Corporation was entitled or subject to, before the commencement of this Act, shall vest in Uganda Post Limited.
- (3) Notwithstanding subsections (1) and (2), all assets, rights and liabilities of the Corporation, relating to the functions of the Commission, including the training school, shall vest in the Commission.
- (4) Without prejudice to subsections (1) to (3), the Minister shall with the approval of cabinet determine the allocation of any other assets.
- (5) Subject to section 89, the Minister shall, by statutory instrument, transfer the assets and liabilities of the Corporation to Uganda Telecom Limited, Uganda Post Limited and the Uganda Communications Commission, as the case may be.

88. Transfer of service contracts

- (1) Employees of the Corporation immediately before the commencement of this Act who will transfer their services to either Uganda Telecom Limited, Uganda Post Limited or the Commission shall do so on similar or better terms to those enjoyed by those employees before the transfer.
- (2) Uganda Post Limited and Uganda Telecom Limited shall assume the terms and conditions of service applied to the Corporation at the commencement of this Act.

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89. Pension fund and retired and redundant employees
- (1) All former employees of the Corporation who at the commencement of this Act are receiving retirement benefits and pensions from the Corporation shall continue to be paid by the Government.
 - (2) All employees of the Corporation who may fall redundant as a result of the implementation of section 82 to 84 of this Act shall be paid the calculated and ascertained retirement benefits and pensions before the repeal of the Uganda Posts and Telecommunications Corporation Act.
 - (3) There shall be established a Contributory Pension Fund initially funded by Government for the benefit of those employees in the permanent employment of the Corporation immediately before the commencement of this Act, who are transferred to Uganda Telecom Limited, Uganda Post Limited, PostBank Uganda Limited, or the Commission.
 - (4) All employees of the corporation who transfer their services to Uganda Telecom Limited, Uganda Post Limited, PostBank Uganda Limited or the Commission shall have their terminal benefits and pension calculated and ascertained and transferred to the Contributory Pension fund before the repeal of the Uganda Posts and Telecommunications Corporation Act.
 - (5) Any employee who, at any time after transfer of his or her services to Uganda Telecom Limited, Uganda Post Limited, PostBank Uganda Limited or the Commission, retires is dismissed or whose services are terminated for whatever reason, shall be paid his or her calculated and ascertained retirement benefits or pension from the Contributory Pension Fund.
 - (6) The calculated and ascertained retirement benefit and pension entitlement of each employee of the Corporation shall be recorded in a Pension Certificate and whenever that employee terminates his or her services with any of the new employers the Pension Certificate shall be conclusive evidence of the employee's entitlements relating only to the period of employment for the employee in the corporation.

PART XVII – MISCELLANEOUS

90. Powers on occurrence of state of emergency

- (1) The Commission may, on the occurrence of any state of emergency:-

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- (a) or in the interest of public safety, direct any operator to operate networks in such a manner as is appropriate to alleviate the state of emergency.
 - (b) and in the interest of public safety take temporary possession of any communications station within Uganda, and any apparatus which may be installed and used therein, for a period not exceeding six months.
 - (c) in writing to a licensed person, direct that a postal article, or class or description of postal articles in the course of transmission within Uganda be intercepted or detained or be delivered to any officer mentioned in the order to be disposed of in a manner specified by the Commission.
- (2) A certificate signed by the President shall be conclusive proof of the existence of a state of emergency or that any act done under subsection (1) was in the interest of public safety or order.

91. Agreements and Licences by the Corporation

All valid-

- (a) interconnection agreements entered into by Corporation before the commencement of this Act;
- (b) licences issued by the Corporation before the commencement of this Act; and
- (c) any other agreements entered into by the Corporation before the commencement of this Act,

shall remain valid and only be modified by the Commission within one year from the time the Commission commences operations to the extent that any provisions thereof are inconsistent with the provisions of this Act.

92. Pending Court Proceedings

Any pending court proceedings, court actions, judgments or court orders which were enforceable by or against the Corporation immediately before the commencement of this Act, and are connected with the assets vested in the Commission or the functions of the Commission, shall be enforceable by or against the Commission as they would have been enforced by or against the Corporation immediately before the commencement of this Act.

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93. Service of notice on the Commission

Any notice or other document required to be served on the Commission may be served by:-

- (a) delivery to the Executive Director or any authorized employee; or
- (b) delivery at the office of the Executive Director and obtaining evidence of receipt; or
- (c) courier delivery to the Executive Director.

