

Telecom Act Bylaws

Issued by the of the Minister of Post, Telegraph and Telephone resolution
No. (11) dated 17/05/1423H (corresponding to 27/07/2002)

**This English language text is not an official translation and is provided for information purposes only .
It confers no rights and impose no obligation separate from those from those conferred or imposed by the
original Arabic text formally adopted and published. In the event of any discrepancies between the English
translation and the Arabic original, the Arabic original shall prevail.**

Chapter 1 : General provisions

Article 1

The terms and expressions defined in Article One of the Act and Article One of the Ordinance shall have the same meaning in this Bylaw. In addition, the words and expressions set out in this Bylaw shall have the meanings assigned below:

1.1 “access” means, for the purposes of Articles of this Bylaw, the making available of telecommunications facilities by one service provider to another for the purpose of providing telecommunications services;

1.2 “aeronautical service” means a radiocommunication service that provides for the safety and navigation and other operations of aircraft, and may also include the exchange of air-to-ground messages on behalf of the public;

1.3 “affiliate” in relation to a service provider, means a person who controls the service provider, or who is controlled by the service provider or by any other person who is controlled by the person who controls the service provider;

1.4 “amateur radio service” means a service using radiocommunication in which radio apparatus is used for the purpose of self-training, intercommunication or technical investigation by individuals who are interested in radio technique solely with a personal aim and without pecuniary interest;

1.5 “individual license” means a telecommunications license issued by the Commission that authorizes an individual service provider to provide telecommunications services in accordance with the conditions set out in the license;

1.6 “class license” means a telecommunications license issued by the Commission that authorizes all service providers that fit within the class described in the license to provide telecommunications services in accordance with the conditions set out in the license;

1.7 “Commission statute” means the Act, the Ordinance, this Bylaw, any other Bylaw adopted under the Act or any other legal instrument that is enforceable by the Commission;

1.8 “control” means control in any manner that results in control in fact, whether directly through the ownership of shares or other securities or indirectly through an agreement, arrangement or otherwise;

1.9 “decision” means an instrument in writing made or issued by any of the Minister, the Board, the Governor, the Commission or a decision-making body existing pursuant to a Commission statute;

1.10 “designated confidential information” means information designated as confidential pursuant to this Bylaw and the Rules of Procedure;

1.11 “dispute” means a failure by service providers to agree on (a) the terms and conditions of interconnection (b) access to, or quality of, telecommunications service provided by one to the other, or (c) any other matter that is within the jurisdiction of the Commission;

1.12 “dominant service provider” means a service provider designated as such by the Commission pursuant to Chapter 4 of this Bylaw;

1.13 “equipment license” means a license issued in accordance with Chapter 12 of this Bylaw;

1.14 “essential facility” means a facility associated with a telecommunications network or service supplied exclusively or predominantly by a single service provider or a limited number of service providers, and that cannot practically be substituted by competitors for economic or technical reasons;

1.15 “Expropriation Act” means the Expropriation of Real Estate for the Public Interest Act issued in accordance with Council of Ministers’ Decision Number 1224 on 1/11/1392 (h) and by Royal Decree Number M/65 in 16/11/1392 (h);

1.16 “fixed service” means a telecommunications or radiocommunication service that provides for communication between fixed ground stations;

1.17 “foreign service provider” means a provider of telecommunications services that is licensed or authorized in a jurisdiction outside the Kingdom and does not hold a telecommunications license in the Kingdom;

1.18 “harmful interference” means an adverse effect of electromagnetic energy from any emission, radiation or induction that endangers the use or functioning of a safety-related radiocommunication system, or significantly degrades or obstructs, or repeatedly interrupts, the use or functioning of telecommunications and radio apparatus or radio-sensitive equipment;

1.19 “incumbent operator” means the Saudi Telecommunications Company;

1.20 “interconnection” means the physical and logical linking of telecommunications networks used by the same or a different service provider in order to allow the users of one service provider to communicate with users of the same or another service provider, or to access the facilities and/or services of another service provider. Interconnection is a specific type of access implemented between service providers;

1.21 “Interconnection Guidelines” means the guidelines published by the Commission pursuant to Chapter 5 of this Bylaw;

1.22 “interference-causing equipment” means any device, machinery or equipment, other than radio apparatus, that causes or is capable of causing interference to radiocommunication;

1.23 “license” means any license issued by the Commission including a telecommunications license, a radio license, a number license or an equipment license, save where the context otherwise indicates;

1.24 “licensee” means a person who holds a license issued by the Commission;

1.25 “maritime service” means a radiocommunication service that provides for the safety and navigation and other operations of ships or vessels, and that may also include the exchange of ship-to-shore messages on behalf of the public;

1.26 “mediation” means an amicable process in which a Commission representative conducts discussions among the parties to a dispute, designed to enable them to reach a mutually acceptable agreement;

1.27 “merger” means the acquisition or establishment, direct or indirect, by one or more persons, whether by purchase or lease of shares or assets, by amalgamation or by combination or otherwise, of control over or significant interest in the whole or a part of a business of a competitor, supplier, or other person;

1.28 “mobile service” means a radiocommunication service that provides for communications between mobile radio apparatus and

- a) fixed telephone apparatus
- b) fixed radio apparatus
- c) space stations; or
- d) other mobile radio apparatus

1.29 “National Frequency Register” means the registry that includes all information relating to frequency and as described in Article 80 of this Bylaw;

1.30 “National Telecommunications Registry” or “Registry” means the registry that includes all information, decision, and licenses and as described in Article 22 of this Bylaw;

1.31 “number” means the number, sign or other mark which a service provider uses in its delivery of telecommunications services for identification of telecommunications facilities in order to connect between the place of transmission and the place of reception, or for identification of the type of transmission the service is to deliver;

1.32 “number license” means a license related to the use of numbers issued under Chapter 11 of this Bylaw;

1.33 “number portability” means a facility by which a user can retain an existing number without impairment of quality, reliability or convenience when switching from one service provider to another.

1.34 “person” includes a natural or juridical person and includes a government or government agency, a joint stock company, a limited liability company, a sole proprietorship, or other corporate entity;

1.35 “public pay telephones” means a telephone available to the public, which may use coins, credit or debit cards, pre-payment cards or other means to pay for its use;

1.36 “public telecommunications network” means a telecommunications network used to provide telecommunications services to the public;

1.37 “radio apparatus” means a device or combination of devices capable of being used for radiocommunication, irrespective of whether such use is for telecommunications services, broadcasting or any other purpose;

1.38 “radiocommunication” means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by means of electromagnetic waves in the frequency spectrum;

1.39 “radiodetermination service” means a service using radiocommunication that provides for the determination of the position, velocity or other characteristics of an object or physical phenomenon, or for the obtaining of information relating to these parameters, by means of the propagation properties of radio waves;

1.40 “radio license” means a license issued by the Commission pursuant to Chapter 10 of this Bylaw;

1.41 “radio-sensitive equipment” means any device, machinery or equipment, the use or functioning of which is or can be adversely affected by radiocommunication emissions;

1.42 “reference of call service” means any method of advising callers that a user’s previous number has been changed to another number, without charge to the calling persons or the user;

1.43 “Reference Interconnection Offer” has the meaning assigned to it in Article 41 of this Bylaw;

1.44 “registered party” means a person that has registered to participate in a proceeding before the Commission in accordance with the Rules of Procedure;

1.45 “Rules of Procedure” means the rules of procedure published by the Commission in accordance with Commission statutes;

1.46 “service provider” means any person licensed by the Commission that (1) provides a telecommunications service to the public, (2) operates a telecommunications network used by

that person or by another person to provide a telecommunications service to the public, or both;

1.47 “tariff” means a rate, charge, price or other money or non-money consideration charged by or paid to a service provider for or in relation to a telecommunications service or a telecommunications facility;

1.48 “telecommunications equipment” means radio-apparatus, radio-sensitive equipment, interference-causing equipment and any other device, apparatus, product, tool, machinery, equipment or thing (1) connected to a telecommunications network or (2) the use of which may affect technical ability to provide telecommunications services;

1.49 “telecommunications facility” means any facility, apparatus, software, service or other thing used or capable of being used for telecommunications or for any operation directly connected with telecommunications;

1.50 “telecommunications license” means an individual license or a class license;

1.51 “telecommunications transmission system” means any wire, cable, radio, optical or other electromagnetic system, or any similar technical system used for telecommunications, and includes the distribution cabinets, poles, ducts, towers, masts and other supporting structures for such systems;

1.52 “telemarketing” means a campaign or practice of using telephone communication to promote the supply or use of a product or service;

1.53 “Terms of Service” means the general terms and conditions upon which a service provider shall provide its services to users and which are set out in a document prepared and approved in accordance with Chapter 8 of this Bylaw. Once approved by the Commission, the Terms of Service shall, together with this Bylaw and approved tariffs, be binding upon a universal service provider and its users;

1.54 “type approval” means a method of verifying that equipment to be used in the provision of telecommunications services operates within the technical specifications applicable to its intended use and is compatible with the telecommunications networks with which it is authorized to interconnect or interact, and “type approved” shall have a corresponding meaning;

1.55 “universal access offering” means the services identified as such in a universal access policy;

1.56 “universal service offering” means the services identified as such in a universal service policy;

1.57 “universal service provider” means a service provider the Commission designates as such;

1.58 “universal access and universal service plan” means a plan submitted to the Commission by the incumbent operator, a service provider, or any other person, setting out the means by which the incumbent operator, service provider or other person, as the case may be, shall expand universal service or universal access in any part of the Kingdom;

1.59 “universal access policy” and “universal service policy” refers to a policy approved by the Ministry upon proposal from the Commission for the promotion of universal service, universal access, or both;

1.60 “intrusion” is the illegal entry by any means, by any person or service provider or a user to any part of a communication network or its contents, for any purpose or goal whether this resulted in damage or deactivation, or nothing happened due to this intrusion;

1.61 “intruder” is any person or service provider or a user who commits an intrusion for any reason;

1.62 “sources of intrusion” are places and areas through/from which the intrusion may occur, for example but not limited to: interconnection to communications network, public telephones, internet cafés, programmed internet media (cards, discs, magnetic tapes or others).

Article 2

2.1 Where this Bylaw requires something to be done in writing it may be done by electronic transmission of written words.

2.2 Except as otherwise provided in the Act a document shall be deemed to have been sufficiently published by the Commission if it is:

- a) made available for inspection at the Commission’s offices
- b) remains continuously posted and available to the public on the Commission’s official web site, and
- c) where the Commission considers it necessary in the case of any document, is also
 - i. published in the Official Gazette; and
 - ii. a summary of it is published in one or more newspapers of wide circulation within the Kingdom

2.3 Where this Bylaw requires a document to be delivered to the Commission’s official electronic address and the official electronic address is not operational, a paper copy of the document shall be delivered to the Commission’s official location for filing documents.

2.4 Where in this Bylaw the context so requires, words in the singular include the plural, and words in the plural include the singular.

2.5 Where a Commission statute requires or prohibits an activity by a person, the Commission may issue a decision defining parties related to that person or associated entities to that person to which such requirement or prohibition shall apply.

Article 3

3.1 The Commission, the Board and the Governor shall take such other actions and make such Bylaws or decisions as are consistent with a Commission statute and useful or necessary to fully implement and enforce Commission statutes.

3.2 The Commission may, in exercising its functions and performing its duties under a Commission statute, determine any question of fact, including whether there has been a violation of a Commission statute.

3.3 The Commission may issue a decision to order any person, subject to any conditions that it determines, to do anything the person is required to do or forbid the person from doing anything that the person is prohibited from doing under a Commission statute.

3.4 The Commission may require a service provider to install and maintain the technical or other capability required for the protection of the public interest.

Article 4

The functions conferred on the Commission or the Board other than the powers to

- i. issue, or amend, or suspend or revoke fixed and mobile telephone service licenses, and
- ii. approve Bylaws,

may be delegated by the Board to the Governor, or to another person or agency, to such extent and subject to such conditions as may be specified by the Commission or the Board.

Article 5 Provision of Information to the Commission and Other Persons

5.1 The Commission may require a service provider to submit to the Commission, at that service provider's expense, any information that the Commission considers necessary for the administration of a Commission statute. The service provider shall submit the information in a periodic report or in such other form and manner as the Commission specifies.

5.2 Where the Commission believes that a person other than a service provider has information that the Commission considers necessary for the administration of a Commission statute, the Commission may require that person, at that person's expense, to submit the information to the Commission in periodic reports or in such other form and manner as the Commission specifies, subject to the Rules of Procedure on designated confidential information.

5.3 Subject to the Rules of Procedure on designated confidential information, the Commission shall make available for public inspection any information submitted to the Commission in the course of proceedings before it.

5.4 The Commission may issue a decision compelling any person to submit information requested under paragraphs 5.1 and 5.2 of this Article.

5.5 Where a person compelled to submit information under paragraph 5.4 of this Article is a licensee, it shall provide the information requested within any time specified in the Commission's decision. Where it cannot provide the information as requested, it shall immediately advise the Commission and state why the information is not available and what alternative information is available that may meet the Commission's requirements.

5.6 The Commission may accept alternative information and may reserve the right to require the licensee to provide the information originally requested at a later date.

Article 6 Appointment of Inspectors

6.1 Except as otherwise provided under the Commission statutes, for the purposes of enforcing the provisions of a Commission statute, a decision made pursuant to a Commission statute, or a license, the Governor may appoint any person as an inspector and authorize that person, in co-ordination with the appropriate law enforcement authorities, to enter any premises being used by a licensee or any premises the Governor reasonably believes may contain evidence related to a violation or breach of the Commission statute, decision or the conditions of a license, and:

- a) require to be produced, inspect and take copies of any license, permit, certificate or other document required under Commission's statutes;
- b) require to be produced, inspect and examine any appliance, device, equipment or other facilities used in relation to telecommunications operations;
- c) in the case of a licensee, inspect or instruct, at the expense of the licensee, a technical expert to inspect telecommunications facilities or radio apparatus including devices for the measurement of service quality and for the computation of usage prices or to install the Commission's own measuring devices; and
- d) in the case of a service provider, inspect or instruct at the expense of the service provider an inspector to inspect files, records, data and other documentation of the service provider with a view to effectively supervise and enforce pricing and interconnection tariffs in accordance with the Commission statutes

6.2 An inspector appointed under paragraph 6.1 of this Article may seize papers, electronic records or other objects, and may require electronic records to be produced which may be relevant as evidence in ongoing or future investigations, or proceedings.

