

# Telecommunications Act

## Chapter One Definitions

### **Article One:**

Whenever mentioned in this Act and its Bylaws, the following terms and expressions shall have the meaning hereunder assigned to them unless otherwise specified:

**Kingdom:** The Kingdom of Saudi Arabia.

**The Act:** The Telecommunications Act.

**The Bylaws:** The Bylaws of the Act.

**The Ordinance:** Ordinance of Saudi Communications Commission.

**The Ministry:** The Ministry of Post, Telegraph & Telephone.

**The Minister:** The Minister of Post, Telegraph & Telephone.

**The Commission:** The Saudi Communications Commission.

**The Board:** The Board of the Saudi Communications Commission.

**Telecommunications:** The conveyance of signals between defined termination points by wire/ wireless equipment, including the conveyance of signals over the Internet.

**Telecommunications Services:** Conveying and routing of signals "in whole or in part" over the public telecommunications networks including T.V& Radio Transmission and Internet services.

**Telecommunications Network:** The systems used for provision of telecommunication services, including switching equipment, cables, towers, wireless equipment, optical, electromagnetic or any other telecommunications means and the associated equipment.

**Universal Service:** Provision of the minimum level of telecommunications services with adequate quality and at affordable prices to all users.

**Universal Access:** Provision of opportunity to all users in the kingdom to utilize the minimum level of the adequate quality telecommunications services within a specific geographical area and at affordable prices.

## **The Operator “Service Provider”:**

Any licensee providing public telecommunications service or operating telecommunications network used to provide such service.

**Dominant Operator:** The operator whose service covers at least 40% of specific telecommunications market in the Kingdom, unless the Commission decides to change this share according to the market situation.

**The User:** A natural or juridical person who uses the telecommunications services.

**Frequency:** Number of cycles per second of a radio wave.

**Frequency Spectrum:** The frequency bands that can be used in Radio Communication according to International Radio Regulations.

**National Frequency Spectrum Plan:** The plan prepared by the Commission and approved by the Council of Ministers for allocation of the frequency spectrum usage to the concerned parties.

**Numbering:** It is a serial numbering pattern to identify designated termination point in the public telecommunications network, and includes the necessary information for routing of the telecommunication signals to this termination point.

**National Numbering Plan:** The plan prepared by the Commission to specify the scheme of numbers used in various telecommunications services.

### **Article Two:**

The supervision of the Telecommunications Sector shall be as follows:

1. The Ministry shall make the general policies, plans and development programs for the telecommunications sector, submit applications for granting licenses as stipulated by this Act, its modifications and any amendments, coordinate with the concerned parties in respect of services provided to the government agencies, represent the Kingdom in domestic, regional and international bodies in the telecommunications sector and, at its discretion, delegate such representation to the Commission and other parties, approve the basis, principles and conditions relating to the Universal Service and the Universal Access as proposed by the Commission.

2. The Commission shall perform the functions and duties conferred upon it under this Act, the Bylaws and the Ordinance.

### **Article Three:**

The Telecommunications Sector shall be regulated under this Act and pursuant to the following objectives:

1. To provide advanced and adequate telecommunications services at affordable prices.
2. To ensure the provision of access to the public telecommunications networks, equipment and services at affordable prices.
3. To ensure creation of favorable atmosphere to promote and encourage fair competition in all fields of telecommunications.
4. To ensure effective and interference-free usage of frequencies.
5. To ensure effective usage of National Numbering Plan.
6. To ensure clarity and transparency of procedures.
7. To ensure principles of equality and non-discrimination.
8. To safeguard the public interest and the user interest as well as maintain the confidentiality and security of telecommunications information.
9. To ensure transfer and migration of telecommunications technology to keep pace with its development.

### **Article Four:**

The fixed and mobile telecommunication services shall only be provided through joint-stock companies that place their stock for public subscription.

### **Article Five:**

The license for provision of fixed and mobile telephone services is subject to the Council of Ministers' approval.

