



هيئة تنظيم الاتصالات  
Telecommunications Regulatory Authority

# THE TELECOMMUNICATIONS LAW OF THE KINGDOM OF BAHRAIN

**LEGISLATIVE DECREE NO. 48 OF 2002  
PROMULGATING THE TELECOMMUNICATIONS LAW**

**Published in the Official Gazette of the Kingdom of Bahrain**  
Annex to Issue No. 2553, Wednesday, 17 Sha'aban 1423 (h). (23 October, 2002)

UNOFFICIAL ENGLISH TRANSLATION  
SECOND EDITION  
Current as at 12 April 2009

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**LEGISLATIVE DECREE NO. 48 OF 2002  
PROMULGATING THE TELECOMMUNICATIONS LAW**

We, Hamad Bin Isa Al Khalifa, the King of the Kingdom of Bahrain,

After perusal of:

the Constitution;

Legislative Decree No. 8 of 1970, governing the Expropriation of Land for Public Benefit, as amended;

The Civil and Commercial Procedural Law promulgated by Legislative Decree No. 12 of 1971, as amended;

The Law of Penalties promulgated by Legislative Decree No. 15 of 1976, as amended;

Legislative Decree No. 25 of 1976 approving the Arabian Space Telecommunications Agreement;

Legislative Decree No. 13 of 1977, promulgating the Law of the Regulation of Buildings, as amended by Legislative Decree No. 15 of 1993;

Legislative Decree No. No. 18 of 1981, establishing a Bahraini Joint Stock Company under the name of Bahrain Telecommunications Company;

Legislative Decree No. 27 of 1981 concerning Martial Law;

Legislative Decree No. 9 of 1985 Approving Adherence by the State of Bahrain to the International Marine Satellite Organization Agreement (“Inmarsat”) and the annexes thereto;

Legislative Decree No. 15 of 1986 Concerning Tourism, as amended by Legislative Decree No. 12 of 1994;

Legislative Decree No. 7 of 1987, promulgating the Law of Commerce, as amended;

Legislative Decree No. 2 of 1992 Approving Adherence to the International Satellite Communications Organization Agreement, as amended by Legislative Decree No. 1 of 2002;

Legislative Decree No. 1 of 1993 for the Establishment of the Radio and Television Corporation, as amended by Legislative Decree No. 12 of 1996;

Legislative Decree No. 11 of 1995 for the Protection of Antiquities;

Legislative Decree No. 21 of 1996 Regarding the Environment, as amended by Legislative Decree No. 8 of 1997;

Legislative Decree No. 1 for 1999 Approving the Arabian Space Telecommunications Agreement which was amended by Legislative Decree No. 31 of 2001;



# THE TELECOMMUNICATIONS LAW

## CHAPTER 1

### ARTICLE 1

#### DEFINITIONS

For the purposes of this Law, unless the context otherwise requires, the following terms and expressions shall have the meanings set forth opposite each one of them:

**“Access”**: the making available of telecommunications facilities and/or telecommunications services to another Licensed Operator for the purpose of providing telecommunications services, and including the connection of equipment by wire or wireless means, access to physical infrastructure including buildings, ducts, cables and masts, access to mobile networks and access to number translation or networks offering equivalent functionality.

**“Allocation” (with respect to frequencies)**: determining the usage of a frequency in the Kingdom of Bahrain in compliance with international telecommunications conventions.

**“Assignment” (with respect to frequencies)**: the assignment of certain frequencies for usage by frequency licence licensees.

**“Appointing Authority”**: the Minister of Justice and Islamic Affairs in his capacity as the Authority that appoints the Arbitration Panel provided for in Chapter 16 of this Law.

**“Arbitration Panel”**: the panel that shall be formed in accordance with the provisions of Article 68 of this Law.

**“Assignment”**: with respect to frequencies, the assignment of certain frequencies for usage by Frequency License Licensees.

**“Authority”**: the Telecommunications Regulatory Authority established by virtue of the provisions of this Law.

**“Batelco”**: Bahrain Telecommunications Company established by virtue of Legislative Decree No. 18 of 1981.

**“Board”**: the Board of Directors of the Authority that is formed in accordance with the provisions of Article 4 of this Law.

**“Broadcasting”**: any cable, radio or satellite communication, transmissions of which are intended for direct general reception by the public but excludes Video on Demand.

**“Carrier Pre-selection”**: a facility whereby a Subscriber to a telecommunications service can by default receive the services of an interconnected holder of a telecommunications License.

**“Chairman”**: the Chairman of the Board of Directors of the Telecommunications Regulatory Authority.

**“Class License”**: a telecommunications License (as distinct from the Individual License) subject to standard conditions for all Licensees concerning every type of License granted in accordance with the provisions of Article 32 of this Law.

**“Domestic Roaming”**: the ability of the Subscribers of a mobile telecommunications Licensee to use their handsets while in the telecommunications service area of another Licensee.

**“Dominant Position”**: the Licensee’s position of economic power that enables it to prevent the existence and continuation of effective competition in the relevant market through the ability of the Licensee to act independently – to a material extent – of competitors, Subscribers and Users.

**“DSL”**: point-to-point Telecommunications Network Access that allows multiple forms of Telecommunications to be carried over twisted-pair copper wire between the Local Exchange of the Telecommunications Operator and the Subscriber.