6.3 All persons shall co-operate fully with an inspector operating within the scope of an appointment under paragraph 6.1 of this Article.

Article 7 Disconnection

7.1 Where the Governor believes that there is a risk of imminent harm to a telecommunications network or a person, or where a frequency is used contrary to a Commission statute, decision or license, and after giving reasonable notice to the persons affected, the Governor may order a service provider to disconnect any of its telecommunications facilities from any other telecommunications facilities, if the Governor considers such disconnection necessary to prevent a violation of a Commission statute or any license or decision made pursuant to this Bylaw.

7.2 Subject to paragraph 7.1 of this Article, the Governor may require a disconnection to be made at or within such time, and subject to such conditions, if any, regarding compensation or otherwise, as the Governor determines to be just and expedient.

Article 8 Appointment of Inquiry Officers

8.1 The Governor may appoint any person as an inquiry officer to inquire into and report to the Commission on any matter pending before the Commission or within the Commission's jurisdiction under a Commission statute.

8.2 For the purposes of an inquiry, an inquiry officer shall have the powers of an inspector under paragraphs 6.1 (a) and (b) and 6.2 of Article 6 of this Bylaw.

8.3 The Rules of Procedure respecting the confidential designation and the disclosure of information to the Commission apply in respect of any information submitted to an inquiry officer, or obtained in proceedings before an inquiry officer.

8.4 All persons shall co-operate fully with inquiry officers operating within the scope of an appointment under paragraph 8.1 of this Article.

Article 9 Licensing and Other Fees

9.1 In accordance with the Commission statutes, the Commission may establish fees for:

- a) the commercial provision of telecommunications services;
- b) issuance and renewal of telecommunications licenses;
- c) issuance and renewal radio licences for use of frequency spectrum;
- d) issuance and renewal of number licenses;
- e) issuance and renewal of licenses for use of telecommunications equipment; and
- f) any other function performed by the Commission pursuant to a Commission statute.

9.2 Consistent with Articles Five and Six of the Act, the Commission shall obtain approval of the Council of the Ministers for the fees to be charged under paragraphs 9.1(a), 9.1(b), and 9.1(c) of this Article for fixed and mobile telephone services.

9.3 The Commission shall propose the amount and classification of the fees to be charged pursuant to paragraph 9.1(c) of this Article and refer the proposal to the Ministry for approval in accordance with Article Three of the Ordinance.

9.4 The Commission shall establish fees under paragraphs 9.1 of this Article in accordance with the following principles:

- a) fees shall be transparent, non-discriminatory, objectively justifiable and appropriate for the type of service licensed;
- b) the level of fees shall take into account the need to foster the development of competition and innovative services; and
- c) fees shall reflect the need to provide for the optimal allocation of scarce resources such as frequency spectrum and numbering

9.5 The Commission shall, when determining the level of fees charged under paragraph 9.1 (f) of this Article, take into account that:

- a) the total amount of fees charged by the Commission shall be intended to recover its total costs associated with regulation and not to generate excess revenues;
- b) the total amount of fees charged by the Commission and intended to recover its total costs associated with regulation shall be distributed proportionately among service providers according to principles to be determined by the Commission

Chapter 2: Telecommunications Licenses

Article 10 General Provision Relating to Licenses

10.1 No person shall

- a) provide a telecommunications service to the public, or
- b) operate a telecommunications network used to provide a telecommunications service to the public,

except under and in accordance with a telecommunications license issued by the Commission.

10.2 Licenses shall be in writing, and shall be available for inspection by the public.

10.3 In accordance with the Act, there shall be four types of licenses:

- a) telecommunications licenses;
- b) radio licenses;
- c) number licenses; and

d) equipment licenses

10.4 When a license is issued, renewed, or amended, the Commission shall publish a notice on its official web site indicating where a current version of the license may be viewed by the public.

Article 11 Types of Telecommunications Licenses

11.1 The Commission may issue two types of telecommunications licenses pursuant to Commission statutes: individual licenses and class licenses.

11.2 The following services and networks shall, unless the Commission decides otherwise, require an individual license:

- a) fixed voice telephone services;
- b) public mobile cellular telecommunications services;
- c) operation of a public telecommunications network;
- d) national and international fixed and mobile data communications services; and
- e) such other types of service as the Commission decides shall require an individual license.

11.3 The Commission shall issue licenses to provide fixed and mobile telecommunications services after obtaining the approval of the Council of Ministers pursuant to Article Five of the Act.

11.4 Class licenses shall be issued to authorize more than one service provider of the same class to provide telecommunications services or operate telecommunications networks, except as provided in paragraph 11.2 of this Article. Class licenses shall be subject to the following rules:

- a) All class licenses shall impose identical conditions on all licensees in the class of service providers authorized by the license.
- b) There shall initially be two types of class licenses, Type A and Type B class licenses as referred to in paragraphs 11.5 and 11.6 of this article
- c) The Commission may establish additional types of class licenses
- d) In issuing Type A class licenses, the Commission may:
 - i. limit the number of licensees authorized to provide the class of service; and
 - ii. establish competitive or other qualification and licensing procedures consistent with the Commission statutes
- e) In issuing Type B class licenses, the Commission shall not:
 - i. limit the number of licensees authorized to provide the class of service; nor
 - ii. require any competitive or other qualification and licensing procedures other than the filing of a simple registration form with the Commission, indicating the name, address, and basic service information for the licensee
- f) Class licenses shall include a condition that every licensee in the class must file a registration with the Commission at least thirty (30) days prior to commencement of its service. The registration shall include the name of the service provider, its address, a description of the service it will provide, and other basic service information specified in the class license
- g) The Commission may suspend or revoke a registration for breach of the conditions of a class license. A suspension or revocation shall only occur after written notice to the licensee by the Commission and after a reasonable opportunity, not to be fewer than fifteen (15) days, has been given to the service provider to cure the breach
- h) Prior to issuing a class license, the Commission may:
 - i. publish a draft of the proposed class license containing the proposed conditions for the provision of telecommunications services or operation of networks by licensees in the class;
 - ii. invite public comments to the Commission regarding the proposed class license; and

iii. after taking into account any comments received, issue and publish the class license.

11.5 The following services and networks shall, unless the Commission decides otherwise, require a Type A class license:

- a) national and international voice telephone resale services;
- b) Very Small Aperture Terminal (VSAT) satellite services;
- c) public pay telephone services;
- d) radio paging services;
- e) temporary network services; and
- f) any other service or network that the Commission decides does not require an individual license or a different type of class license.

11.6 The following services and networks shall, unless the Commission decides otherwise, require a Type B class license:

- a) Internet service provider (ISP) services;
- b) value-added network services;
- c) GMPCS or global mobile personal communication services;
- d) Public Call Office (PCO); and
- e) any other service or network that the Commission decides require a Type B class license

11.7 Service providers may operate under more than one license.

11.8 The Commission shall address matters relating to the amendment, renewal, suspension, revocation or re-assignment of class licenses and registrations in accordance with this Bylaw and the Rules of Procedure.

Article 12 Conditions of Individual Licenses

12.1 The Commission may impose conditions on individual licenses to implement the objectives of the Act, including, without limitation, conditions that address the following matters:

- a) scope of the services to be offered;
- b) quality of service parameters;
- c) terms and conditions of exclusivity;
- d) network or service rollout requirements;
- e) additional service obligations;
- f) limitations on ownership of other service providers;
- g) specific tariff conditions in addition to those in this Bylaw;
- h) requirements relating to the filing of information by the licensee with the Commission;
- i) requirements for co-operation with the Commission in the exercise of its duties under the Commission statutes;
- j) the level of segregation of telecommunications services for accounting and regulatory purposes as may be determined by the Commission; and
- k) requirements with respect to billing, inquiry services and emergency services.

12.2 Individual licenses for the same type of service shall have the same conditions unless differences are objectively justified by different circumstances.

12.3 The Commission may issue individual licenses for a term not to exceed twenty-five (25) years.

12.4 The Commission may issue decisions requiring one or more service providers to file a plan for the approval of the Commission regarding the provision of disaster and emergency telecommunications services.

Article 13 Licensing Process and Criteria

13.1 The Commission shall take into account the regulatory objectives of Article Three of the Act in issuing licenses and establishing license conditions.

13.2 Each applicant for an individual license shall, at a minimum, provide the information set out below:

- a) name, address and other location co-ordinates of the applicant;
- b) a description of the specific type of service that the applicant proposes to provide, and the geographic area the telecommunications service would cover;
- c) a description of the specific network and telecommunications transmission system that the applicant proposes to establish and operate, and the schedule for implementation and roll-out of the network and system;
- d) clear evidence that the applicant has the financial capability to provide the proposed services and to implement the proposed network; and
- e) clear evidence that the applicant has the technical capability and experience or has access to the technical capability and experience to provide the proposed services and to implement the proposed network;

13.3 The Commission may, from time to time, publish information regarding procedures and required contents for applications for different types of individual licenses. The procedures published by the Commission shall provide:

- a) sufficient information regarding the proposed license to enable applicants to file complete applications;
- b) sufficient time between the date of the publication and the due date for the submission of applications to enable applicants to file complete applications;
- c) for an appropriate degree of public consultation, to be determined in the Commission's discretion, depending on the Commission's assessment of the importance of the license;

- d) all of the licensing criteria and the period of time required to reach a decision concerning an application for a license; and
- e) any other objective standards that the Commission may determine

13.4 The Commission may publish the information filed with it pursuant to this Article.

13.5 The Commission shall provide reasons for the denial of an individual license, or for its refusal to accept a registration under a class license, to the applicant upon request.

Article 14 Licensing in Situations of Scarcity

14.1 The Commission may limit the number of licenses issued in a given telecommunications market:

- a) during the period of transition towards competition in order to promote the orderly and rapid development of that type of telecommunications network or service;
- b) if frequencies are not available for allocation in sufficient quantity

14.2 If the number of licenses is to be limited pursuant to this Article, the Commission may select a licensing process based on the type of telecommunications service or telecommunications network under consideration. The Commission may select:

- a) a comparative evaluation process in accordance with Article 15 of this Bylaw;
- b) an auction process in accordance with Article 16 of this Bylaw; or
- c) such other process as the Commission deems appropriate in the circumstances

14.3 The Commission shall publish its decision on the choice of type of licensing process in paragraph 14.2 of this Article as well as any rules it considers appropriate for the conclusion of the licensing process.

14.4 Where the Commission limits the number of licenses being awarded, the process for the issuance of such licenses shall be objective, transparent, and non-discriminatory.

Article 15 Comparative Evaluation Process

15.1 When conducting a comparative evaluation process, the Commission shall determine which applicant is, on the basis of financial and technical capability, best placed to satisfy users' demand for the relevant telecommunications network or telecommunications service.

15.2 The Commission shall conduct a pre-qualification process during which each potential applicant shall provide:

- a) clear evidence that the applicant has the financial capability to provide the proposed services and implement the proposed network; and
- b) clear evidence that the applicant has the technical capability and experience or has access to the technical capability and experience to provide the proposed services and implement the proposed network

15.3 The Commission shall invite applicants who provide the evidence required under paragraph 15.2 of this Article in a form and substance satisfactory to the Commission, to submit applications in the comparative evaluation process. Applications shall contain the information specified in paragraph 13.2 of Article 13 of this Bylaw and such other information as may be reasonably required by the Commission.

15.4 The Commission shall establish a process for the comparative evaluation process which shall include the procedures established in paragraph 15.3 of this Article. The comparative evaluation of applicants shall be based on such objective criteria as the Commission may determine.

15.5 The Commission may publish the information filed with it pursuant to this Article.

Article 16 Auction Process

16.1 Prior to conducting an auction for a license to provide a telecommunications service, the Commission shall conduct a pre-qualification process during which each applicant must provide:

- a) clear evidence that the applicant has the financial capability to provide the proposed services and implement the proposed network; and
- b) clear evidence that the applicant has the technical capability and experience or has access to the technical capability and experience to provide the proposed services and implement the proposed network

16.2 The Commission shall invite qualified applicants who provide the evidence required under paragraph 16.1 of this Article in a form and substance satisfactory to the Commission to participate in the auction process. The Commission may establish rules for an auction process, including the qualification process, and those procedures shall be published in a decision.

Article 17 Radio Licenses

17.1 Where an applicant for a telecommunications license, or an applicant for renewal of a telecommunications license, requires frequency spectrum for the provision of the telecommunications services or the operation of the telecommunications network contemplated in the application, the applicant shall file an application for issuance or renewal of a radio license and the Commission shall process both applications concurrently.

17.2 The Commission shall not deny issuance or renewal of a radio license to an applicant described in paragraph 17.1 of this Article unless the Commission is satisfied upon the evidence before it that the radio license must be denied because:

- a) of unavailability of frequency spectrum;
- b) the need to avoid harmful interference with other telecommunications services provided by a service provider;

- c) issuance of the radio license would otherwise contravene a Commission statute; or
- d) the telecommunications license to which the radio license relates is not granted or renewed

Article 18 Fixed and Mobile Telephone Service

18.1 The provisions of this Article shall apply to an individual license for the provision of fixed or mobile telephone service.

18.2 The re-assignment of a license requires the prior approval of the Board. The Board's decision shall be published within ninety (90) days of the submission of a complete application.

18.3 The Board may amend a license if:

- a) the licensee has applied for an amendment;
- b) changes to international or regional treaties, regulations, recommendations, and standards or the laws of the Kingdom require an amendment; or
- c) the amendment is necessary in order to carry out the objectives of Article Three of the Act.

18.4 The Board may renew a license in accordance with the Commission statutes. A service provider shall apply to the Commission for the renewal of its license prior to its expiry and in accordance with its license.