### **Article Six:**

Necessary fees shall be paid in favor of the General Treasury for commercial provision of services, issuance of licenses to operators and permits for frequency usage as per the decree of Council of Ministers.

### **Article Seven:**

The Commission shall set the principles and criteria for determining the telecommunications services fees in keeping with the competitive situation and the Bylaws shall state the necessary and relevant provisions.

### **Article Eight:**

The Universal Service and the Universal Access requirements shall apply according to the principles and criteria stipulated by the Bylaws.

### **Article Nine:**

The privacy and confidentiality of telephone calls and information transmitted or received through public telecommunications networks shall be maintained. Disclosing, listening or recording the same is not permitted, except for the cases stipulated by the relevant Acts.

**Article Ten:**

The Commission shall provide the necessary protection to the users and operators. The Bylaws shall specify the procedures for settlement of disputes arising among the operators themselves or between operators and users, including objection by users to billed amounts or the quality of the offered service.

**Chapter Three**

**Frequencies**

**Article Eleven:**

Frequency Spectrum is a state-owned natural resource. The Council of Ministers is the approving authority of the National Frequency Spectrum Plan for the purpose of achieving optimum utilization of this national resource, in accordance with International and Regional Agreements and approved regulations and standards.

**Article Twelve:**

The Commission shall regulate the frequencies as follows:

1. The Commission shall set the National Frequency Spectrum Plan in coordination with the involved parties, refer the same to the Ministry, for submission to the Council of Ministers for approval.
2. The Commission shall ensure that the frequencies are used in conformity with the National Frequency Spectrum Plan. Further, it shall set a special register called "National Frequency Register" to record all the information pertaining to the frequencies, their allocation and usage.
3. The concerned parties, as per their responsibilities, shall manage and supervise their assigned frequencies. The frequencies shall be used only for the purpose for which they are assigned.
4. The Commission shall manage and supervise frequencies assigned for civil and commercial purposes. It shall set a plan for distribution and usage of these frequencies, and shall submit the same to the Minister for approval.

**Article Thirteen:**

Any frequency allocated for civil or commercial purposes shall not be used by any user or operator without prior assignment by the Commission, obtaining the necessary license and payment of fees for usage of this frequency pursuant to the procedures prescribed by the Bylaws.

**Article Fourteen:**

In the event the frequencies are used in a manner contradicting this Act, its Bylaws or the licensing provisions, the Commission shall have the right to issue a decision to cease operation of the equipment used in violation or withdraw the same from service and resort to security authorities to enforce the decision if need be .

**Chapter Four**

**Numbering**

**Article Fifteen:**

The Commission shall set the National Numbering Plan, and shall be responsible for the plan structure and management in order to meet the operators and users requirements pursuant to the procedures stipulated by the Bylaws.

**Article Sixteen:**

The Commission shall determine the conditions, the usage licensing procedures and fees, which shall be applicable to the assignment of numbers.

**Article Seventeen:**

The Commission shall have the right to modify the numbering scheme in the National Numbering Plan, provided that operators and users are given adequate notice prior to the implementation date of such modification.

**Chapter Five**

**Licenses**

**Article Eighteen:**

Anyone who fulfills the conditions and has the interest to provide Telecommunications service, should submit his application to the Commission in order to obtain the license. The Commission shall issue the license according to the provisions of the Act and the Bylaws. The operators shall adhere to the conditions stated in the license issued to them.

**Article Nineteen:**

No license shall be required from the Commission for the establishment of a private internal telecommunication network with a limited capacity for the interconnection between the parts of a one facility like hospitals, residential compounds and hotels. This network shall not be interconnected with the public telecommunication networks unless an approval is obtained as per rules and procedures under the Bylaws.

**Article Twenty:**

1. Licenses shall be renewed by a decision of the Board. The relevant standards, rules and procedures shall be specified under the Bylaws.
2. The Board has the right not to renew, amend, suspend or revoke the license according to the rules, procedures and reasons stated in the Bylaws including the following reasons:
  - a) Repeated violation 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 or liquidation of the licensee.
  - g) Re-assignment of the license without the consent of the Commission.