**“Frequency License”**: a License for the use of Telecommunications Frequency granted in accordance with the provisions of Article 44 of this Law.

**“General Director”**: the Authority’s General Director appointed in accordance with the provisions of Article 8 of this Law.

**“GSM”**: global system for mobile communications, as defined in the European Telecommunications Standards Institute structure of technical specifications operating in the 900 MHz and 1800 MHz and such other frequency bands as the Authority may determine from time to time.

**“Individual License”**: a Telecommunications License granted to a particular Person on terms and conditions specific to that Person in accordance with the provisions of Article 29 of this Law.

**“Interconnection”**: the physical and logical linking of Telecommunications networks used by the same or a different operator in order to allow the Subscribers of one operator to communicate with Subscribers of the same or another operator, or to receive services provided by another operator.

**“Kingdom”**: the Kingdom of Bahrain.

**“Licence”**: a Telecommunications Licence or a Frequency Licence.

**“Licensed Operator”**: a Person who is licensed to operate a Telecommunications Network or to provide a Telecommunications service under Article 25 of this Law.

**“Licensee”**: a Person holding a License granted pursuant to the provisions of this Law.



**“Local Exchange”**: the facility in the Public Telecommunications Network to which Subscribers’ lines are connected within the same Local Exchange area.

**“Minister”**: the Minister with responsibility for the Telecommunications sector.

**“Ministry”**: the Ministry with responsibility for the Telecommunications sector.

**“Mobile Radiocommunications”**: the conveyance of signals by Radiocommunication whereby reception or emission is by means of Telecommunications Equipment which may be used while in motion.

**“National Frequency Plan”**: the strategic plan for radio frequency spectrum allocations prepared and managed by the Radiocommunications Authority.

**“National Numbering Plan”**: the numbering plan prepared and managed by the Authority for use in connection with the supply of Telecommunications services in the Kingdom.

**“National Plan for Telecommunications”**: the plan approved by the Council of Ministers by virtue of a resolution issued thereby, which plan incorporates the strategy and the general policy concerning the Telecommunications sector referred to in Article 15(a) of this Law.

**“Notice”**: a letter sent to the addressee by registered mail accompanied by acknowledgement of receipt.

**“Number Portability”**: The capability whereby a Subscriber of a national fixed serviced provided by a holder of a national fixed service License can retain the Subscriber’s telephone number when changing the service and assigning it to another holder of a national fixed service License, or the capability whereby a Subscriber of a mobile Telecommunications service provided by a holder of a mobile Telecommunications License can retain the Subscriber’s mobile telephone number when changing the service and assigning it to the holder of another mobile Telecommunications License.

**“Operator with Significant Market Power”**: a Licensed Operator which holds twenty-five percent or more of the market share of the relevant market as determined from time to time by the Authority.

When determining such matter, there shall be taken into consideration the ability of a Licensed Operator to influence market conditions, its turnover relative to the size of the market, its control of the means of Access to Users, its financial resources and its experience of providing products and services in the market. The Authority may determine that the Licensed Operator has significant market power even if such operator holds a share of less than twenty-five percent of the market or that it does not have significant power even if it holds more than such percentage.

**“Person”**: any natural person, juristic entity or public authority.

**“Public Telecommunications Network”**: a Telecommunications Network used, in whole or in part, for the provision of Public Telecommunications Services provided either by a Licensed Operator of the Telecommunications Network or a third party.

**“Public Telecommunications Operator”**: a Licensed Operator authorized to provide Public Telecommunications Services or to operate a Public Telecommunications Network under an Individual License.

**“Public Telecommunications Services”**: fixed or mobile Telecommunications services available to the public.

**“Radiocommunications”**: the transmission, emission or reception of messages, sound, visual images or signals using electromagnetic waves which are propagated in space and having frequencies of lower than 3,000 GHz.

**“Radiocommunications Equipment”**: any equipment or apparatus designed or used for Radiocommunications.

**“Radiocommunications Station”**: any site, station or Telecommunications Facility which is used for Radiocommunications.

**“Subscriber”**: any Person that is party to a contract with a Public Telecommunications Operator for the provision of Telecommunications services.

**“Telecommunications”**: the conveyance and/or routing of messages, sound, visual images or signals on Telecommunications Networks, other than Broadcasting.

**“Telecommunications Equipment”** means any equipment or apparatus used or intended to be used for Telecommunications and that is part of or connected to, or comprises, a Telecommunications Network, and includes Radiocommunications Equipment.

**“Telecommunications Facility”**: any part of the infrastructure of a Telecommunications Network including any antenna, circuit, duct, equipment, fibre (whether partially or fully in service or not), line, mast, pole, tower or any other structure or any other thing used or intended for use in connection with a Telecommunications Network.

**“Telecommunications Frequency”**: any frequency designated for Telecommunications use in the National Frequency Plan, which shall include frequencies used for or in connection with Mobile Radiocommunications (irrespective of the technology deployed and including third generation services) cordless telephony, terrestrial fixed links, paging, public access mobile radio, fixed-wireless access, fixed and mobile satellite service applications and high performance local area networks.

**“Telecommunications Network”**: a network permitting the conveyance of messages, sound, visual images or signals between defined termination points by wire, radio, optical or other electro-magnetic means.