18.5 The Board may amend, suspend, revoke, or refuse to renew a license for reasons which may include, but shall not be limited to, the following:

- a) repeated violations of a basic licensing condition;
- b) failure to pay licensing or other fees required by the Commission;

- c) repeated failure to comply with duly issued decisions of the Commission;
- d) failure to operate under the license within one year from the date of its issue;
- e) carrying out activities prejudicial to the public interest;
- f) bankruptcy, dissolution and/or liquidation of the licensee; or
- g) re-assignment of the license without the consent of the Commission

18.6 Prior to amendment, renewal, suspension or revocation of a license, the Commission shall notify the licensed service provider in writing that it is considering the relevant action. The notice:

- a) shall give the service provider sufficient time to prepare comments on the relevant action;
- b) shall set out any procedures the Commission will use in considering the relevant action; and
- c) may invite comments from other concerned parties

18.7 If the Board amends, suspends or revokes, or does not renew, a license, it shall give the service provider sufficient time to comply with the decision and shall make arrangements to ensure continuity of service to users.

18.8 The Commission may issue a decision establishing further procedures to amend, renew, suspend or revoke a license.

18.9 A decision by the Board to amend, renew, suspend or revoke an individual license for the provision of fixed or mobile telephone services is subject to approval by the Minister.

Article 19 Other Individual Licenses

19.1 The provisions of this Article shall apply to an individual license other than an individual license for fixed or mobile telephone service.

19.2 The re-assignment of a license requires the prior approval of the Board. The Board's decision shall be published within ninety (90) days of the submission of a complete application. The Rules of Procedure shall set out the procedure for applications.

19.3 The Board may amend a license if:

- a) the licensee has applied for an amendment;
- b) changes to international or regional treaties, regulations, recommendations, standards or the laws of the Kingdom require an amendment; or
- c) the amendment is necessary in order to carry out the objectives of Article Three of the Act

19.4 The Board may renew a license in accordance with the Commission statutes. A service provider shall apply to the Commission for the renewal of a license prior to its expiry and in accordance with its license.

19.5 The Board may not renew, or amend, or suspend, or revoke a license for reasons which may include but shall not be limited to the following:

- a) repeated violations of a basic licensing condition;
- b) failure to pay licensing or other fees required by the Commission;
- c) repeated failure to comply with duly issued decisions of the Commission;
- d) failure to operate under the license within one year from the date of its issue;
- e) carrying out activities prejudicial to the public interest;

- f) bankruptcy, dissolution and/or liquidation of the licensee; or
- g) re-assignment of the license without the consent of the Commission

19.6 Prior to amendment, renewal, suspension or revocation of a license, the Commission shall notify the licensed service provider in writing that it is considering the relevant action. The notice:

- a) shall give the service provider sufficient time to prepare comments on the relevant action;
- b) shall set out any procedures the Commission will use in considering the relevant action, and
- c) may invite comments from other concerned parties

19.7 If the Board amends, suspends or revokes, or does not renew, a license, it shall give the service provider sufficient time to comply with the decision and shall make arrangements to ensure continuity of service to users on such terms and conditions as it deems appropriate.

19.8 The Commission may issue a decision establishing further procedures to amend, renew, suspend or revoke a license.

Article 20 Class Licenses

20.1 The Commission may issue a class license for a term not to exceed twenty-five (25) years.

20.2 The Commission may review the terms and conditions of a class license at any time and shall review the terms and conditions of each class license within five (5) years of the date of its issuance.

20.3 When conducting a review under paragraph 20.2 of this Article, the Commission shall give written notice to the registrants under the class license being reviewed.

20.4 The Commission may amend or revoke a class license if:

- a) A registrant under a class license has applied for an amendment or a revocation;
- b) changes to international or regional treaties, recommendations, and standards or the laws of the Kingdom require an amendment or a revocation; or
- c) the amendment or revocation is necessary in order to carry out the objectives of Article Three of the Act.

20.5 Prior to amendment or revocation of a license pursuant to this Article, the Commission shall notify the licensed service provider in writing that it is considering the relevant action. The notice:

- a) shall give the registrants under the class license sufficient time to prepare comments on the relevant action;
- b) shall set out any procedures the Commission will use in considering the relevant action, and
- c) may invite comments from other concerned parties

20.6 If the Commission amends or revokes a class license pursuant to this Article, it shall provide registrants with sufficient time to comply with the amendment or revocation.

20.7 The Commission may renew a class license in accordance with the Act and this Bylaw. If the Board is considering renewing a license pursuant to this Article, the Commission shall publish a notice setting out the procedure and may hold a public consultation. The notice shall provide the registrants under the class license sufficient time to prepare comments.

20.8 Where a class license is revoked or not renewed, the Commission shall ensure continuity of service to users on such terms and conditions as it deems appropriate.

20.9 The Commission may issue a decision establishing further procedures to renew, amend or revoke a class license.

Article 21 Registrations Under Class Licenses

21.1 The Commission may revoke a registration under a class license. Reasons for revocation may include, but shall not be limited to the following:

- a) repeated violations of a material licensing condition;
- b) failure to pay fees required by the Commission;
- c) failure to comply with duly issued decisions of the Commission;
- d) failure to provide the licensed service or operate the licensed network within one (1) year of registration;
- e) carrying out activities prejudicial to the public interest;
- f) bankruptcy or liquidation of the service provider; or
- g) re-assignment of the license without the Commission's approval

21.2 If the Commission is considering the revocation of a registration pursuant to this Article, the Commission shall publish a notice setting out the procedure and may hold a public consultation. The notice shall provide the registrant sufficient time to prepare comments. If the Commission revokes a registration, it shall provide the registrant with sufficient time to comply with the revocation and shall ensure continuity of service to users on such terms and conditions as it deems appropriate.

21.3 The Commission may issue a decision establishing further procedures to revoke a registration under a class license.

Article 22 National Telecommunications Registry

22.1. The Commission shall maintain and publish a National Telecommunications Registry.

22.2. The National Telecommunications Registry shall contain:

- a) the full text of all licenses and registrations under class licenses;
- b) decisions;
- c) all type approvals and technical standards prescribed by the Commission;
- d) Reference Interconnection Offers;
- e) interconnection agreements as described in Article 42 of this Bylaw;
- f) a list of all fees set pursuant to a Commission statute; and
- g) the National Frequency Register

Chapter 3 : Access to property

Article 23 Rights of Entry on Public Lands

23.1 Subject to paragraphs 23.2 to 23.5 of this Article, a service provider may enter on and break up any highway or other public place for the purpose of constructing, maintaining or operating a telecommunications transmission system and may remain there for as long as is necessary for that purpose, but shall not interfere with its public use.

23.2 No service provider shall construct a telecommunications transmission system on, over, under or along a highway or other public place without the consent of the public authority having jurisdiction over the highway or other public place.

23.3 Where a service provider cannot, on commercially reasonable terms, obtain the consent of the public authority to construct a telecommunications transmission system, the service provider may apply to the Commission for permission to construct it and the Commission shall co-operate with the public authority to find a solution acceptable to both the Commission and

the public authority, having due regard to the use and enjoyment of the highway or other public place by others.

23.4 Where a service provider cannot, on commercially reasonable terms, gain access to the pole, duct, tower or other supporting structure of a telecommunications, electrical power, or other utility transmission system constructed on a highway or other public place, that service provider may apply to the Commission for assistance in obtaining a right of access to the supporting structure for the purpose of providing its telecommunications services. The Commission shall assist in attempting to facilitate such access on a basis acceptable to the service provider and the public authority.

23.5 On application by a public authority, the Commission may:

- a) issue a decision ordering a service provider, subject to any conditions that the Commission determines, to bury or alter the route of any telecommunications transmission system situated or proposed to be situated within the jurisdiction of the public authority; or
- b) prohibit the construction, maintenance or operation by a service provider of any such telecommunications transmission system except as directed by the Commission

23.6 On application by a public authority or an owner of land, the Commission may authorize the construction of drainage works or the laying of utility pipes on, over, under or along (i) a telecommunications transmission system of a service provider; or (ii) any lands used for the purposes of a telecommunications transmission system, subject to any conditions that the Commission determines.

Article 24 Rights of Entry on Private Lands

24.1 Where a service provider requires land or an interest in land to provide telecommunications services, the service provider shall attempt to reach an agreement with the property owner or his representative.

24.2 If the service provider fails to reach an agreement contemplated under paragraph

24.1 of this Article, the service provider may apply to the Commission for the expropriation of any necessary property in accordance with Article Thirty-five of the Act.

24.3 The Commission shall take the steps necessary to mediate between the concerned parties. If the Commission's mediation fails to produce an agreement between the parties involved, it shall resolve the matter in co-ordination with the appropriate authorities and in accordance the Expropriation Act.

Article 25 Existing Telecommunications Facilities

25.1 Wherever possible, new telecommunications facilities shall be provided in a manner that does not create an undue adverse effect on existing telecommunications facilities.

25.2 Relocation or modification of an existing telecommunications transmission system as a result of the provision of a new telecommunications transmission system shall be carried out at the expense of the person requesting the relocation or the modification.

25.3 Any person who creates the need for protective measures on an existing telecommunications transmission system shall be responsible for the cost of such measures.

Article 26 Other Installations

26.1 Telecommunications facilities shall be established in such a way that they do not adversely affect existing installations (including but not limited to, installations used to maintain public ways, water and gas lines, oil pipelines, and electrical installations). Any person who creates the need for protective measures on installations shall be responsible for the cost of such measures.

26.2 A service provider shall compensate persons incurring costs for the relocation or modification of these facilities or installations.

Article 27 Sites with Environmental or Historical Significance

27.1 Where technically possible, and subject to the discretion of the Commission, service providers shall protect sites with environmental or historical significance from damage or disruption due to the construction, operation or maintenance of telecommunications transmission systems and other telecommunications facilities.

27.2 The Commission may for the purpose of this Article, issue a decision designating certain sites as significant for environmental or historical reasons, in coordination with the concerned public authority.

Article 28 Co-location

28.1 In accordance with Article Thirty-six of the Act, service providers with existing telecommunications facilities shall allow other service providers to co-locate their telecommunications transmission systems at installation sites, where such co-location is economically feasible and no major additional construction work is required.

28.2 The party requesting co-location shall compensate the person required to provide co-location for such an amount as the parties may agree or, where the parties are unable to agree, as may be determined by the Commission.

28.3 Where the parties are unable to agree on all of the terms of co-location, either or both parties may apply to the Commission for consensual resolution or mandated resolution in accordance with Chapter 6 of this Bylaw.

Chapter 4 : Competition between service providers

Article 29 Duties of Commission Regarding Competition

In accordance with Chapter Six of the Act, and Articles Three (e) and (o) of the Ordinance, the Commission shall perform the following functions and duties in relation to competition among service providers in telecommunications markets in the Kingdom:

- a) promote efficient and sustainable competition for the benefit of users;
- b) establish an open and transparent regulatory framework that minimizes regulatory and other barriers to entry into telecommunications markets;
- c) issue a decision designating dominant service providers in relevant markets in the Kingdom, based on their market share and other factors as determined in accordance with Article 30 of this Bylaw;
- d) monitor and prevent abuses of a service provider's dominant position, pursuant to Article Twenty Six of the Act and this Chapter;
- e) monitor and prevent practices that would restrict competition, in accordance with Article Twenty Four of the Act and this Chapter;
- f) review and decide upon proposed mergers of service providers, pursuant to Article Twenty-five of the Act; and
- g) dispose of complaints and resolve disputes related to anti-competitive practices in a timely and impartial manner

Article 30 Designation of Dominant Service Providers

30.1 In accordance with Article One of the Act, every service provider that earns forty per cent (40%) or more of the gross revenues in a specific telecommunications market shall be designated a dominant service provider in that market, until and unless the Commission specifies otherwise in a decision.

30.2 The Commission may designate a service provider with more or less than forty per cent (40%) of the gross revenues in a specific telecommunications market as a dominant service provider if, either individually or acting together with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors or users, taking into account its market share and the factors set out in paragraphs 30.6(b) to 30.6(f) of this Article.

30.3 The Commission shall post and maintain on its official web site a current list of all dominant service providers, specifying the markets in which they have been designated to be dominant.

30.4 Decisions designating dominant service providers shall specify and define the relevant markets for which a service provider is designated to be dominant.

30.5 Prior to issuing any designation decision the Commission shall consult with the public and with the affected service providers, except in the case of an initial decision to designate the incumbent service provider as dominant. Notice of such consultation shall be made in accordance with the Rules of Procedure.

30.6 In determining whether to designate a service provider as dominant, or to change its designation, with respect to any relevant market, the Commission shall, in respect of the relevant market only, take into account the following factors:

- a) the service provider's market share and whether it gives the service provider a position of economic strength affording it the power to behave to an appreciable extent independently of competitors or users, taking into account the other factors set out below;
- b) the number of other service providers and their market shares;
- c) pricing behaviour and the ability of any service provider to take the lead in setting prices;
- d) whether the service provider has exclusive or dominant control over essential facilities for the provision of services and/or telecommunications facilities that provide access to users;

- e) the availability of reasonably substitutable services; and
- f) the nature and extent of barriers to entry.