Exempted are the licenses pertaining to the provision of the fixed and mobile " Al Jawal " telephone services, for which the decision of the Board has to be approved by the Minister.

3. In the event that the license is not renewed, suspended or revoked, the Commission shall make such arrangements as are necessary to ensure continuity of service according to the rules and procedures under the Bylaws.

**Article Twenty-one:**

The Commission shall classify and identify the types of licenses and establish the conditions required for issuance of each type.

**Article Twenty-two:**

The Commission shall state on the licenses issued to operators the requirement for the issuance of bills, inquiry services and emergency services that should be provided according to the rules and procedures under the Bylaws.

**Article Twenty-three:**

The Board consent shall be obtained before the re-assignment of the license except for the licenses concerning the provision of the fixed and mobile " Al Jawal " telephone services, for which the Board decisions are subject to the approval of the Minister. The Commission shall issue its decision in this regard within a reasonable period as identified in the Bylaws.

**Chapter Six**

**Competition Rules**

**Article Twenty-four:**

Subject to the rules of Articles Twenty-five and Twenty-six, operators are prohibited to enter into agreements with each other to undertake practices that would create a dominant operator for a certain telecommunications market or prevent, restrict or distort competition. The provisions of these agreements or decisions dealing with this matter will be considered null and void. The Bylaws specify the decisions and practices, that would restrict competition and the actions to be taken in this regard.

**Article Twenty-five:**

1. Operators shall obtain the Board's approval before undertaking any merger with other internal or external operators, and shall inform the Commission within five working days of any initial agreement reached in this regard. However the Board's decisions on mergers pertaining to the provision of the fixed and mobile " Al Jawal " telephone services shall be subject to the Minister's approval.
2. Operators or any natural or juridical person shall obtain the Board's approval before purchasing 5% or more of the shares or stocks of another operator licensed to work in the Kingdom or a percentage that creates a dominant position in a certain telecommunications market.
3. The Commission shall issue the appropriate decision regarding clauses "1" and "2" of this article within a reasonable period identified in the Bylaws.

**Article Twenty-six:**

Any operator dominating a certain telecommunications market or part of it, shall not undertake any activities or actions which are considered an abuse of his position. The Bylaws state the dominant operators' obligations and the rules by which a dominant operator's activity is considered an abuse.

**Article Twenty-seven:**

The operators shall ensure the transfer of numbers according to user requirements. The Bylaws state the associated procedures and conditions.

**Chapter Seven**

**Interconnection**

**Article Twenty-eight:**

The Commission shall establish the terms governing public networks access rights, the interconnection points and the interconnected operators' obligations.

**Article Twenty-nine:**

Each operator has the right to negotiate with other operators the agreements for interconnection with their telecommunications networks and services.

**Article Thirty:**

In the event that the concerned parties fail to reach an interconnection agreement according to Article Twenty-nine, they have the right to appeal to the Commission to settle the dispute. The Commission decision is binding on all parties.

**Chapter Eight**

**Equipment and Facilities**

**Article Thirty-one:**

The Commission shall undertake all the necessary procedures to ensure the compliance of the terminal equipment and facilities used in the telecommunications network with the identified technical specifications, including the requirements of installation, operation and maintenance processes.

**Article Thirty-two:**

1. A license should be obtained from the Commission for the telecommunications equipment to be used in the Kingdom.
2. Telecommunications equipment shall not be used in a way that violate the provisions of this Act or pose any risk to various means of transportation or to their passengers.

**Chapter Nine**

**Use of Properties**

**Article Thirty-three:**

All operators enjoy equal right of access to public and private properties for the purpose of providing telecommunications services. The Bylaws state the associated conditions and procedures.

**Article Thirty-four:**

The operators after obtaining the approval of the property owner or his representative could enter the property and use it within the necessary limits for purpose of the construction, operation and maintenance of telecommunications network.