**“Unbundled Local Loop”**: the physical connection from the Subscriber’s premises to the Public Telecommunications Operator’s Local Exchange, excluding switching or ports, purchased by a Licensed Operator from another Licensed Operator.

**“Universal Service”**: the basic public telephone services described in Article 64(c) of this Law of specified quality and at suitable prices (as determined by the Authority) which are available to all Users independent of their geographical location.

**“User”** any Person using or requesting publicly available Telecommunications services.

**“Video on Demand”**: a Telecommunications service that enables a Subscriber to watch video content by using a Telecommunications Network whenever such Subscriber requests such service from the provider of that service.

## **CHAPTER 2**

### **THE AUTHORITY**

#### **ARTICLE 2**

##### **ESTABLISHMENT OF THE AUTHORITY**

- (a) A public authority called the “Telecommunications Regulatory Authority,” is hereby established.
- (b) The Authority shall be a financially and administratively independent juridical entity that shall assume the regulation of Telecommunications services in the Kingdom in accordance with the provisions of this Law. For such purpose, it shall have the right to:
  - 1 exercise all powers given to it under this Law to carry out its duties hereunder.
  - 2 own movable and immovable property.
  - 3 enter into contracts and to take all legal actions, including the right to enter into legal proceedings and to defend any claim against the Authority, and to resort to arbitration or similar legal proceedings.
- (c) The Authority shall have all the advantages exercised by the ministries, governmental entities, and official public sector organisations in the Kingdom.

#### **ARTICLE 3**

##### **DUTIES AND POWERS OF THE AUTHORITY**

- (a) The Authority shall carry out its duties and exercise its powers efficiently, effectively, regularly, reasonably and in a non-discriminatory and transparent manner.

(b) The Authority undertakes in carrying out its duties relating to Telecommunications services in the manner best calculated to:

- 1 protect the interests of Subscribers and Users in respect of:
  - the tariffs charged for services.
  - availability and provision of service.
  - quality of services.
  - protection of personal particulars and privacy of services.
- 2 promote effective and fair competition among new and existing Licensed Operators.
- 3 ensure, when assessing applications involving provision of Public Telecommunications Services, that any applicant, or any Person who is assigned the responsibility of the provision of such services, shall be able to provide that service.

(c) The Authority shall have the power to:

- 1 issue regulations, orders and determinations<sup>1</sup> as may be necessary for the implementation of the provisions of this Law, including in particular regulations, orders and determinations in connection with technical standards and rules, Licences and payment of Licence fees, frequency migration, accounting separation relating to each service, Interconnection, Access to the network and its facilities, services' tariffs, access to, acquisition and removal of encumbrances on real property, numbering, Universal Service, the promotion of competition, equipment approvals, compliance with License conditions and all other matters covered by this Law or the resolution of which is necessary to give effect to the provisions of this Law.
- 2 monitor and investigate compliance with the provisions of this Law and any regulations, orders and determinations made hereunder, both on its own initiative and at the request of any Person, and making such orders and determinations as are necessary to ensure compliance in accordance with this Law and any such regulations, orders and determinations including ordering a Licensee to be restructured into two or more entities, if necessary.

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<sup>1</sup> Note that the Arabic word "قرار" is used in the Arabic version of the Telecommunications Law for the word "Determination" in this sentence. "قرار" can be translated into the English words of "Decision", "Determination" or "Resolution". In practice TRA Bahrain has tended to use these English words to define specific legal instruments, whereby "Decisions" or "Determinations" are used for the results of a regulatory process (e.g. a Decision on Merger Clearance) or regulatory action (e.g. a Determination of Dominance or Significant Market Power) and where "Resolutions" have been used for mainly administrative decisions such as setting of license fees or business hours. In preparing this English translation of the Telecommunications Law TRA has attempted used the word it considers most suitable to define the instrument based upon its purpose in each instance of the use of the Arabic word "قرار". This does not prevent TRA from amending its practices in the future. For purposes of interpretation the Arabic text shall prevail.

- 3 give final decisions as to applications for Licences in accordance with the provisions of this Law.
- 4 monitor and enforce compliance with Licence terms and conditions by Licensees.
- 5 propose and effect modifications to Licenses where appropriate in accordance with the provisions of this Law.
- 6 set and collect application, initial, annual and renewal fees for Licences, collect fines and fees under any Licence and, where appropriate, collect any fees for services provided by the Authority.
- 7 assist the Radiocommunications Authority in relation to the preparation of the National Frequency Plan as it applies to the Telecommunications Frequencies of the plan.
- 8 co-ordinate Telecommunications Frequency Assignments with the competent authorities of other countries in accordance with the applicable requirements of the International Telecommunications Union.
- 9 in co-ordination the Radiocommunications Authority, publish and update a national register of Telecommunications Frequency allocations and publish regulations related to Telecommunications Frequencies.
- 10 Approve Telecommunications Frequencies Licences to Licensed Operators in accordance with the National Frequency Plan.
- 11 in co-ordination with the Radiocommunications Authority, monitor those who are authorised to use of Telecommunications Frequency in the Kingdom, and ensure compliance in accordance with the law and to ensure the efficient use thereof.
- 12 prepare and follow up the execution of the National Numbering Plan and assigning numbers to Licensed Operators in accordance with such plan.
- 13 encourage, regulate and facilitate adequate Access and Interconnection and interoperability of services, including, where necessary, enforcing the sharing by Public Telecommunications Operators of the benefit of facilities and properties.
- 14 review tariffs to ensure that they are fair and reasonable and establish the basis for tariff definition and tariff rebalancing plans and other measures for tariff controls for inclusion in Telecommunications Licenses where appropriate and determine tariffs, if necessary, including by benchmarking tariffs charged by a Licensee against tariffs in comparable Telecommunications markets and determining the forward looking incremental costs of providing a Telecommunications service.
- 15 adopt and publish technical specifications and standards for the import and use of Telecommunications Equipment and for the connection and

Interconnection of Telecommunications Equipment to Telecommunications Networks.