Article 31 Abuse of Dominance

Pursuant to Article Twenty-six of the Act, dominant service providers are prohibited from undertaking activities or actions that are an abuse of their dominant position. The following types of actions and activities shall be considered an abuse of dominant position:

- a) failure to supply essential facilities to a competitor within a reasonable time after a request and on reasonable terms and conditions, where the dominant service provider has such facilities available;
- b) discrimination in the provision of access, interconnection or other services or facilities to other service providers except under circumstances that are objectively justified based on differences in supply conditions, including different costs or a shortage of available facilities or resources;
- c) bundling of services, whereby the service provider requires, as a condition of supplying a service to a competitor, that the competitor acquire another service that it does not require; or the service provider offers the competitor more favourable terms or conditions that are not justified by cost differences if it acquires another service that it does not require;
- d)) pre-emptive acquisition or securing of scarce facilities or resources, including rights of way, required by another service provider for the operation of its business, with the effect of denying the use of the facilities or resources to the other service provider;
- e) supplying competitive services at prices below long run average incremental costs or such other cost standard as is established by the Commission;
- f) cross-subsidizing from one service to a competitive service with the objective of lessening competition, except where such cross subsidy is specifically approved by decision of the Commission or by approval of tariffs for relevant services;
- g) failure to comply with the interconnection obligations of a dominant service provider that are specified in Chapter 5 of the Bylaw;
- h) any of the following actions, where such actions have the effect of impeding or preventing the competitor's entry into, or expansion in, a market:

1. price squeezing, by a dominant service provider, of the margin of profit available to a competitor that requires wholesale services from the dominant service provider, by increasing the prices for the wholesale services required by that competitor, or decreasing the prices of the retail services in markets where they compete, or both;
 2. requiring or inducing a supplier to refrain from selling to a competitor;
 3. adoption of technical specifications for its networks or systems that prevent interoperability with a network or system of a competitor;
 4. failure to make available to other service providers on a timely basis technical information about essential facilities, technical specifications or other commercially relevant information which is required by such other service providers to provide services; and
 5. using information obtained from competitors, for purposes related to interconnection or supply of services by the dominant service provider, to compete with such competitors;
- i) any other action or activity engaged in by a dominant service provider that the Commission determines in accordance with Article 32 of this Bylaw, to have the effect, or to be likely to have the effect, of materially restricting or distorting competition in a telecommunications market.

Article 32 Other Anti-competitive Practices

In accordance with Article Twenty-four of the Act, no person shall engage in a practice restricting or distorting competition in telecommunications markets, including the following:

- a) arrangements between two or more service providers that directly or indirectly fix the prices or other terms or conditions of service in telecommunications markets;
- b) arrangements between two or more service providers that directly or indirectly determine which person will win a contract or business opportunity in a telecommunications market; and
- c) arrangements between two or more service providers to apportion, share or allocate telecommunications markets among themselves or other service providers

Article 33 Determination of Abuse of Dominance and Anti-competitive Practices

33.1 The Commission may, on application by any person, or on its own initiative, determine whether, in any case,

- a) the actions or activities of a dominant service provider constitute an abuse of its dominant position, within the meaning of Article 31 of this Bylaw, and
- b) the actions or activities of any service provider amount to an anti-competitive practice within the meaning of Article 32 of this Bylaw.

33.2 Without prejudice to Article Thirty-nine of the Act, a determination by the Commission under paragraph 33.1 of this Article shall be final and binding on all parties, provided such parties received advance notice that such a decision was being considered, and had an opportunity to comment on the relevant issues before the decision was made.

33.3 The Commission may issue a decision determining that a specific action or activity listed in Article 31 or Article 32 of this Bylaw shall not be considered an abuse of dominance, or an anti-competitive practice, as the case may be, under specified circumstances.

33.4 A decision issued under paragraph 33.3 of this Article shall specify the reasons for the decision, which shall be consistent with the evolution of a competitive market-based telecommunications sector in the Kingdom.

Article 34 Remedies for Abuse of Dominance and Anti-Competitive Practices

34.1 If the Commission determines that, in a particular case, or in a number of cases the actions or activities of a dominant service provider constitute an abuse of its dominant position or an anti-competitive practice, within the meaning of the Act and this Bylaw, the Commission may

- a) issue a decision requiring one or more persons named in the decision to take one or more of the following actions:
 - 1. to cease the actions or activities specified in the decision, immediately or at such time prescribed in the decision, and subject to such conditions prescribed in the decision; and
 - 2. to make specific changes in actions or activities specified in the decision, as a means of eliminating or reducing the abusive or anti-competitive impact;
- b) refer the matter to the violations committee to impose a penalty for violation of the Act pursuant to Article Thirty-eight of the Act and Article Ninety four (94) of this Bylaw;
- c) request that the service provider involved in the abusive actions or activities or anti-competitive practices and the persons affected by such actions, activities or practices meet to attempt to determine remedies to prevent or eliminate continuation of such actions, activities or practices, and, if necessary resolve any dispute pursuant to Chapter 6 of this Bylaw;
- d) require the service provider responsible for the abusive or anti-competitive actions or activities specified in the decision to publish an acknowledgement and apology for such actions, activities or practices in one or more newspapers of wide circulation, in such a form and at such times as the Commission specifies in the decision; and/or
- e) require the service provider to provide periodic reports to the Commission to assist in determining whether the actions or activities are continuing and to determine their impact on telecommunications markets, competitors and users

34.2 In case of repeated breaches of a decision made by the Commission to prevent or punish a dominant service provider for abuses of its dominant position or anti-competitive action or activities, the Commission may issue a further decision requiring the service provider to divest itself of ownership of some lines of business, or carry out those lines of business in a separate company with separate books of account, provided that:

- a) the service provider has been given specific written notice that such a decision may be made, and given an opportunity to make comments on the issuance of such a decision; and
- b) the Commission determines that such a decision is an effective means of putting an end to the continuation of the abusive or anti-competitive action, activities or practices

Article 35 Mergers

35.1 Applications for approval of a merger under Article Twenty-five, Clause One of the Act or for purchase of shares under Article Twenty-five, Clause Two of the Act shall include detailed information on the proposed merger or purchase transaction. Such information shall, at a minimum, include:

- a) identification of all persons involved in the merger or purchase transaction, including upstream owners, buyers, sellers and persons that have a greater than five per cent (5%) ownership interest in either;
- b) a description of the nature of the transaction and a summary of its commercial terms;
- c) basic financial information on the persons involved in the transaction, including their annual revenues from telecommunications markets, value of assets devoted to telecommunications business and copies of any published annual or quarterly financial reports; and
- d) a description of the relevant telecommunications markets in which the persons involved in the transaction operate

35.2 Within ninety (90) days of receipt of a duly completed application under Article Twenty-five, Clause One or Two of the Act, the Commission shall:

- a) approve the transaction without conditions;
- b) approve the transaction with such conditions as are reasonably related to promoting the development of open and competitive telecommunications markets in the Kingdom, and maximizing the benefit for telecommunications users;
- c) deny the transaction; or
- d) issue a notice, in accordance with Chapter 2 of the Rules of Procedure, initiating an investigation of the proposed transaction in accordance with paragraph 35.3 of this Article.

35.3 If the Commission decides to initiate an investigation of a proposed transaction under Article Twenty-five, Clause One or Two of the Act, the Commission may request further information relating to the transaction and its implications for telecommunications markets in the Kingdom, including information on the following matters:

- a) telecommunications-related services provided by parties to the transaction, users, suppliers, market shares, and financial performance;
- b) activity of competitors and competitors' market shares;
- c) availability of substitute products in the relevant markets; and
- d) generally, the impact of the transaction on suppliers, competitors and users in the relevant telecommunications markets

35.4 Following conclusion of an investigation of a proposed transaction under Article Twenty-five, Clause One or Two of the Act, the Commission shall issue a decision pursuant to one of paragraphs 35.2(a), 35.2(b) or 35.2(c) of this Article.

35.5 The Board's decision with respect to a merger under Article Twenty-five of the Act shall take into account the following guidelines:

- a) a merger shall be found to be likely to prevent or lessen competition substantially when the parties to the merger would more likely be in a position to exercise a materially greater degree of market power in a substantial part of a relevant telecommunications market for two years or more than if the merger did not proceed in whole or in part;
- b) a relevant telecommunications market is the smallest group of products and the smallest geographic area in relation to which sellers can impose and maintain a significant and non-transitory price increase above levels that would have likely existed in the absence of a merger. In most cases, a five per cent (5%) price increase would be significant and a one year period would be transitory;
- c) mergers generally will not be challenged on the basis of concerns relating to the unilateral exercise of market power where the post-merger share of the merged entity would be less than thirty-five per cent (35%); and
- d) mergers generally will not be challenged on the basis of concerns relating to the interdependent exercise of market power, where the share of the telecommunications

market accounted for by the largest four firms in the market post-merger would be less than sixty-five per cent (65%).

35.6 In applying the guidelines referred to in paragraph 35.5 of this Article, the Board shall consider:

- a) the extent to which foreign products or foreign competitors provide or are likely to provide effective competition to the businesses of the parties to the merger or proposed merger;
- b) whether the telecommunications business, or a part of the business, of a party to the merger or proposed merger has failed or is likely to fail;
- c) the extent to which acceptable substitutes for products supplied by the parties to the merger or proposed merger are or are likely to be available;
- d) any barriers to entry into a market, including:
 - i. tariff and non-tariff barriers to international trade;
 - ii. regulatory control over entry; and
 - iii. any effect of the merger or proposed merger on such barriers
- e) the extent to which effective competition remains or would remain in a market that is or would be affected by the merger or proposed merger;
- f) any likelihood that the merger or proposed merger will or would result in the removal of a vigorous and effective competitor;
- g) the nature and extent of change and innovation in a relevant market; and
- h) any other factor that is relevant to competition in a market that is or would be affected by the merger or proposed merger

Chapter 5 : Interconnection

Article 36 Functions and Duties of Commission Regarding Interconnection

In accordance with Chapter Seven of the Act, the Commission shall perform the following functions and duties in relation to interconnection of telecommunications networks:

- (a) promote adequate and efficient interconnection of telecommunications networks and access by service providers to telecommunications facilities of other service providers, in order to permit interoperability of telecommunications services that originate or terminate in the Kingdom, or both;
- (b) establish an open and transparent regulatory framework for interconnection and access with a view to minimizing regulatory and other barriers to entry into telecommunications markets;
- (c) promote expeditious and commercially viable interconnection arrangements by relying on commercial negotiations between the parties to reach interconnection agreements, where possible;
- (d) ensure that interconnection agreements meet the objectives of the Commission statutes;
- (e) publish Interconnection Guidelines consistent with Commission statutes;
- (f) determine which service providers are dominant service providers in a telecommunications market for interconnection;
- (g) if considered appropriate by the Commission, regulate the prices for interconnection and access services by dominant service providers in a telecommunications market for interconnection;
- (h) ensure that dominant service providers publish Reference Interconnection Offers in accordance with this Bylaw and the Interconnection Guidelines; and
- (i) resolve disputes related to interconnection and access in a timely and impartial manner.

Article 37 Interconnection by All Service Providers

37.1 Upon receipt of a written request by another service provider or a foreign service provider, a service provider shall enter into good faith negotiations to enter into an interconnection agreement:

- (a) to connect and keep connected both parties' telecommunications networks at specified points of connection; and
- (b) to provide access to such telecommunications facilities as are reasonably requested in order for the service providers to provide telecommunications services to their users.

37.2 The following actions or practices among others shall be deemed to violate the duty to negotiate in good faith:

- (a) obstructing or delaying negotiations or resolution of disputes;

- (b) refusing to provide information about a service provider's own telecommunications or telecommunications facilities that are necessary for the interconnection arrangements;
 - (c) misleading or coercing a party into reaching an agreement it would not otherwise have made;
 - (d) demanding that another service provider sign a non-disclosure agreement that precludes it from providing information requested by the Commission; or
 - (e) refusing to include a provision allowing amendment of the interconnection agreement to take into account changes in Commission statutes.
- 37.3 A service provider shall not be required to enter into an agreement under paragraph 37.1 of this Article where to do so would, in its reasonable opinion, and where the Commission has not ruled otherwise:
- (a) cause or be likely to cause material danger, damage or injury to any person or to any property;
 - (b) cause material damage or otherwise interfere with the operation of its telecommunications network, telecommunications facilities or the provision of its telecommunications services; or
 - (c) not be technically or commercially feasible.
- 37.4 Service providers shall ensure that an agreement offered in response to a request made under paragraph 37.1 of this Article shall comply with the provisions of the Interconnection Guidelines for the relevant type of interconnection and/or access.
- 37.5 Service providers and other concerned parties may at any time request the Commission to issue a decision that amends or elaborates on the treatment of the issues or on the procedures set out in the Interconnection Guidelines.

Article 38 *Interconnection by Dominant Service Providers*

- 38.1 Articles thirty eight (38) to forty two (42) of this Bylaw apply only to service providers that the Commission has designated as dominant service providers for interconnection purposes in one or more telecommunications markets.
- 38.2 The Commission may, by decision, designate a service provider as being a dominant service provider for interconnection purposes in one or more markets, if the Commission considers that:
- (a) the service provider is a dominant service provider within the meaning of the Commission statutes, and/or
 - (b) the service provider, either individually or jointly with others, enjoys a position equivalent to that of a dominant service provider.

Article 39 *Requests for Interconnection*

- 39.1 Every dominant service provider designated under Article 38 of this Bylaw shall, on request, offer to provide interconnection to its telecommunications network and access to telecommunications facilities, to any service provider by means of a written interconnection agreement.
- 39.2 Interconnection arrangements offered by dominant service providers in accordance with paragraph 39.1 of this Article shall:
- (a) be consistent with the Interconnection Guidelines most recently published by the Commission before the date of the offer, including any guidelines set out therein relating to interconnection charges and quality of service;

- (b) be consistent with the Reference Interconnection Offer that has been approved by the Commission for the service provider;
 - (c) be transparent, non-discriminatory and objective;
 - (d) meet all reasonable requests for access to its telecommunications network at any technically feasible point; and
 - (e) be subject to reasonable terms and conditions, consistent with the Act and this Bylaw.
- 39.3 Every dominant service provider designated as dominant in relevant interconnection markets shall ensure that:
- (a) it applies similar conditions to interconnecting service providers and foreign service providers under similar circumstances;
 - (b) it provides interconnection and access to interconnecting service providers and foreign service providers under the same conditions and of the same quality as it provides for its own services, or those of its affiliates;
 - (c) it makes available on request all necessary information and specifications to service providers and foreign service providers requesting interconnection and access; and
 - (d) it only uses information received from a service provider or a foreign service provider seeking interconnection for the purposes for which it was supplied and does not disclose the information to other departments, affiliates or persons to whom the information could provide a competitive advantage.

Article 40 Interconnection Charges

- 40.1 The Commission shall be governed by the objective of ensuring that interconnection and other access charges imposed by dominant service providers comply with the Interconnection Guidelines when:
- (a) approving such charges;
 - (b) resolving a dispute between service providers regarding such charges; or
 - (c) otherwise exercising its functions and duties under the Commission statutes.
- 40.2 In establishing charges for interconnection and access, dominant service providers shall comply with the Interconnection Guidelines, including any pricing, costing and cost separation guidelines set out therein.