94. Regulations

- (1) The Commission may, by statutory instrument, make regulations pertaining to communications services, including but not limited to the following:-
 - (a) fees payable upon the grant or renewal of a licence;
 - (b) the classification of licences;
 - (c) the use of any communications station, apparatus or licence;
 - (d) obligations for permitting and facilitating the inspection of any communications station, apparatus or licence;
 - (e) anti competitive practices;
 - (f) energy regulation requirements to be complied with by any person who uses, sells (other than for export), or lets on hire any apparatus generating, designed to generate, or liable to generate fortuitous electromagnetic energy at frequencies that may be specified;
 - (g) the exhibition at any communications station of notices that may be specified in the regulations;
 - (h) the use on board any vessel or aircraft other than a vessel or aircraft registered or licensed in Uganda, within the limits of Uganda and the territorial waters adjacent thereto of communications apparatus on that vessel or aircraft, and the importation, acquisition, manufacture, sale letting on hire or other disposition of communications apparatus of any kind, or the use of installation of that apparatus;
 - (i) the requirements of the communications services to be provided by a license, in terms of quantitative and quality-criteria;

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- (j) the specifications of reserved and mandatory services to be provided for by an operator under this Act;
 - (k) the way the consumer will be informed about the range of commercial services and the conditions under which they are provided; or
 - (l) the conditions under which a licensee can apply for compensation for loss – incurring operations as the result of the operator’s obligation imposed on the operator by the Commission regarding the provision of uneconomic services in pursuance of the objectives of this Act.
- (2) The regulations made under this section shall not require any person to concede right of entry into a private dwelling house for the purpose of permitting or facilitating the inspection of any communications apparatus not designed or adapted for permission under this Act.
- (3) The Executive Director may by notice require anybody who, in his or her opinion is not complying with the regulations made under this section, to discontinue use, sale or let on hire, as the case may be, the apparatus in question, or to use, sell, or let on hire the apparatus subject to conditions that may be specified in the notice.

95. Amendment of Schedules

The Minister may by statutory instrument amend the Schedules to this Act.

96. Repeal and saving

- (1) The Uganda Posts and Telecommunications Corporation Act, shall be repealed on a date that the Minister may by statutory instrument declare.
- (2) The Minister may in exercising the powers under subsection (1) declare different dates for the repeal of different sections or parts of the Uganda Posts and Telecommunications Corporation Act.
- (3) In the event that any conflict arises between this Act, and the Uganda Posts and Telecommunications Corporation Act, the provisions of this Act shall prevail.
- (4) Notwithstanding the provisions of subsection (1), any statutory instrument made under the Uganda Posts and Telecommunications Corporation Act, and which is in force immediately before the commencement of this Act, shall remain in force until revoked under this Act,

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- (5) Without prejudice to the generality of the subsection (4) regulations set in the Fifth Schedule shall apply, with necessary modifications, as if those subsidiary legislations were made under this Act.

SCHEDULES

FIRST SCHEDULE

SEAL OF THE COMMISSION

1. The Common Seal of the Commission shall be such device as the Commission may determine and shall be kept in the custody of the Executive Secretary.
2. The Common Seal shall, when affixed to any document be authenticated by the signatures of the Chairperson, and the Executive Secretary.
3. In the absence of the Chairperson or when the Chairperson is unable to perform this function, two other members of the Commission appointed in that behalf shall sign in the place of the Chairperson.
4. A person performing the functions of Executive Secretary shall sign in the absence of the Executive Secretary.
5. A contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under Seal may be entered into or executed without Seal on behalf of the Commission by the Executive Secretary or any other person authorized in that behalf by the Commission.
6. Every document purporting to be:-
 - (a) an instrument issued by the Commission and sealed with the common Seal of the Commission and authenticated in the manner prescribed in paragraphs 2 to 4; or
 - (b) a contract or instrument entered into or executed under paragraph 5 shall be received in evidence as such an instrument without further proof unless the contrary is proved.

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SECOND SCHEDULE

1. Meetings of the Commission

(1) Meetings of the Commission shall be convened by the Chairperson and the Commission shall meet for the transaction of business at such places and times as may be decided upon by the Commission but in any case shall meet at least once every three months.

(2) The Chairperson or, in the absence of the Chairperson, a member appointed by the Commission to act in the Chairperson's place may at any time call a special meeting of the Commission and shall call a special meeting upon a written request by a majority of the members of the Commission.

(3) The Chairperson shall preside at every meeting of the Commission and in the absence of the Chairperson, the members present may appoint a member from amongst themselves to preside at that meeting.

2. Quorum

The quorum at a meeting of the Commission shall be four members.

3. Decisions of the Commission

(1) All questions proposed at a meeting of the Commission shall be decided by a simple majority of the votes of the members present and voting and in case of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.