- 16 issue approvals or to assign this function to others, in accordance with the Authority's discretion, for the use of Telecommunications Equipment for which no relevant technical specifications or standards have been issued by the Authority and the connection or Interconnection thereof to a Telecommunications Network.
  - 17 examine complaints and resolve disputes arising between Licensees, Licensees and Subscribers or any other Person involved in the Telecommunications industry, and taking necessary and proportionate measures in relation to such matter.
  - 18 exercising all other powers granted to the Authority hereunder and taking all other actions as may be reasonably necessary to give effect to the provisions of the foregoing paragraphs.
- (d) In the course of fulfilling the duties that are entrusted to it by virtue of this Law, the Authority may when necessary:
- 1 contract with any third parties and liaise and co-operate with specialised agencies, academic or technical institutes and advisory committees
  - 2 entrust some of its technical or administrative functions to third parties, authorities or committees that have the required technical and administrative capacities to perform those functions.
- (e) In the fulfillment of its duties and the exercise of its powers, the Authority shall act in a manner that is consistent with the objectives of the National Plan for Telecommunications; provided that this shall not be construed to derogate from the independence of the Authority in accordance with the provisions of this Law.
- (f) Except in emergency cases, the Authority shall, when determining to take measures that will have a material effect on a particular Telecommunications market, give interested parties the opportunity to give their opinions as to such measures within a reasonable period. The Authority shall issue a Regulation regarding such consultations, in a manner that ensures that all of the public is informed from a single information source of the ongoing consultations, excluding information which is supplied on the basis that it should not be disclosed.

## **CHAPTER 3**

### **THE BOARD OF DIRECTORS**

#### **ARTICLE 4**

##### **APPOINTMENT AND CESSATION OF MEMBERSHIP**

- (a) The Authority shall be managed by a Board of Directors consisting of five members, one of whom shall be the Chairman of the Board. For the appointment of the Board members, a decree based on the proposal of the Council of Ministers shall be issued, and such decree shall designate the Chairman of the Board, provided that the necessity of independence of the Authority, in accordance with the provisions of this Law, be given due consideration.
- (b) The term of office of the Board members shall be four years. As for the initial Board, the terms of office of three of its members shall be three years and of the two other members shall be four years. The decree issued for the appointment of the Board members shall specify the terms of office of every Board member.
- (c) If a vacancy in the Board arises due to the expiry of term of office, resignation, removal or death of a Board member, his replacement shall be appointed by virtue of the same instrument and in the same manner provided for in paragraph (a) of this Article.
- (d) No Board member shall be dismissed before the expiry of his term of office except by virtue of a decree based on a proposal by the Council of Ministers.

#### **ARTICLE 5**

##### **FUNCTIONS AND POWERS OF THE BOARD**

The Board shall supervise the affairs of the Authority and the exercise of the duties and powers provided for in this Law.

#### **ARTICLE 6**

##### **MEETINGS**

- (a) The Board shall meet at least four times a year. The Chairman may at any time call an extraordinary meeting of the Board.

The Chairman shall also call an extraordinary meeting of the Board within fourteen days of receipt of a request for that purpose addressed to him in writing and signed by any two other Board members or by the General Director. In all events, the notice calling for the extraordinary meeting of the Board must state the purpose of such meeting.

- (b) A meeting of the Board shall be duly convened only if attended by at least three Board members.
- (c) Decisions of the Board shall be by a majority of votes of members present and voting and, in the event of equal votes, the side that the Chairman has voted for shall prevail over the other side.
- (d) The Board shall appoint a secretary who shall prepare its agenda, record minutes of the meetings, maintain all papers and documents of the Board, and carry out any tasks assigned to him by the Board.
- (e) The Board may invite the General Director or any other Person to attend any meeting of the Board where it considers it necessary to do so, but that Person shall not vote on any matter before the Board and shall not count for the purposes of forming a quorum.

## **ARTICLE 7**

### **CONFLICT OF INTERESTS**

- (a) No Board member shall have a direct or indirect equity or other financial interest in a Licensee.
- (b) Where a Board member has a personal interest, directly or indirectly, in any matter to be considered by the Board or any other financial interest that may conflict with the requirements of his position as a Board member, the Board member shall, as soon as he becomes aware that the matter is to be considered by the Board, disclose his interest in writing to the Board.
- (c) In the case provided for in the preceding subparagraph, the Board member shall not take part in the consideration of the matter, and he shall not vote on the matter. The disclosure shall be recorded in the minutes of the Board meeting.

## **CHAPTER 4**

### **THE GENERAL DIRECTOR**

## **ARTICLE 8**

### **APPOINTMENT AND VACANCY OF OFFICE**

The General Director shall be appointed by a decree based on the proposal by the Council of Ministers upon the recommendation of the Board for a period of three years, and his term of office may be renewed only once for another similar period.