Article 41 Reference Interconnection Offers

- 41.1 Every dominant service provider shall prepare a Reference Interconnection Offer for approval by the Commission within the time period prescribed in the Interconnection Guidelines after its designation by the Commission. Dominant service providers shall periodically update Reference Interconnection Offers in the manner prescribed by the Interconnection Guidelines.
- 41.2 A dominant service provider shall publish its approved Reference Interconnection Offer by:
- (a) sending a copy to the Commission;
 - (b) making a copy available in its principal business offices; and
 - (c) sending a copy to any person on request.
- 41.3 Every Reference Interconnection Offer shall:

- (a) comply with the Interconnection Guidelines, including any applicable guidelines for the form and content of a Reference Interconnection Offer published by the Commission;
 - (b) include a full list of standard services to be supplied to service providers in accordance with an agreement required under Article 39.1 of this Bylaw setting out the associated terms and conditions, including the charges for each service and component of such service;
 - (c) include a description of interconnection and access services to be supplied and the associated terms and conditions, including charges; and
 - (d) be approved and published by the Commission on its official web site.
- 41.4 Every dominant service provider designated under Article 38 of this Bylaw shall, except with the written approval of the Commission, ensure that its interconnection offers comply with its Reference Interconnection Offer and the Interconnection Guidelines.

Article 42 Publication of Interconnection Agreements

- 42.1 Every dominant service provider designated under Article 38 of this Bylaw shall, within ten (10) days after execution of an interconnection agreement, submit a copy to the Commission.
- 42.2 Copies of interconnection agreements provided to concerned parties in accordance with paragraph 42.1 of this Article may exclude parts of the agreement that contain designated confidential information. In every case, however, details of interconnection charges, terms and conditions shall be disclosed, as well as information required to be disclosed under the Interconnection Guidelines.
- 42.3 Subject to paragraph 42.4 of this Article, the Commission shall make copies of all interconnection agreements filed with it available to concerned parties on request and shall place a copy of all interconnection agreements on its official web site.
- 42.4 A dominant service provider may designate information as confidential pursuant to Chapter 1 of this Bylaw and the Rules of Procedure.
- 42.5 The Commission shall resolve disputes regarding disclosure of information in interconnection agreements.
- 42.6 Every dominant service provider designated under Article 38 of this Bylaw shall provide to the Commission, at such time or times as the Commission prescribes, a report on its interconnection arrangements. The reports shall:
- (a) list all interconnection agreements and other interconnection arrangements where there is no formal agreement, to which the service provider is a party;
 - (b) certify whether or not such agreements comply fully with the Interconnection Guidelines and fully explain any variances;
 - (c) provide such information on the quality of interconnection and access services as the Commission prescribes; and
 - (d) contain any additional information required by the Interconnection Guidelines.

Article 43 Non-compliant Interconnection Agreements

- 43.1 If the Commission decides that an interconnection agreement is not in compliance with Commission statutes or the license of a party to the interconnection agreement, it shall notify the parties to the interconnection agreement. Such notification shall be given by the Commission within the time prescribed by the Interconnection Guidelines.

- 43.2 The Commission's notification shall set out the basis for its decision and require the parties to amend the interconnection agreement within the time prescribed by the Interconnection Guidelines.
- 43.3 If the parties are unable to reach agreement on the terms and conditions of an interconnection agreement complying with the determination of the Commission, the dispute resolution provisions in Chapter 6 of this Bylaw shall apply.

Chapter 6 : Disputes between Service Providers

Article 44 Resolution of Disputes between Service Providers

The Commission shall deal with all disputes between service providers that are referred to it. In doing so, the Commission may use one or more of the dispute resolution methods set out in this Chapter.

Article 45 Consensual Resolution

45.1 Where a dispute exists between two or more service providers, without prejudice to the Act, the parties to the dispute may submit a request for consensual resolution to the Commission.

45.2 No request for consensual resolution may be brought under this Article until the parties to the dispute have negotiated in good faith for a minimum period of sixty (60) days and:

- a) Have been unable to reach agreement; or
- b) The conduct of one party has made it clear that further negotiations will not be productive

45.3 A request for consensual resolution or application under this Article must request resolution of all of the issues in dispute.

45.4 Consensual proceedings shall be confidential, except to the extent that disclosure of information related to the proceedings is required by law.

45.5 One or more of the parties to the dispute shall submit the request for consensual resolution. The request shall set out the following information:

- a) A statement that a dispute exists between the parties listed in the request;
- b) A statement of facts and issues upon which the parties agree;
- c) A statement of facts and issues upon which the parties do not agree;
- d) A statement from each party setting out its position on each disputed fact and issue;
- e) A statement from each party setting out its position on the other party's position on disputed facts and issues;
- f) A statement setting out the dispute resolution approach sought from the Commission;
and
- g) A statement setting out a proposed timetable for resolution of the dispute

45.6 Within fifteen (15) days after receipt of a request, the Commission shall advise the parties in writing whether it has:

- a) Agreed to proceed by way of consensual resolution;
- b) Accepted the proposed dispute resolution approach; and
- c) Accepted the proposed timetable for resolution

45.7 The Commission may deny a request for consensual resolution. In such a case, the Commission shall deal with the dispute by way of a rule-making proceeding in accordance with the Rules of Procedure.

45.8 In deciding whether to accept a request for consensual resolution under this Article or to proceed by way of a rule-making proceeding, the Commission shall consider whether:

- a) Resolution of the dispute will have regulatory or precedent value and whether a proceeding under this Article will likely be accepted generally as an adequately authoritative precedent;
- b) The dispute raises policy issues that may extend beyond the interests of the parties involved and that may require additional comment from other concerned parties before a final resolution may be made; and
- c) The dispute may potentially have a material effect on persons who are not parties to the proceeding

45.9 The Commission may approve a request for consensual resolution but not approve the proposed dispute resolution approach or timetable. The Commission shall appoint an inquiry officer under Article 8 of this Bylaw, who shall propose an approach and timetable in consultation with the parties. In case of disagreement on the consensual resolution approach and timetable, the Commission may decide to proceed by way of a rule-making proceeding, in accordance with the Rules of Procedure.

45.10 Where the Commission approves a request for consensual resolution and decides upon a dispute resolution approach and timetable, the Commission shall appoint a person to conduct the consensual resolution and specify the procedure and the schedule to be followed. The procedure may include one or more of the following:

- a) A process in which an inquiry officer is appointed under Article 8 of this Bylaw to mediate a mutually acceptable resolution of the dispute;
- b) a process in which an inquiry officer is appointed under Article 8 of this Bylaw with the mandate to request that the parties to the dispute submit 'final offers', and the mandate to select one of the final offers;
- c) a process in which the Commission makes a decision to resolve the dispute, with or without the steps set out in paragraphs 45.10(a) and 45.10(b) of this Article or other procedures; or
- d) A requirement that the parties agree to be bound by the final determination of the dispute.

Article 46 Mandated Resolutions

46.1 Where a dispute exists between two or more service providers and the parties cannot agree on consensual resolution, a party to the dispute may file an application with the Commission for mandated resolution under this Article. Where the dispute involves issues relating to interconnection, the Commission's resolution shall be made in accordance with any Interconnection Guidelines that have been published at the time.

46.2 Within fifteen (15) days after receipt of an application under this Article, the Commission shall set out the time within which the named respondent in the application may file an answer to the application and the time within which the applicant may file a reply to the answer.

46.3 The Commission shall establish, in each proceeding, the time limits for a person to submit a document to the Commission pursuant to this Article. In establishing time limits, the Commission shall take into account:

- a) The complexity of the information to be submitted; and
- b) The ease with which the information can be obtained by the person required to submit it

46.4 A respondent to the application shall file its answer with the Commission and the applicant in accordance with the Commission's decision on procedure. The answer shall admit all facts and issues set out in the application with which the respondent agrees.

46.5 If a respondent does not file an answer within the time required by the Commission's decision, the Commission may make a decision on the application without further notice to the respondent.

46.6 An applicant shall file its reply with the Commission and the respondent in accordance with the Commission's decision on procedure. The reply shall admit all facts and issues set out in the answer with which the applicant agrees.

46.7 When the reply is filed or the time for its filing has expired, no further documents may be submitted, except by decision of the Commission.

46.8 The Commission shall communicate its decision on the application to all parties to the dispute, promptly after the decision is made.

Chapter 7 : Tariffs

Article 47 Tariff Filing and Approval

47.1 Universal service providers shall file with and obtain the approval of the Commission for all tariffs for their universal service offerings.

47.2 Dominant service providers shall file with and obtain the approval of the Commission for all tariffs of telecommunications services in markets in which the Commission has designated them as dominant.

47.3 The Commission may regulate the tariffs of service providers that are not covered in paragraphs 47.1 or 47.2.

47.4 The Commission may issue a decision to remove any requirement for universal and dominant service providers to file and obtain approval of tariffs under this Chapter where the Commission determines that:

- a) Competitive market forces will be sufficient to protect the interests of users; and
- b) There is not a significant risk of harm to competitive markets as a result of the removal of tariff regulation

47.5 Tariffs for services provided by universal or dominant service providers shall be based on the cost of efficient service provision and shall not contain excessive charges which are made solely as a result of the service provider's dominant position or its designation as universal service provider.

47.6 Tariffs that must be filed with and approved by the Commission shall enter into force only after they have been approved by a decision of the Commission. Any agreement or arrangement between service providers and any user to collect a tariff other than the one approved by the Commission is prohibited.

47.7 The process for filing and approval of a tariff or tariff amendment shall be governed by this Chapter and by the Rules of Procedure.

47.8 Unless the Commission issues a decision to the contrary,

- a) A universal service provider shall not be required to file or obtain approval of tariffs for services that are not universal service offerings; and
- b) A dominant service provider shall not be required to file or obtain approval of tariffs for services that are provided in markets where it is not designated to be a dominant service provider

Article 48 Publication of Tariffs

48.1 From the date on which a service provider files a tariff or schedule of tariffs with the Commission until the tariff is approved, the service provider shall:

- a) Post a complete copy on its official web site; and
- b) Maintain a complete paper copy at its main business offices

48.2 Service providers shall maintain a complete and up to date schedule of their Commission-approved tariffs on their official web site and maintain a paper copy of the schedule for public viewing at their main business offices.

48.3 Universal service providers shall publish a complete and up-to-date schedule of their tariffs for universal service offerings in the front pages of their telephone directories. A service provider shall not be required to publish updated issues of its telephone directories solely to reflect changes in tariffs, but shall reflect such changes in the next regularly published telephone book.

48.4 In addition to paragraph 48.3 of this Article, a universal service provider shall notify users of changes in tariffs in any manner set out in a decision of the Commission.

Article 49 Tariffs for Services to Other Service Providers

49.1 Tariffs charged by dominant and universal service providers to other service providers shall be filed with and approved by the Commission in accordance with Article 47 of this Bylaw.

49.2 Tariffs for services charged by dominant and universal service providers to other service providers shall comply with the Interconnection Guidelines and any decisions issued by the Commission in relation to such tariffs.

Article 50 Preferential Tariffs

50.1 The Commission may issue a decision to direct service providers to set a preferential tariff for internet services provided to educational institutions and to submit the same to the Commission for approval.

50.2 Service providers may propose a preferential tariff for telecommunications services offered to educational institutions and to submit the same to the Commission for approval.

Article 51 General Principles for Tariff Regulation

51.1 The Commission may issue a decision to adopt any approach to tariff regulation of service providers that is consistent with the Commission statutes, including, but not limited to price cap regulation as described in this Chapter and forms of cost-based regulation.

51.2 The Commission may initiate a public consultation process on various methods of tariff regulation prior to issuing a decision to adopt a specific approach to tariff regulation.

51.3 The Commission, at its discretion may make determinations on an interim method of tariff regulation for service providers identified pursuant to paragraph 51.1 of this Article, if it determines that this would be an effective means of protecting user interests pending its decision on the most suitable method of tariff regulation pursuant to paragraphs 51.1 and 51.2 of this Article.

Article 52 Cost Studies

52.1 The Commission may require a service provider to prepare a cost study of its services if:

- a) It has designated the service provider as a dominant service provider;
- b) It determines that a cost study would be an effective and necessary means of preventing the anti-competitive cross-subsidisation of the service provider's tariffs, or otherwise preventing an abuse of the service provider's dominant position with respect to its tariffs

52.2 Where the Commission requires a service provider to prepare a cost study, the service provider shall file with the Commission a study of its costs of providing the different categories of service. The Commission shall issue a decision on the cost categories, form, approach, procedures and timing of the cost study. The purpose of the cost study shall be to determine the costs to the service provider of providing different telecommunications services.

52.3 The Commission shall consult with the service provider required to file a cost study before it issues a decision requiring the study.

Article 53 Price Cap Regulation Plan

53.1 The Commission may require a service provider to propose a method of price cap regulation if:

- a) It has designated the service provider as a dominant service provider;
- b) It determines that the service provider is a major national supplier of telecommunications services in the Kingdom; and
- c) It determines that price cap regulation would be an effective means of reducing the regulatory burden of tariff approvals for that service provider or of providing incentives for efficient service provision

53.2 Where the Commission requires a service provider to propose a method of price cap regulation, the service provider shall file with the Commission a proposal for implementation of a method of price cap regulation of its service tariffs. The proposal shall provide the starting tariffs for price cap regulation. The Commission may issue a decision establishing guidelines for the development of the proposal.

53.3 The Commission shall consult with the service provider required to propose a method of price cap regulation before it issues a decision requiring a proposal.

Article 54 Consultation Process on Price Cap Regulation

54.1 The Commission may initiate a public consultation process on whether to adopt the price cap method of tariff regulation for one or more service providers. If it does so, the Commission shall establish the process for such consultations.