(2) A decision may be made by the Commission without meetings but by circulation of the relevant papers among the members and by the expression of the views of the majority of the members in writing, however any members shall be entitled to require that the decision be deferred and the matter on which a decision sought be considered at a meeting of the Commission.

4. Commission may co-opt members

The Commission may invite any person to attend any of its meetings as a Consultant and may co-opt any person to the Commission but that person shall not vote on any matter before the Commission.

5. Declaration of interest

(1) Any member of the Commission having pecuniary or other interest, directly or indirectly in any contract or proposed contract

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or other matter before the Commission shall, at that meeting, declare the nature of such interest and shall not take part in any discussion, or vote on that matter and if the Chairperson directs, the person shall withdraw from that meeting.

- (2) The failure of any member of the Commission to disclose an interest in any contract or proposed contract or any other matter before the Commission will cause the decision of the Commission to be voidable at the instance of the other members of the Commission and that member shall be liable to be relieved of his or her duties.
- (3) For purposes of determining whether there is a quorum a member withdrawing from a meeting or who is not taking part under subparagraph (1) shall be treated as being present.

6. Commission regulates its procedure

Subject to the provisions of this Act the Commission may regulate its own procedure and may make rules regarding the holding of meetings, notice be given, the keeping of minutes or any other matter relating to its meetings.

THIRD SCHEDULE

RATES OF PENALTY POINTS AND PERCENTAGE OF REVENUE

1. One currency point is equivalent to Uganda Shillings one hundred thousand) (U. Shs. 100,000) and may be reviewed at the end of a fiscal year.
2. The percentage of gross annual revenue payable by an operator under sections 5 and 18 shall not exceed 22 percent.

FOURTH SCHEDULE

CONDITIONS OF A LICENCE

A licence issued under Part IV of this act may include the following conditions:-

- (a) the payment of sums of money calculated as a proportion of the rate of the annual turn over of the operator's licensed system or otherwise;
- (b) the payment by the operator a contribution toward any loss incurred by another operator(s) as a result of such other operator(s) obligation imposed on the operator(s) by the Commission regarding the provision of uneconomic service in pursuance of the objectives of the Act;

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- (c) the provision of services to disadvantaged persons;
- (d) interconnection of an operator's telecommunications system with any other system and permitting the connection of telecommunications apparatus to an operator's system;
- (e) prohibiting an operator from giving undue preference to or from exercising undue discrimination against any particular person or class of persons (including any operator);
- (f) furnishing the Commission with such documents, accounts, returns or such other information as the Commission may require for the performance of its functions under this Act;
- (g) requiring an operator to publish in such manner as may be specified in the licence a notice stating the charges and other terms and conditions that are to be applicable to facilities and services provided;
- (h) provision of service on priority service to the government or specified organizations;
- (i) requiring an operator to ensure that an adequate and satisfactory information system including billing tariff, directory information and directory enquiry services are provided to customers.
- (j) conditions specifying the criteria for setting tariffs;
- (k) requiring an operator to comply with such technical standards or requirements including service performance standards as may be specified in the licence;
- (l) any other conditions as the Commission may consider appropriate or expedient

FIFTH SCHEDULE

SUBSIDIARY LEGISLATION UNDER THE EAST AFRICAN POSTS AND TELECOMMUNICATIONS CORPORATION ACT

1. The East African Telegraph Regulation – L.N. No. 1 of 1970.
2. The East African Telex Regulation – L.N. No. 2 of 1970.
3. The East African Radio Communications Regulation - L.N. No. 3 of 1970.
4. The East African Radio Call Service Regulation – L.N. No. 4 of 1970.
5. The East African Citizens and Radio Regulation – L.N. No. 5 of 1970.
6. The East African Radio Communications (Limitation of Radio Interference) Regulation – L.N. No. 6 of 1970.
7. The East Telephone Regulation – L.N. No. 7 of 1970.

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8. The East African Telephone (Privately Owned) System Regulation – L.N No. 8 of 1970.
9. The East African Postal Regulation – L.N No. 23 of 1970

History Act 8/1997; Act 1/1998; S.I 67/2000

Commissioners' note: The reference to Part 1V in the Fourth Schedule appears incorrect.

Cross References

Civil Procedure Rules, S.I 71-1

Companies Act, Cap 110

Constitution of 1995

Electronic Media Act, Cap 104

Financial Institutions Act, Cap 54

Land Acquisition Act, Cap 226

Penal Code Act, Cap 120

Uganda Posts and Telecommunications Corporation Act, Cap 107