In the event of the office of the General Director becomes vacant upon the expiry of the term of office, resignation, dismissal or death of the General Director, a replacement shall be appointed by virtue of the same instrument as indicated and in the same manner.



The Chairman or any duly qualified Person appointed by the Board shall assume the position on a temporary basis until a new General Director is appointed.

## **ARTICLE 9**

### **COMPETENCE**

The powers of the Authority as set forth in this Law shall be exercised by the General Director, who shall in this respect be subject to the supervision of the Board.

Unless this Law expressly provides otherwise, the General Director shall have the final authority in the exercise of such powers.

## **ARTICLE 10**

### **REMUNERATIONS**

The amount of remuneration, including allowances and other benefits, paid to the General Director shall be set by the Board, having regard both to the then current market salaries of chief executive officers, whether of major corporations in the Kingdom, or of services sectors regulators outside the Kingdom.

## **ARTICLE 11**

### **RESIGNATION OF GENERAL DIRECTOR**

The General Director may resign his office by submitting a written application at least three months in advance to the Board in order for the latter to submit it to the Council of Ministers.

A decree accepting the resignation shall be issued upon the proposal of the Council of Ministers.

## **ARTICLE 12**

### **REMOVAL OF GENERAL DIRECTOR FROM HIS POST**

- (a) The General Director may be dismissed from office before the expiry of the term of his office by a decree, based on a proposal by the Council of Ministers issued on the recommendation of the Board, on grounds of material breach of his employment contract, gross misconduct, inefficiency, fraud, dishonesty or inability to perform the duties of his office arising from infirmity of body or mind.
- (b) Prior to his dismissal, the General Director shall be given reasonable opportunity to defend himself before the Board. Until the date of his dismissal, the General Director shall continue to serve in accordance with this Law.

## **ARTICLE 13**

### **STRUCTURE OF THE AUTHORITY**

- (a) The General Director shall determine the internal structure and organisation of the Authority, whilst giving due consideration to the Authority's budget as approved in accordance with the provisions of Article 17 of this Law.
- (b) The General Director may authorise in writing any employee of the Authority to carry some of his functions and in such a manner as shall be best conducive to the proper dispatch of the business of the Authority.

## **ARTICLE 14**

### **EMPLOYMENT AND REMUNERATION OF STAFF**

- (a) The General Director shall, after receiving the consent of the Board, determine the conditions of employment of the Authority's staff and specify such salaries and benefits payable thereto as shall attract efficient and experienced professionals to work for the Authority, whilst observing in the determination of salaries and benefits the restriction provided for in Article 22(a) of this Law.
- (b) The General Director may employ such staff and consultants for the Authority as will enable it to meet its obligations and exercise its powers and fulfil its duties under this Law, whilst giving due consideration to the Authority's budget as approved in accordance with Article 17 of this Law.

## **CHAPTER 5**

### **THE MINISTER**

## **ARTICLE 15**

### **RESPONSIBILITIES OF THE MINISTER**

- (a) Within 3 months of the effective date of this Law, and every three years thereafter, the Minister shall, in consultation with the Authority, prepare the National Telecommunications Plan to be approved by a resolution to be issued by the Council of Ministers. Such plan shall include the strategic plan and the general policy with respect to the Telecommunications sector and such resolution shall be published in the Official Gazette.

In exceptional circumstances and when necessary, such plan may be prepared for shorter periods.

- (b) The Minister shall carry out the following tasks:

1 supervising the implementation of the National Telecommunications Plan.

- 2 following up the implementation of the policy relating to Universal Services, proposing any amendments in connection therewith and submitting such amendments to the Council of Ministers for approval.
  - 3 promoting investment in the Telecommunications sector in the Kingdom and creating a competitive environment among Licensed Operators, so as to enable Subscribers and Users to receive state of the art Telecommunications services at the most suitable prices.
  - 4 following up the fulfilment of obligations arising under international Telecommunications conventions to which the Kingdom is a party.
  - 5 representing the Kingdom in regional, Arab and international organisations and committees that are concerned with Telecommunications affairs and co-ordinating with other concerned ministries and departments. The Minister may delegate such representation to the Authority.
  - 6 proposing drafts of laws pertaining to the Telecommunications sector in co-ordination with the Authority.
  - 7 working to remove obstructions from the Telecommunications sector, in co-ordination and co-operation with the Authority and the concerned authorities, and in such a way as to assist the Authority in carrying out its responsibilities.
- (c) In order to avoid a conflict of interest and without prejudice to the provisions of Article 41 of this Law, the Minister shall not have any direct or indirect interest in a Licence, exercise management control over a Licensee or participate in the management of a Licensee; provided that this shall not prevent the government from holding shares in a Licensee as long as the Minister is not responsible for exercising rights over such shares.

The restriction provided for in this paragraph applies to the senior officials of the Ministry and other officials with responsibilities for the Telecommunications sector.

## **ARTICLE 16**

### **INDEPENDENCE OF THE AUTHORITY**

The Minister may at any time advise the Authority in writing of his opinion on any matter of government policy relating to Telecommunications. The Authority shall study the proposals made by the Minister in this respect and shall act to carry out such proposals in such a manner as does not conflict with its responsibilities and powers as provided for under this Law.