54.2 If it decides to adopt the price cap method of regulation, the Commission shall take the following factors into account in its decision:

- a) The costs of the service provider;
- b) The appropriate rate of return included in the calculation of the starting tariffs;
- c) The duration of the initial price cap period;
- d) The services to which the price cap method of regulation would apply;
- e) The date on which the initial price cap period shall end;
- f) The number of price cap baskets and the services which will be in each basket;
- g) The price cap formula and the variables in the formula, including an inflation factor and a productivity offset factor; and
- h) Other items that may be appropriate for price cap regulation in the Kingdom

Chapter 8 : Relations Between Service Providers And Users

Article 55 Fair Dealing Practices

55.1 A service provider shall only charge a user for the specific telecommunications services or equipment that the user has ordered. The user shall have no liability to pay for any telecommunications services or equipment that the user has not ordered.

55.2 No service provider shall switch a user from one service provider to another service provider without the prior written consent of the user, and the user shall have no liability to pay for any telecommunications services provided by a service provider, where the user has not requested such services in writing. Where a payment has already been made, the Commission may direct the service provider to repay it to the user forthwith.

55.3 A service provider that has engaged in switching a user without the user's prior consent shall bear all costs incurred to switch the user back to the user's original service provider.

55.4 Service providers shall provide users, on a regular basis, with clear, fair and accurate written invoices that comply with this Bylaw, Terms of Service if applicable, their conditions of license and Commission decisions. Except in case of a billing dispute, service providers shall retain accurate records of all user invoices for a period of 6 months from their billing date and make them available to the Commission upon request.

55.5 Where the Commission has a concern about a problem relating to billing practices, it may require service providers to publish information on billing and billing practices or take such other steps relating to their billing practices as the Commission may consider appropriate.

55.6 No service provider shall make, or cause to be made, any false or misleading claim or suggestion regarding:

- a) The availability, price or quality of its telecommunications service or equipment; or
- b) The telecommunications service or equipment of another service provider

55.7 A claim or suggestion is misleading if, at the time it was made, the service provider knew or reasonably ought to have known that it was false or misleading in any material respect or that it was reasonably likely to confuse or mislead the person to whom it was made.

55.8 Where it appears to the Commission that any such claim or suggestion was made, it may require the service provider to show cause why it should not be found to be in violation of this Article. If it is not convinced of the cause presented by the service provider, it may refer the matter to the violations committee.

55.9 No service provider shall engage in telemarketing of telecommunications services unless it:

- a) Discloses, at the beginning of the telephone communication, the identity of the service provider on whose behalf it is made and the precise purpose of the communication;

- b) Discloses, during the communication, the full price of any product or service that is the subject of the communication;
- c) Discloses any other information that the Commission may require to be disclosed; and
- d) Discloses that the called person shall have an absolute right to cancel the agreement for purchase or lease of any product of service within seventy two (72) hours of the communication, by calling a specific telephone number that the calling person shall provide during the communication

55.10 The Commission may, by decision, regulate or prohibit the use by any person, whether or not that person is a service provider, of the telecommunications network of a service provider to provide unsolicited telecommunications, to the extent that the Commission considers it necessary to promote the objectives identified in Commission Statutes.

Article 56 Confidentiality of User Information

56.1 A service provider shall not disclose information other than the user's name, address and listed telephone number to anyone without the user's written consent or unless disclosure is required or permitted by the Commission or by law to another legally authorized public authority.

56.2 A service provider's liability for disclosure of user information contrary to this Article shall be determined in accordance with Chapter 13 of this Bylaw.

56.3 Upon request, users are permitted to inspect any service provider's records regarding their service. Users shall have the right to require that any user information contained in their records that they can demonstrate is incorrect, be corrected or removed.

56.4 All user-specific information, and in particular billing-related information, shall be retained by a service provider only for billing purposes and retained only for so long as it is required by the laws of the Kingdom.

56.5 Nothing in this Bylaw shall be interpreted to prohibit or infringe upon the rights of concerned government agencies to exercise their rights to access otherwise confidential information relating to a user. Such access shall be made in accordance with the laws of the Kingdom.

Article 57 Confidentiality of User Communications

57.1 Service providers shall take all reasonable steps to ensure the confidentiality of user communications in accordance with Article Nine of the Act.

57.2 Service providers shall not alter or modify a user communication.

57.3 For the purposes of tracing and locating a source of harassing, offensive or illegal calls;

- a) A user may request that the Commission authorize a service provider to monitor calls to the user's telephone;
- b) The Commission or other duly authorized authority in the Kingdom may direct a service provider to monitor calls to and from a user's telephone and the service provider shall comply with any such direction;
- c) The service provider shall provide the Commission the information resulting from its monitoring of the user's telephone, including the telephone numbers that are the source of the harassing, offensive, or illegal calls and the dates of occurrence of such calls and their frequency; and
- d) The Commission may undertake any appropriate action to protect the public from harassing, offensive or illegal calls in accordance with the Commission statutes, and if necessary refer the matter to the appropriate authorities for further action

Article 58 Protection of Personal Information

58.1 A service provider shall be responsible for user information and user communications in its custody or control and in that of its agents.

58.2 A service provider shall operate its telecommunications facilities and telecommunications network with due regard for the privacy of its users. Except as permitted or required by law, or with the consent of the person to whom the personal information relates, a service provider shall not collect, use, maintain or disclose user information or user communications for any purpose.

58.3 The purposes for which user information is collected by a service provider shall be identified at or before collection, and a service provider shall not, subject to this Article, collect, use, maintain or disclose user information for undisclosed purposes.

58.4 Service providers shall ensure that users' information is accurate, complete and up to date for the purposes for which it is to be used and that user information and user communications are protected by security safeguards that are appropriate to their sensitivity.

Article 59 User Complaints

59.1 Service providers shall establish a separate division to receive complaints of users other than service providers. Service provider shall endeavour to eliminate the causes of complaints that are related to the quality or the method of providing the service and billing problems.

59.2 Service providers shall establish procedures to deal with complaints of users other than service providers. The procedures, and any amendments thereto, shall be subject to the Commission's approval. The procedures shall be published in a suitable manner that is approved by the Commission.

59.3 Where there is a dispute between a service provider and a user that the parties cannot resolve amicably, the user may file a complaint with the Commission for resolution.

59.4 Complaints under this Article must request resolution of all outstanding issues in dispute.

59.5 Complaints shall be in writing and shall set out the facts and the relief requested. The user shall not be required to provide a copy of the complaint to the service provider.

59.6 The Commission shall render its decision as to whether the complaint is justified or not within ten (10) days of the filing of the complaint. The Commission may dismiss a complaint promptly if it determines that the complaint is frivolous or vexatious.

59.7 If the Commission considers that the appeal warrants investigation, it shall deliver a copy to the service provider. The service provider shall deliver a response within five (5) days or such longer period of time as the Commission may specify.

59.8 The Commission shall deliver the response of the service provider to the user. The user shall answer the service provider's response in writing within five (5) days or such additional amount of time as the Commission may allow.

59.9 The Commission may deal with the complaint on the basis of the written materials before it, or may require further information from one or both of the parties. The Commission shall issue a decision within thirty (30) days of the receipt of the response from the user, or notify the parties within that time that it requires additional time to issue its decision.

59.10 Service providers shall not disconnect or otherwise change any of the services then being provided to a user during the time for which they are the subject of a complaint by that user, without a decision from the Commission.

59.11 The Commission, if it deems that, according to Article Thirty Eight of the Act, a violation has occurred, may refer the matter to the violations committee.

Article 60 Continuity of Service

60.1 In the event that:

- a) A service provider's license is not renewed, is suspended or is revoked pursuant to a Commission statute; and
- b) The Commission, having consulted concerned parties, and in compliance with the Commission statutes, determines that the demand for the same or substantially the same telecommunications services cannot otherwise be reasonably accommodated, then

The Commission shall make arrangements to ensure continuity of service to users of the former service provider's services in accordance with this Article

60.2 If the former service provider has not made prior arrangements to switch all of its users to other service providers, it shall co-operate with the Commission and other licensees to arrange for such transfers, to the extent possible.

60.3 If the former service provider has remaining users at the date on which its license is to expire, to be suspended or to terminate, the Commission may by decision allow it a temporary license extension to operate its telecommunications network for a period not to exceed one year, solely to permit the former service provider to fully wind up and terminate its operations.

60.4 In the event that the Commission decides to permit a temporary license extension, it shall be subject to the condition that the former service provider:

- a) Except as set out below, not extend or expand contracts or other arrangements with any other licensee;
- b) Not solicit or accept new users or extend or expand contracts or other arrangements with existing users;

- c) Use its best efforts to sell all of its telecommunications network assets to an eligible purchaser at fair market value. Any sale shall be completed within the one year temporary license extension period; and
- d) Any additional conditions that the Commission may impose by way of decision in order to ensure continuity of service to users

60.5 The Commission shall have the right to amend or not to impose any of the conditions referred to in paragraph 60.4 of this Article.

Article 61 No Unjustified Discrimination

61.1 Unless otherwise specifically permitted by or pursuant to this Bylaw, universal service providers and dominant service providers shall offer all users the same Terms of Service, unless different terms are objectively justified, based on differences in supply conditions, including different costs or a shortage of available facilities or resources. This prohibition shall apply as between:

- a) End users of the services;
- b) Users who rely on services from a universal service provider or a dominant service provider, in order to provide telecommunications services to other users; and
- c) Users and the universal service provider or the dominant service provider itself

61.2 The prohibition against unjustified discrimination shall apply to:

- a) The tariffs charged;
- b) The quality of service provided;
- c) The time within which requested service is made available; and
- d) Any other conditions that the Commission may establish, in consultation with a universal service provider or a dominant service provider and other concerned parties

61.3 Where any discrimination is shown, the universal service provider or the dominant service provider shall be obliged to justify it to the satisfaction of the Commission, or to cease the discrimination immediately upon receipt of a decision from the Commission.

Article 62 User Information Obligations

62.1 A dominant service provider shall at all times maintain on its official web site, the following information:

- a) Its tariffs;
- b) the official web site, official electronic address and official location of the Commission, together with a clear statement that the service provider is regulated by the Commission under the Commission statutes and that users and other service providers may contact the Commission if they are unable to resolve disputes with the service provider; and
- c) An easy to follow navigation system on the service provider's official web site, that allows a user to locate the information set out in this Article

62.2 A dominant service provider shall also maintain current paper copies of a schedule of its current tariffs at all business offices. These shall be made available for public inspection, without charge, during normal business hours.

62.3 Unless the Commission decides otherwise, a dominant service provider shall provide, upon request and without charge, paper copies of its schedule of tariffs to any user who requests them.

62.4 If a dominant service provider proposes increases in its tariffs, it shall notify users of the proposed changes, in any manner set out in a decision of the Commission.

Article 63 Terms of Service

63.1 The Commission may issue a decision requiring one or more universal service providers or dominant service providers to submit draft Terms of Service to the Commission for approval. The decision shall specify the schedule for preparation, approval and implementation of the Terms of Service.

63.2 Draft Terms of Service must be consistent with the Commission statutes and shall include reasonable obligations on the part of the universal service provider and the user in the provision and use of telecommunications services.

63.3 The Commission shall approve all draft Terms of Service with or without changes, after consultation with universal service providers, dominant service providers and other concerned parties, as determined by the Commission. Once approved, these Terms of Service will replace any existing similar documents then in use by a universal service provider.

Article 64 Information on Terms of Service

64.1 A universal service provider shall at all times maintain on its official web site, the following information:

- a) The current version of its Terms of Service;
- b) All of its approved and proposed tariff changes which have been filed with the Commission;
- c) the official web site, official electronic address and official location of the Commission, together with a clear statement that the service provider is regulated by the Commission under the Commission statutes and that users and other service providers may contact the Commission if they are unable to resolve disputes with the service provider; and
- d) An easy to follow navigation system on the universal service provider's official web site, that allows a user to locate the above information

64.2 A universal service provider shall maintain current paper copies of its Terms of Service and all of its approved and pending tariffs at all business offices. These shall be made available for public inspection, without charge, during normal business hours.

64.3 A universal service provider shall include the current version of its Terms of Service in the introductory pages to every telephone directory published by it or on its behalf.

64.4 A universal service provider shall provide, upon request and without charge, paper copies of its schedule of approved tariffs to any user who requests them.

64.5 If a universal service provider proposes changes to its tariffs, it shall notify users of the proposed changes, in any manner set out in a decision of the Commission.

Article 65 Telephone Directories

65.1 A universal service provider shall provide users with a telephone directory in accordance with terms and conditions as the Commission may from time to time direct, including terms and conditions related to:

- a) Tariffs;
- b) Distribution to users;
- c) Information contained in user listings and rules for unlisted numbers;
- d) Collection and privacy of information obtained for directories;
- e) Correction of entries and liability for incorrect entries; and
- f) Reference of call service for incorrect and changed numbers

65.2 The Commission shall consult with the affected universal service provider in establishing terms and conditions for telephone directories.

Article 66 Billing

66.1 The billing rules set out in this Article shall apply to universal service providers and may apply to dominant service providers, if the Commission so decides. The Commission may issue a decision to apply the rules to a universal service provider or a dominant service provider, subject to such changes or conditions as the Commission determines appropriate in the circumstances of the service provider.

66.2 Users shall be responsible for paying for all calls originating from, and charged calls accepted at, their telephones, regardless of who made or accepted them. Users may dispute charges for calls, which they do not believe originated from, or were accepted at, their telephones. If the users are not convinced by the solutions offered by the service provider, then they may apply to the Commission in accordance with the dispute resolution procedures detailed in this Bylaw.

66.3 A universal service provider shall provide its users with a clear explanation of all charges in its invoice. All invoices shall clearly state the date on which payment is due and which shall be at least thirty (30) days after the billing date. The billing date shall be stated on the invoice and the user shall be given a reasonable amount of time to settle the said invoice. The time periods specified in this Article may be amended by a decision of the Commission after consultation with the universal service provider.

66.4 A universal service provider shall provide its users, at no additional charge, with invoices that clearly indicate the following information:

- a) Non-recurring charges;
- b) Recurring subscription charges, by individual service;
- c) Usage sensitive charges;
- d) Separate charges payable to separate service providers where such charges are covered by the invoice;
- e) Where two or more services are sold on a bundled basis on condition that they are priced at a discount, the discount that is applicable; and

f) Any charges applicable to the provision of the service

66.5 A universal service provider shall provide its users with invoices at least quarterly, or on a more frequent basis if ordered by a decision of the Commission, which shall not be rendered without prior consultation with the universal service provider.