**Article Thirty-five:**

If an operator fails to reach an agreement with the property owner or his representative as to the amount to be paid in respect of the acquisition or usage of that property, or for any other reasons, the operator may submit a request to the Commission for the expropriation of the property. The Commission may approve his request, if warranted, according to the provisions of the Expropriation Regulations.

**Article Thirty-six:**

The Bylaws state the rules governing the construction, operation and maintenance of the telecommunications networks, the operator's co-location at installations sites, and the protection of sites which are environmentally or historically significant.

**Chapter Ten**

**Violations and Penalties**

**Article Thirty-seven:**

Any of the following actions by any operator, individual or a juridical person constitutes a violation:

1. Providing telecommunications service or establish, operate or use a public telecommunications network without obtaining a license from the Commission.
2. Interconnection of a private internal network with a public telecommunications network without obtaining the necessary approval.
3. Failure to comply with an order issued by the Commission.
4. Use of any telecommunications equipment for the purpose of causing harmful interference with any other communications or exposing to risk different means of transportation or their passengers.
5. Use of any telecommunications equipment not licensed by the Commission.
6. Use of any frequency without a license from the Commission.
7. Interception of any telephone call or data carried on the public telecommunications networks in violation of the provisions of this Act.
8. Providing false statements or misleading information to the Commission.
9. Failure to obtain the Commission's approval before purchasing 5% or more of the total shares or stocks of an operator licensed to work in the Kingdom or a percentage that creates a dominant operator in certain telecommunications market in the Kingdom.
10. Failure to obtain the necessary approval according to the terms of the Act before merger with other operators.
11. Misuse of telecommunications services, such as causing damage to the public telecommunications networks or intentionally place a message of an indecent or menacing nature or which causes panic or disturbance.
12. Import, market or use telecommunications equipment not complying with the approved technical specifications.
13. Other than in the course of duty, intentional disclosure of any information or contents of any message, which has been intercepted in the course of its transmission.
14. Any other practice violating the provisions of this Act.

**Article Thirty-eight:**

1. Without prejudice to any more severe penalty stated in another Act, any person who commits any of the violations stated in Article Thirty-seven shall be subject to a penalty not exceeding SR 5 million.
2. The penalties mentioned under Clause "1" of this Article shall be proportionate to the violation committed and to the gravity of the violation in each individual case and will be imposed by a committee formed by a decision of the Board based on the nomination of the Commission Governor. The committee shall consist of 5 members from the Commission employees or others including at least one official advisor. The committee shall issue its decision according to the rules and procedures identified in the Bylaws. Such decision is appealable before the Grievance Dewan according to its Act. The amounts collected from such penalties shall be delivered to the Commission and shall be considered a part of its revenues.

**Chapter Eleven**

**Final Rules**

**Article Thirty-nine:**

The Commission's decisions can be appealed to the Minister. If the Commission's decision is upheld by the Minister, the concerned party has the right to appeal to the Grievance Dewan according to its Act.

**Article Forty:**

The Bylaws shall be issued by a decree from the Minister based on the recommendation of the Commission Board.

**Article Forty-one:**

1. This Act shall be published in the official Gazette and shall be effective after 180 days from its date of publication. This Act shall replace the Telegraph Regulation issued by the Royal Order No. 8792 on 12.9.1356 H, and its amendments, and the Acts for Wireless Equipment Usage issued by the Royal Decree No. 49 on 30.10.1382H, and its amendments, and the Telephone Utility Regulation issued by the Royal Decree No. M/16 on 16.3.1398H, this Act also shall cancel the Automatic Telephone Rate Chart issued by the Council of Ministers' decree No. 517 on 21.4.1393H, and the Telex Services Organization and Rate Chart issued by the Council of Ministers' decree No. 123 on 24.8.1416H. Also this Act shall supersede all Acts which are in contradiction with it.
2. As an exception from Clause "1" of this Article, the current Regulations and the other Regulatory Decrees shall continue to be operative insofar as they do not contradict with this Act until its Implementation Bylaws are issued within a maximum period of 6 months from the effective date of this Act.