## **CHAPTER 6**

### **FINANCIAL AND RELATED MATTERS**

#### **ARTICLE 17**

##### **ANNUAL ACCOUNTS, REPORT AND AUDIT**

- (a) The start and end of the financial year of the Authority shall be determined by a resolution issued by the Board.
- (b) The Authority shall have an independent budget and maintain audited reports for each financial year.
- (c) The General Director shall, in co-ordination with the Ministry of Finance and National Economy, prepare a draft budget for the Authority for the next financial year and submit such draft to the Board three months before the end of the financial year. The Board shall approve such draft within three months of submission. If the draft budget is rejected by the Board or if such period expires without approval of the draft by the Board, the budget for the previous year shall remain in effect, adjusted for inflation using the official inflation rate.

The Board should indicate in writing the grounds for rejecting a draft budget.

- (d) The Board shall, at the beginning of every financial year, appoint an independent auditor of international standing to audit the Authority's accounts. The Authority shall cause its accounts to be audited by the independent auditor within three months of the end of each financial year. The auditor's report shall be submitted to the Board by the auditor not later than five months from the end of the financial year and shall draw any financial irregularity or shortfall to the attention of the Board.
- (e) The General Director shall prepare and submit to the Board, not later than six months from the end of the financial year, an annual report in such form as the Board may direct on the activities of the Authority, and shall enclose with such report a copy of the audited accounts of the Authority, the auditor's report and the information set forth in Article 54 of this Law.
- (f) Immediately after the Board approves the audited accounts of the Authority, the Authority shall publish a summary of its audited accounts in the Official Gazette and in two local daily newspapers, one of which is published in Arabic and the other in English.

#### **ARTICLE 18**

##### **FUNDING OF THE AUTHORITY**

- (a) Funding of the operations and activities of the Authority shall be derived from the following sources:

- 1 application, initial and renewal fees charged for Licences.
  - 2 revenue of annual Licences' fees based in the case of an Individual Licence on the gross annual turnover of the Licensee resulting from this Licence, provided that such fees shall not exceed one percent (1%) of such gross annual turnover. Fees for a Class Licence are to be specified in accordance with the conditions provided for in such Licences, or by virtue of a resolution issued by the Authority if such fees are not specified in the Licence.
  - 3 fees charged by the Authority for any services that it provides.
  - 4 fines collected by the Authority from Licensees on the basis of the Licences granted to them. Fines to be collected by the Authority shall not be taken into consideration when preparing the annual budget.
- (b) Any increase in the fees provided for in subparagraphs (a)(1) and (2) of this Article shall be approved by the Board, provided in all cases that fees shall not exceed the percentage provided for in subparagraph (a)(2) of this Article.

The Board shall indicate in writing the grounds for a refusal to increase fees.

- (c) Activities and operations of the Authority shall be funded from the General State Budget during the year that follows the date on which this Law shall enter into force, provided that the activities of the Authority shall thereafter be funded from the revenues provided for in paragraph (a) of this Article and if such revenue is insufficient, the provisions of the following paragraph shall apply.
- (d) The Authority may, after co-ordination with the Ministry of Finance and National Economy, submit an application to the Council of Ministers for a grant from the public treasury to cover a deficit shown in its approved budget, including where the deficit results from non-payment by the Licensees of the fees payable to the Authority, provided that the Authority shall use such grant for funding the expenses included in its approved budget.

The Authority may fund the deficit by borrowing in accordance with the provisions of Article 20 of this Law.

## **ARTICLE 19**

### **THE AUTHORITY'S EXPENDITURE**

- (a) The Authority shall use the revenues collected by it under this Law in accordance with its approved budget to fund its activities, including:
- 1 meeting the administrative and operating costs of the Authority.
  - 2 payment of salaries, wages, remuneration and allowances, and other financial benefits payable to the General Director and staff members of the Authority, pensions and social insurance.

- 3 meeting its requirements that are necessary for the effective and efficient carrying out of its duties, be such requirements real or moveable property, including apparatus, machinery and equipment or any other items within the category of capital expenditure.
  - 4 maintenance of real or moveable property owned by the Authority.
  - 5 meeting expenses that are necessary for carrying out the duties of the Authority as specified under this Law.
- (b) Any cash surplus actually accrued to the Authority on its approved budget for the previous financial year shall be delivered to the public treasury within one month after the date on which the accounts audit is completed in accordance with the provisions of Article 17(d) of this Law.

The Authority may keep all or part of a budget surplus for funding future development projects after coordinating with the Ministry of Finance and National Economy and with the consent of the Council of Ministers.

## **ARTICLE 20**

### **BORROWING POWERS**

Without prejudice to the prescribed procedures for obtaining a public loan, the Authority may, after coordinating with the Ministry of Finance and National Economy and with the consent of both the Board and the Council of Ministers, borrow such sums of money as are required for the exercise of its duties under this Law.

The Board should indicate in writing its ground for refusing any borrowing.

## **ARTICLE 21**

### **CONFLICT OF INTERESTS**

- (a) Neither the General Director nor any staff member of the Authority shall have a direct or indirect interest in the telecommunication sector throughout the term of his tenure or employment at the Authority. Each of them shall promptly serve a notice of any such interest that arises or is likely to arise during his tenure or employment at the Authority.