66.6 A universal service provider shall offer its services separately and is prohibited from requiring any user to obtain any service that it does not require in order to be eligible to receive any other service.

66.7 The Commission may, at a future date, by decision rendered after consultation with the universal service provider, establish credit conditions for the provision of services to users.

66.8 A user shall not be required to pay a previously unbilled charge except where the charge is correctly billed within a period of one hundred and fifty (150) days, or such other period as the Commission decides, from the date it was incurred. If the user is unable to pay the full amount owing, the universal service provider shall attempt to negotiate a deferred payment agreement that is reasonable in the circumstances. A user shall be entitled to a credit for charges that should not have been billed or that were over-billed.

66.9 Except as provided in this Article, the time for disputing any charges on a universal service provider's invoice shall be ninety (90) days from the billing date, as shown on the bill, or such other time as the Commission decides. Users shall pay the undisputed portion of the invoice.

66.10 Where a user wishes to dispute an invoice, it shall:

- a) call the universal service provider toll-free number for user complaints and disputes, which shall be set out in that universal service provider's Terms of Service, included in all telephone directories and publicized in a manner that the Commission may, by decision, require of the universal service provider;
- b) If that process does not resolve the dispute, the user shall then be entitled to write to the universal service provider's department for handling user complaints and disputes.

- The location of that department shall be set out in the universal service provider's Terms of Service included at the front of all telephone directories and publicized in a manner that the Commission may, by decision, require of the universal service provider. The department shall reply in writing within ten (10) days of receipt of the complaint. The reply shall either accept the complaint and take necessary action to correct it, or shall give reasons why the complaint is not accepted; and
- c) A user may then appeal any complaint that is not accepted by the service provider to the Commission, in accordance with Article 72 of this Bylaw

Article 67 Quality of Service

67.1 The rules regarding quality of service set out in this Article shall apply to universal service providers and may apply to dominant service providers, if the Commission so decides. The Commission may issue a decision to apply the rules to a universal service provider or a dominant service provider, subject to such changes or conditions as the Commission determines appropriate in the circumstances of the service provider.

67.2 A universal service provider shall provide telecommunications services that meet specific quality of service standards. These standards shall be developed by the Commission in consultation with each universal service provider and may be included in the universal service provider's license or established by decision of the Commission.

67.3 The Commission reserves the right to amend, add or delete quality of service standards, following consultation with the affected universal service provider.

67.4 When quality of service standards have been established, a universal service provider shall deliver written reports to the Commission each quarter, in a form established by the Commission. The reports shall set out the universal service provider's actual results for each quality of service standard.

67.5 Where any quality of service report indicates that a standard has not been achieved, the universal service provider shall provide an explanation as to why the standard was not achieved and what specific steps it has taken or intends to take to correct the problem.

67.6 The Commission shall advise the universal service provider within thirty (30) days of receipt of any quality of service report, whether it accepts the explanation provided for any standard that was not achieved. If the Commission does not reply within thirty (30) days, the explanation provided is deemed accepted.

67.7 If the Commission does not accept the explanation, it shall issue a decision setting out the additional steps that the universal service provider shall take and the time within which those steps shall be taken. The Commission shall also issue a decision ordering what, if any, additional reporting requirements the universal service provider shall adhere to, until the standard is achieved.

67.8 When a universal service provider files a quality of service report or any additional related material with the Commission, it shall also publish the report on its official web site. Upon receipt of a quality of service report or any additional related material from a universal service provider, the Commission shall also post the report on its official web site.

67.9 Where the Commission concludes that it is in the public interest, it may require a universal service provider to publish in one or more newspapers, all or parts of its quality of service reports and Commission reporting requirements.

Article 68 Access to User Premises

68.1 Subject to this Article, a universal service provider's service obligations shall extend to the installation, operation, maintenance and repair in good working order of all telecommunications facilities that are owned by the universal service provider and located on the user's property.

68.2 A service provider shall have the right to enter a user's premises or property if its telecommunications facilities are located within the user's premises, and only upon the following conditions:

- a) The service provider has given the user notice that is reasonable in the circumstances;

- b) The service provider dispatches only properly identified and qualified personnel;
- c) The service provider has received the consent of the user for such access; and
- d) The service provider personnel interfere as little as possible with the user's activities and premises

Article 69 Liability, Refunds and Damages

69.1 If a universal service provider is not negligent, its liability to a user shall be limited where there are omissions, interruptions, delays, errors or defects in transmission, or failures or defects over its telecommunications facilities. In those cases, liability shall be limited to a refund of charges, in accordance with a decision to be issued by the Commission.

69.2 The Commission may issue a decision establishing additional rules related to liability, refunds and damages for all service providers, including universal service providers and dominant service providers.

Article 70 Suspension and Termination of Service by a Service Provider

The Commission may issue a decision to establish the terms and conditions under which a service provider shall have the right to suspend or terminate a user's service for breach of the user's obligations. These terms and conditions may be set out in a service provider's Terms of Service, and shall take into account the following circumstances:

- a) Failure to pay an account that is past due;
- b) Failure to provide or maintain a reasonable deposit if one is required;
- c) Failure to comply with the terms of a deferred payment agreement;
- d) use of a service provider's services for a purpose or in a manner that is contrary to the Act or for the purpose of making annoying or offensive calls;
- e) Interference with equipment provided by a service provider;

- f) Failure to provide payment when requested by the service provider in circumstances in which it is reasonable to conclude that the user intends to defraud the universal service provider;
- g) The existence of legitimate billing disputes between customers and service providers and the process for resolving such disputes; and
- h) Other terms and conditions that the Commission considers appropriate

Article 71 Suspension and Termination of Service by a User

71.1 A user who gives a service provider thirty (30) days' notice, may terminate its service after the expiry of any minimum contract period. In such cases, the user shall pay all charges due for service, which is furnished to the end of the termination date.

71.2 Before the expiry of any minimum contract period, a user may terminate its service by paying the full charges for the entire minimum contract period.

71.3 Before the expiry of any minimum contract period, a user may also terminate its service in the following circumstances:

- a) In the event of the death of the user during the minimum contract period, the next of kin may be given the option, within thirty (30) days of the death of the user, to assume the rights and responsibilities of the user in accordance with the customs of the Kingdom;
- b) Where the user's premises are destroyed, damaged or condemned by reason of fire or other causes beyond the user's control, so that they must be abandoned, in which case the termination is effective from the date the universal service provider is notified;
- c) Where a user replaces a service provider's service with another service provider's service, in which case the termination is effective from the date of the replacement, subject to the terms of the universal service provider's tariffs and the terms of any written contract for the service; or
- d) Where a user's service is taken over, without lapse, by a new user at the same location, in which case the termination with respect to the original user is effective from that

date. However, if the new user discontinues any of the original service, the original user must pay the full charge for such discontinued service for the entire minimum contract period

Article 72 User Complaints

72.1 Where there is a dispute, that the parties cannot resolve, between a user who is not a service provider and a universal service provider, the user may file a complaint with the Commission for resolution of any of the following matters:

- a) The access to, or quality of, telecommunications service provided or offered by a universal service provider;
- b) The financial obligations that a universal service provider intends to impose or has imposed on the user as a condition of obtaining or continuing to obtain service, including any disputed user invoice;
- c) The disconnection or reconnection of service by a universal service provider;
- d) The interpretation of the contract or agreement between the parties;
- e) The interpretation of, or applicability of, any Commission-approved tariff;
- f) The treatment of the user's confidential information by a universal service provider; or
- g) Any other matter that is within the jurisdiction of the Commission

72.2 No complaint shall be brought under this Article until:

- a) The parties to the dispute have negotiated in good faith for a minimum period of fifteen (15) days and have been unable to reach agreement; or\
- b) Until the conduct of the universal service provider has made it clear that further negotiations will not be productive

72.3 Complaints under this Article must request resolution of all the issues in dispute.

72.4 Complaints shall be in writing and shall set out the facts and the relief requested. The user shall not be required to provide a copy of the complaint to the universal service provider.

72.5 The Commission shall render its decision as to whether the complaint is justified or not within ten (10) days of the filing of the complaint.

72.6 If the Commission considers that the appeal warrants investigation, it shall deliver a copy to the universal service provider. The universal service provider shall deliver a response within five (5) days or such longer period of time as the Commission may specify.

72.7 The Commission shall deliver the response of the universal service provider to the user. The user shall answer the universal service provider's response in writing within five (5) days or such additional amount of time as the Commission may allow.

72.8 The Commission may deal with the complaint on the basis of the written materials before it, or may require further information from one or both of the parties. The Commission shall issue a decision within fifteen (15) days of the receipt of the response from the user, or notify the parties within that time that it requires additional time to issue its decision.

72.9 Universal service providers shall not disconnect or otherwise change any of the services then being provided to a user during the time for which they are the subject of a complaint by that user, without a decision from the Commission.

72.10 The Commission shall submit the complaint to the violations committee when it believes that a violation has occurred under Article Thirty Eight of the Act if:

- a) One of the parties is fundamentally right;
- b) One of the parties has committed a violation mentioned in the Act

72.11 The Commission may require payment of a fee in accordance with Article Ten (b) of the Ordinance to be paid by either party to the Commission in connection with the investigation and resolution of complaint.

Article 73 Future Regulatory Requirements

Notwithstanding anything contained in this Chapter, and where required by public interest, where a provision is applicable to fewer than all service providers, the Commission may, by decision, apply the provision to all, or named, service providers. The Commission shall only make such a decision where:

- a) It concludes that user complaints justify such action;
- b) It concludes that it would advance the objectives of Article Three of the Act; and
- c) It has undertaken prior consultation with affected service providers

Chapter 9 : Universal Access and Universal Service policies

Article 74 General Provisions

74.1 The Commission shall, in accordance with Article Two of the Act and Article Three (b) of the Ordinance, propose policies for the approval of the Ministry setting out the basis, principles and conditions relating to the provision of universal service and universal access in the Kingdom.

74.2 In proposing universal access and universal service policies, the Commission shall follow the principles and considerations set out in this Chapter.

Article 75 Universal Access and Universal Service Policies

75.1 In preparing the universal access and universal service policies, the Commission shall include the following in its considerations:

- a) A list of basic telecommunications services to be included in universal service and universal access offerings;

- b) A definition of objectives and obligations for the development of universal service and universal access;
- c) A definition of the geographical areas in which specified levels of universal service offerings and universal access offerings shall apply;

75.2 In preparing universal access and universal service policies, the Commission shall emphasize market-oriented and non-discriminatory principles in the extension of universal service and universal access.

75.3 The Commission shall consult concerned parties when preparing universal access and universal service policies.

75.4 Following approval by the Ministry of its initial universal access and universal service policies, the Commission:

- a) May by decision designate service providers as being universal service providers;
- b) Review periodically the scope of universal service offerings and universal access offerings, which shall be undertaken in the light of social, economic and technological developments as universal services are made more accessible to the public over time

Article 76 Universal Access and Universal Service Plans for Incumbent Operator

76.1 The Commission may, at any time after this Bylaw comes into force, issue a decision designating the incumbent operator as a universal service provider.

76.2 The Commission may require the incumbent operator to submit universal access and universal service plans, setting out the geographical areas in the Kingdom in which it proposes to extend the availability of universal service offerings and universal access offerings. Such plans shall take into account any universal access and universal service policies that have been approved by the Ministry.

76.3 The Commission shall review plans submitted pursuant to paragraph 76.2 of this Article taking into account:

- a) The objective of providing universal service and universal access to all persons in the Kingdom within the shortest possible period of time at affordable tariffs;
- b) The financial and technical ability of the incumbent operator to extend the provision of universal service and universal access beyond its existing services;
- c) The financial and technical ability of any other service providers or applicants for telecommunications licenses to provide universal service and universal access in the same areas;
- d) The submissions of other service providers, users and other concerned parties; and
- e) Any other information as the Commission may deem useful in the performance of its duties hereunder

76.4 The Commission may approve universal access and universal service plans for the incumbent operator establishing the conditions pursuant to which the incumbent operator shall be required to extend provision of universal service and universal access.

Article 77 Universal Access and Universal Service Plans

77.1 The Commission may invite persons other than the incumbent operator to submit universal access and universal service plans, setting out the geographical areas in the Kingdom in which they propose to extend availability of universal service offerings or universal access offerings, and the means to achieve such extension.

77.2 The Commission shall establish and publish criteria to define the type of universal access or universal service plan sought, and to evaluate and select universal access or universal service plans submitted pursuant to paragraph 77.1 of this Article.

77.3 The criteria for evaluation and selection of universal access and universal service plans submitted pursuant to paragraph 77.1 of this Article shall cover the following issues:

- a) Qualification of persons and proposals submitting universal access and universal service plans pursuant to paragraph 77.1 of this Article;
- b) Requests for clarification, expansion, or modification of qualified proposals;
- c) Evaluation of revised proposals and grant a right to provide the service based on the following factors:
 - 1. The geographic locations to be served;
 - 2. The technology and services to be provided;
 - 3. The population to be served by the plan;
 - 4. The economic and social impact of the plan;
 - 5. The feasibility and sustainability of the plan; and
 - 6. The cost, and amount of funding support, if any, required

77.4 The Commission may grant a license to provide the services to implement a universal access and universal service plan. The license shall establish the conditions pursuant to which that person shall be required to extend provision of universal service and universal access.

Article 78 Funding of Universal Access and Universal Service

78.1 As part of the universal access and universal service policies it develops for consideration by the Ministry, the Commission shall propose one or more methods of funding of such services. These methods may include:

- a) Cost-based pricing or other tariff changes;
- b) Mandatory service obligations imposed by license conditions, or under or pursuant to a Commission statute;
- c) cross-subsidies between or within telecommunications services provided by the incumbent operator; and

- d) A universal service fund to provide subsidies to implement universal service programs, being funded by various sources such as a universal service fee, government financing or other methods

78.2 The Commission may, pursuant to a universal access and universal service policy approved by the Ministry, issue a decision establishing a universal service fund. The decision may determine all matters necessary for the establishment and administration of the fund, in a manner consistent with the policy. These matters may include, but shall not be limited to:

- a) The selection of the fund administrators;
- b) The administrative procedures for the fund;
- c) The calculation and methods for payments into the fund by service providers or other persons identified in the policy;
- d) The criteria and procedures for payment out of the fund to achieve the universal access and universal service policies identified in the policy, including any procedures to receive licenses and subsidies to implement universal access or universal service plans.