The notice referred to shall be served on the Board in the case of the General Director, and on the General Director in the case of the other staff members of the Authority.

- (b) The General Director and the staff members of the Authority shall each present a written declaration when commencing occupation of the office or position and annually thereafter, as to:
- 1 any direct or indirect interest he has in the Telecommunications sector and which he is aware of.

- 2 any direct or indirect interest in the Telecommunications sector of one of his relatives up to the third degree which he is aware of and that conflicts with the requirements of his office or position at the Authority.
- (c) The Board may disregard the ordinary and non-material interests of either the General Director or any staff member which do not conflict with the requirements of office or position in the Authority. In such case the resolution of the Board shall specify the grounds on which it is based. If the Board so exercises its authority it shall publish notice of such action in the register of interests referred to in Article 52 of this Law, stating the name and position of the Person and details of such interest.
- (d) The Board, in determining the extent of which the interest of the General Director or staff member of the Authority may conflict with the interest of the Authority, shall consider:
- 1 the degree to which the economic interest of the company or any other entity related to the interest may be affected by actions of the Authority.
  - 2 the extent to which the Authority regulates and oversees the activity of the company or other entity related to the interest.
  - 3 the seniority or position of the relevant staff member.
  - 4 the perceptions held or likely to be held by the public when the public learns of the relevant Person's interest in the company or other entity related to the interest.

## **ARTICLE 22**

### **OUTSIDE EMPLOYMENT OF THE GENERAL DIRECTOR AND THE AUTHORITY'S STAFF**

- (a) Neither the General Director nor any staff member of the Authority may, during his tenure or term of employment, engage in any employment, consulting or similar service relating to the Telecommunications industry in the Kingdom outside the duties of his office or employment or engagement by the Authority. For one year after such term, neither shall engage in such employment, consulting or similar service without the prior written approval of the Board.
- (b) No employer shall employ the General Director or the Authority's staff members in contravention of subparagraph (a) of this Article.

## **ARTICLE 23**

### **CONFIDENTIALITY**

The General Director and staff members of the Authority shall not be permitted to divulge any confidential information which may come directly or indirectly to their knowledge during the course of their work. This obligation shall continue even after such Persons leave the service of the Authority.

## **CHAPTER 7**

### **LICENSING AND EQUIPMENT APPROVALS**

## **ARTICLE 24**

### **REQUIREMENT TO OBTAIN A TELECOMMUNICATIONS LICENCE**

- (a) No Person shall operate a Public Telecommunications Network, any Telecommunications Network using a Telecommunications Frequency or provide a Telecommunications service in the Kingdom except after obtaining a Licence for that purpose in accordance with the provisions of this Law.
- (b) No Person shall, without permission (to be granted in accordance with the conditions of the relevant Licence), connect to a Telecommunications Network licensed under this Law any other Telecommunications Network or any Telecommunications Equipment that is not authorised under Article 38 of this Law.
- (c) No Person shall operate or promote a call-back service from or to the Kingdom.

## **ARTICLE 25**

### **GRANT OF TELECOMMUNICATIONS LICENCES**

- (a) A Licence for the operation of a Telecommunications Network or for the provision of Telecommunications services may be granted for a finite period of time by the Authority by way of either an Individual Licence or a Class Licence in accordance with the provisions of Articles 29 and 32 of this Law.
- (b) The granting of a Licence in accordance with the provisions of this Law shall not prejudice any other conditions, licenses, permits or obligations provided for in any other law.

## **ARTICLE 26**

### **REQUIREMENTS RELATED TO INDIVIDUAL AND CLASS LICENCES**

- (a) In order for a Licence to be granted, the following is required:



- 1 that the Licence applicant be a juristic entity incorporated in the Kingdom, or a branch of a foreign company licensed to operate in the Kingdom in accordance with the Commercial Companies Law.
  - 2 that substantially all the infrastructure and personnel associated with the provisions of Telecommunications services are located in the Kingdom.
- (b) The Authority alone shall have the right to waive the conditions provided for in subparagraph (2) of paragraph (a) of this Article in either of the following two cases:
- 1 there exists substantial demand for a Telecommunications service that cannot be provided on an efficient basis other than by means of infrastructure and personnel located outside the Kingdom, provided that such a service will be to the direct benefit of Subscribers and Users, as determined by the Authority on the basis of the obligations provided for in the License or otherwise.
  - 2 if Licensees breach the obligations provided for in Article 65(a) of this Law.

## **ARTICLE 27**

### **SUBMISSION OF THE LICENCE APPLICATION**

- (a) An application for a Telecommunications Licence shall be made in writing addressed to the Authority in the form prepared by the Authority for this purpose and accompanied by such information and evidence of payment of the application fees as determined by the Authority by a resolution issued in accordance with the provisions of this Law. The Authority shall notify the applicant in writing within fourteen days of its receipt of the application.
- (b) The Authority shall, if it decides not to grant the Licence, notify the applicant of the decision and of the reasons for its decision in reasonable detail.

## **ARTICLE 28**

### **CONTENTS OF A TELECOMMUNICATIONS LICENCE**

- (a) A Telecommunications License is personal and may not be assigned to a third party without the prior written consent of the Authority.
- (b) A Telecommunications License granted by the Authority shall be issued in writing and, unless revoked pursuant to the provisions of Articles 31 or 34 of this Law, shall continue in full force and effect for such period as may be specified in the Licence.
- (c) A Telecommunications Licence may include:
  - 1 such terms and conditions as the Authority determines are necessary and reasonable.