78.3 The Commission may issue a decision to implement other funding mechanisms for universal access and universal service that are consistent with universal access and universal service policies approved by the Ministry.

Chapter 10 : Frequency spectrum

Article 79 Radio Licenses

79.1 No person shall install, operate, or possess radio equipment or use a radio frequency except under and in accordance with a radio license.

79.2 The Commission shall issue radio licenses in accordance with the provisions of the Commission statutes. After approval of the National Frequency Spectrum Plan and the

Frequency Spectrum Management Procedures pursuant to this Chapter, the issuance of radio licenses shall also be consistent with the Plan and Procedures.

79.3 The Commission may issue a decision from time to time deeming specific types of radio frequency uses to be licensed pursuant to the Act and this Chapter.

Article 80 National Frequency Spectrum Plan

80.1 The Commission shall prepare a National Frequency Spectrum Plan or any amendments thereto for the approval of the Council of Ministers in accordance with Article Twelve of the Act. The Commission shall be responsible for management of the frequency spectrum in accordance with the National Frequency Spectrum Plan.

80.2 The National Frequency Spectrum Plan shall allocate frequency spectrum among different types of use and prescribe technical standards for use of the spectrum. The spectrum allocation shall be consistent with international and regional regulations, agreements and standards.

80.3 In preparing the National Frequency Spectrum Plan, the Commission shall:

- a) Determine allocation of frequency spectrum in accordance with the objectives of Article Three of the Act;
- b) Co-ordinate with the concerned authorities;
- c) Manage national and international co-ordination of frequencies;
- d) Promote efficient use of the frequency spectrum and reserve spectrum for future usage;
and
- e) Co-ordinate frequency allocations and assignments with those of other countries

80.4 The Commission shall assign frequency spectrum in accordance with international and regional regulations, agreements, and standards, and the National Frequency Spectrum Plan. It shall set a plan for distribution and usage of frequencies assigned for civil and commercial

purposes, and shall submit the same to the Minister for approval, in accordance with Article Twelve of the Act.

80.5 The Commission shall prepare a National Frequency Register in accordance with the national interest and with Article Twelve of the Act. The National Frequency Register shall include all information related to the frequency spectrum, its use, and its users, and the Commission shall publish information concerning the civilian and commercial use of the radio spectrum.

Article 81 Frequency Spectrum Management Procedures

The Commission may prepare and publish procedures related to the management of the frequency spectrum, including procedures dealing with:

- a) Classes of radio licenses and radio equipment licenses
- b) Conditions for radio and radio equipment licenses;
- c) Radio and radio equipment license application procedures, including standard information requirements and application forms;
- d) License fees;
- e) Enforcement procedures; and
- f) Other matters that the Commission considers necessary to ensure the orderly management of the frequency spectrum

Article 82 Limitation on Frequency Usage

The Commission may limit the number of radio licenses, provided it has considered the following objectives:

- a) Promoting benefits for users of telecommunications services and other users of frequency spectrum;

- b) Facilitating the development of competition; and
- c) Promoting efficiency and innovation in use of frequency spectrum

Article 83 Enforcement

83.1 In accordance with Article Fourteen of the Act, and subject to Article 18 of this Bylaw and paragraph 83.2 of this Article, the Commission may suspend or revoke a radio license where the Commission determines that the radio licensee has acted in violation of the terms of the license.

83.2 Prior to suspending or revoking a radio license, the Commission shall:

- a) Inform the radio licensee in writing that it is in the process of suspending or revoking the radio license, as the case may be;
- b) Afford the radio licensee a reasonable opportunity to remedy the violation noted by the Commission and to answer the Commission in writing as to the grounds on which the radio license should not be suspended or revoked

Chapter 11: Numbering

Article 84 National Numbering Plan

84.1 In accordance with Article Fifteen of the Act, the Commission shall prepare, publish and manage a National Numbering Plan and shall assign numbers and number ranges to service providers and users in accordance with the National Numbering Plan. The Commission shall prepare the National Numbering Plan taking into account the following principles:

- a) The plan shall account for expected growth in demand for telecommunications services, so that numbers can be assigned without delay;
- b) Numbers shall minimize inconvenience to service providers and users and be consistent with the efficient use of the service provider's telecommunications network;
- c) The plan shall facilitate number portability and carrier pre-selection;

- d) Costs to incumbent service providers in accommodating the National Numbering Plan shall be reasonable;
- e) Allocation of numbers shall not confer an unreasonable advantage or disadvantage any service provider; and,
- f) Implementation of the National Numbering Plan shall be effected so as to limit inconvenience to service providers and users.

84.2 The Commission may modify the National Numbering Plan by issuing a notice to users and service providers at a reasonable time prior to the date when the anticipated change is to be effected, in accordance with Article Seventeen of the Act.

84.3 The National Numbering Plan shall be consistent with the requirements of international and regional conventions, regulations and recommendations.

84.4 All service providers shall be required to use numbers assigned to them by the Commission in accordance with the National Numbering Plan and shall ensure that these numbers are used efficiently and in accordance with the National Numbering Plan.

Article 85 Number Licenses

85.1 The Commission shall assign numbers and number ranges by a licensing process to be determined by the Commission.

85.2 The Commission shall determine the conditions governing applications for number licenses. Upon application for numbers required for the provision of telecommunications services, and where the Commission determines that those numbers are available, the Commission shall, after taking into account the National Numbering Plan, and upon payment of the prescribed fee, license the numbers required for usage. Fees for number licenses, for special numbers, number series, names or addresses, shall be consistent with the efficient administration of all available numbering resources.

85.3 The Commission shall address matters relating to the amendment, renewal, suspension, revocation or re-assignment of number licenses in accordance with the Rules of Procedure.

Article 86 Allocation of Numbers to Users

86.1 Users and service providers shall not have any property rights in numbers.

86.2 A service provider shall only change a user's number:

- a) On request of a user; or
- b) If it has reasonable grounds for doing so and if it has given reasonable advance written notice to the user in question, stating the reason and anticipated date of change. In cases of emergency, oral notice with subsequent written confirmation shall be sufficient; or
- c) If a user of a fixed service changes his fixed location

86.3 A service provider may charge a surcharge above the usual tariff for a type of service in order to provide a specific number or series of numbers requested by a user.

86.4 When a service provider changes a user's number on its own initiative, it shall

- a) Provide reference of call service for the number for a reasonable time;
- b) Where the number is a specific number for which the user has paid the service provider a surcharge, the service provider shall consult with the user and agree to provide a specific different number as a replacement. If the parties do not agree, either may apply to the Commission to resolve the issue.

Article 87 Number Portability

87.1 The Commission may, after consultation with the affected service providers, issue a decision directing one or more service providers to develop a number portability implementation plan. The decision may set out guidelines for the development of the plan, including guidelines on:

- a) The schedule for implementation of number portability;
- b) Markets and service providers covered by the plan;
- c) Technical means of providing number portability; and
- d) Payment of costs for implementation of the plan

87.2 Upon receipt of a decision under paragraph 87.1 of this Article, the service providers to whom the direction applies shall negotiate with each other to develop a number portability implementation plan. A plan developed under this Article shall be submitted to the Commission for approval before it is implemented.

87.3 If service providers cannot agree on a number portability implementation plan within ninety (90) days after a decision is made under paragraph 87.1 of this Article, the Commission may:

- a) Appoint an inquiry officer under Article 8 of this Bylaw and direct the inquiry officer to develop a plan; or
- b) Deal with the issues in dispute between the service providers pursuant to Chapter 6 of this Bylaw

87.4 The Commission may issue a decision approving a number portability implementation plan, before or after completion of the processes outlined in paragraph 87.3 of this Article. Service providers shall provide number portability in accordance with the plan approved by the Commission.

Chapter 12 : Telecommunications Equipment

Article 88 General Provisions

88.1 No person shall use any telecommunications equipment except under and in accordance with a license issued by the Commission. Telecommunications equipment that is type approved in accordance with this Chapter is licensed for use in the Kingdom.

88.2 No person shall manufacture, import, distribute, lease, offer for sale or sell telecommunications equipment unless it has been type approved or it complies with technical standards that have been approved by the Commission in accordance with this Chapter.

Article 89 Technical Standards

The Commission may prescribe technical standards in respect of telecommunications equipment and shall publish such technical standards.

Article 90 Licensing and Type Approval

90.1 The Commission shall prescribe the procedures and requirements applicable to equipment licenses.

90.2 The Commission shall publish a list of telecommunications equipment that is type approved in the Kingdom.

90.3 The Commission may issue a decision requiring that telecommunications equipment that is licensed for use in the Kingdom have a label attached which provides information confirming type approval has been received.

90.4 The Commission shall address matters relating to the amendment, renewal, suspension, revocation or re-assignment of equipment licenses in accordance with the Rules of Procedure.

Article 91 Type Approval Procedure

91.1 Any person planning to manufacture, import, distribute, lease or sell telecommunications equipment in the Kingdom may apply to the Commission for type approval of such telecommunications equipment.

91.2 The Commission may establish technical standards governing type approval for telecommunications equipment used in the Kingdom.

91.3 Measurements and tests for compliance with the technical standards issued by the Commission shall be performed at the applicant's cost, at a laboratory or testing facility approved by the Commission for that purpose, or at a laboratory or testing facility in another country that has been approved by the Commission.

91.4 The Commission may discharge its obligations under paragraph 91.2 of this Article by requiring an applicant for type approval to demonstrate that the apparatus or equipment submitted for type approval.

91.5 Apparatus or equipment to be type approved in the Kingdom shall display a label approved by the Commission that indicates it has been type approved.

Article 92 Type Approved Telecommunications Equipment

92.1 The Commission may issue a decision identifying the domestic or foreign organizations and testing facilities for type approval and shall publish a list of those organizations and testing facilities. Telecommunications equipment and facilities type approved by these organizations or testing facilities shall be deemed licensed for use in the Kingdom.

92.2 The Commission may enter into mutual recognition agreements with authorities in other countries to provide for mutual recognition of type approvals conducted in the other country or in the Kingdom.

Chapter 13 : Protection and Prevention against intrusion

Article 93

93.1 Intrusion is considered as a way of misuse of the telecommunications network, and is a violation according to Article Thirty Seven of the Act, and the same procedures stated in this Bylaw to treat the violations shall be applied to it.

93.2 The Commission, in accordance with its statute, shall establish the necessary procedures to protect from, and prevent intrusion and issue the necessary instructions to that end.

93.3 Any person or service provider or user shall abide by the procedures and instructions issued by the Commission according to paragraph 93.2 of this Article.

93.4 Any person or service provider or user shall take the necessary precautions to protect from, and prevent, intrusion, and he shall use the most advanced means and technology that suit the importance of his network, systems and the nature of his work, and to update it periodically.

93.5 Any person or service provider or a user shall abide by the discipline guide of the Internet security in the Kingdom.

Chapter 13 : Protection and Prevention against intrusion

Article 93

93.1 Intrusion is considered as a way of misuse of the telecommunications network, and is a violation according to Article Thirty Seven of the Act, and the same procedures stated in this Bylaw to treat the violations shall be applied to it.

93.2 The Commission, in accordance with its statute, shall establish the necessary procedures to protect from, and prevent intrusion and issue the necessary instructions to that end.

93.3 Any person or service provider or user shall abide by the procedures and instructions issued by the Commission according to paragraph 93.2 of this Article.

93.4 Any person or service provider or user shall take the necessary precautions to protect from, and prevent, intrusion, and he shall use the most advanced means and technology that suit the importance of his network, systems and the nature of his work, and to update it periodically.

93.5 Any person or service provider or a user shall abide by the discipline guide of the Internet security in the Kingdom.

Chapter 14 : Violations

Article 94 Violations Committee

94.1 The Governor shall nominate a violations committee pursuant to Article Thirty-eight of the Act and submit the nominations to the Board for approval. The Board's decision approving the nominations shall state the term and duration of the committee.

94.2 No person who has any financial or other interest in or who is related to the person that committed the violation, may be a member of the violations committee. When the violations committee is looking into any issue that a member has any relation to, or any interest in, the concerned member shall excuse himself and not participate in the deliberations of the committee.

94.3 The committee shall establish its operating procedures which shall be submitted to the Board for approval.

94.4 If the Commission believes that a violation of Article Thirty-seven of the Act has occurred, the Commission shall refer the matter to the violations committee to look into it according to its procedures.

94.5 The violations committee shall meet to consider and make a decision on a possible violation referred to it under this Article in accordance with its procedures. Before making a decision on the matter, the committee shall give the parties, including the person accused of committing the violation, an opportunity to be heard. The committee shall undertake the necessary investigations that would enable it to make the appropriate decision.

94.6 The violations committee shall issue its decision in writing and with reasons to the Governor, who shall provide a copy to the person who was the subject of the committee's decision and other concerned parties. The decision may be appealed in accordance with Article Thirty-eight of the Act.

Article 95 Considerations for the Violations Committee

95.1 The violations committee shall look into each violation and determine an appropriate penalty that is proportionate to the gravity of the violation in each case and the circumstances surrounding the same.

95.2 The Committee shall maintain a register of all its decisions and shall refer to it to establish whether the person that committed the violation has committed violations in the past and the decision taken by the violations Committee with respect thereof, and to take this into account.

95.3 Where the violations committee concludes that the violations constituted an ongoing violation or a series of repeated or related violations, it may assess a penalty for:

- a) Each day that the violation continued after the date on which the decision concludes that it should have ceased; and/or
- b) Each separate violation that occurred after the date on which the decision concludes that they should have ceased.

Chapter 15 : Closing Provisions

Article 96 Amendments of this Bylaw

The Board may approve amendments to this Bylaw and the amendments shall be issued pursuant to a decision of the Minister.