- 2 terms and conditions requiring the Licensee to provide to the Authority, in such manner and at such times as may be reasonably required, such documents, data, accounts, estimates, returns or other information as the Authority may require for the purpose of exercising its powers and fulfilling its duties under this Law.

## **ARTICLE 29**

### **INDIVIDUAL LICENCES**

- (a) An Individual Licence may only be granted on the recommendation of the General Director and following ratification thereof by the Board within thirty days after the date on which the recommendation of the General Director is put to the Board. If the Board refuses to ratify his recommendation or when such period expires without ratification, the General Director may resubmit the matter within 30 days to the Board for a final decision by the Board within 30 days of the re-submission.

If the recommendation of the General Director is refused, the Board shall, in all cases, indicate the grounds of such refusal in writing.

- (b) The Authority may, with the written approval of the Board, hold an auction for Individual Licences in accordance with rules and procedures issued by the Authority. Such auction shall be announced in such manner as the Authority deems appropriate at least thirty days prior to the date of holding such auction. The Licence shall in this case be granted without requiring the ratification of the Board.
- (c) The Authority shall, before giving a final decision with respect to all applications for Individual Licences, ensure that the applicant has satisfied the conditions provided for in this Law and in the laws, regulations and resolutions issued in implementation of the provisions of this Law, with particular regard to whether:
  - 1 the applicant has sufficient resources, skills and expertise in the field of the subject matter of the application.
  - 2 the applicant meets such criteria for the Licence applied for as are determined and issued by the Authority from time to time.
  - 3 the interests of Subscribers and Users will be served.
  - 4 competition among Licensed Operators will be promoted.
- (d) The Authority shall, within a period not exceeding ninety days of the application, decide on the Licence application and if the Authority considers it necessary to obtain any further information, the Authority shall notify the applicant of such requirement within a period not exceeding thirty days after date of the submission of the application. In such case, the final decision shall be passed within the longer of:

- 1 thirty days from the date of receipt of such required further information, and
  - 2 one hundred and fifty days from the date of submission of the Licence application.
- (e) Individual Licences shall have standardised terms and conditions as far as practicable, and any differences shall be for objectively justifiable reasons.

Without prejudice to the foregoing, the Authority may grant to an applicant who does not have significant market power a Licence on terms and conditions that are more favourable than another Licensed Operator with significant market power.

- (f) Within seven days of the grant of a Licence, the Authority shall notify the applicant that the Licence is available for collection. Such notice shall be sent to the address specified by the applicant.

The Authority shall publish the Licence in the Official Gazette as soon as is practicable after granting it.

- (g) Any Person that directly or indirectly acquires five percent or more of the shares of an Individual Licensee shall notify the Authority of such matter within seven days from the date that Person acquires such shares.

## **ARTICLE 30**

### **RENEWAL OF AN INDIVIDUAL LICENCE**

- (a) Without prejudice to the provision of paragraph (b) of this Article, an Individual Licence issued under this Law shall be renewed on the request of the Licensee, for a further limited term in accordance with the conditions of the Licence.
- (b) The Authority may refuse to renew an Individual Licence if it discovers that the Licensee is, or has been, in material breach of the conditions of the Licence, whether or not the Authority took enforcement action to obligate the Licensee to comply with the conditions of the Licence in accordance with the provisions of Article 35 of this Law.
- (c) The Authority shall notify the Licensee of its intention to refuse renewal of the Licence at least two years prior to the expiry of the current Licence term and if a material breach occurs within two years of the expiry of the current Licence term, it shall notify the Licensee promptly upon becoming aware of such breach.

In all cases, the notice shall state the reasons for such refusal.

- (d) The Authority shall consider the responses given by the Licensee during the current Licence term, before making its decision as to refusing the renewal of the Licence.

## **ARTICLE 31**

### **MODIFICATION AND REVOCATION OF INDIVIDUAL LICENCES**

The Authority may modify the terms and conditions of, or revoke, an Individual Licence in the following circumstances:

- 1 with the consent of the Licensed Operator for such modification or revocation.
- 2 such modification or revocation is in accordance with any of the conditions provided for in such Licence.
- 3 that the modification or revocation is in accordance with the provisions of Article 35 of this Law.

## **ARTICLE 32**

### **THE CLASS LICENCE**

(a) The operation of a Telecommunications Network or the provision of Telecommunications services shall be authorized by way of a Class Licence with the exception of Licences connected with any of the following:

- 1 the use of radio frequency spectrum.
- 2 the use of telephone numbers under the National Numbering Plan.
- 3 the provision of the services provided for in Article 39(b)(1) to 39(b)(9) of this Law,

in which case an Individual Licence is required.

- (b) A Class Licence shall be granted to the applicant for such Licence if such applicant meets the conditions issued and published by the Authority from time to time concerning such type of Licences. The Authority may require the applicant to provide any further information.
- (c) The Authority shall prepare a sample application form for a Class Licence, which shall be published in the manner that the Authority considers appropriate for bringing it to the attention of interested parties.

## **ARTICLE 33**

### **RENEWAL OF CLASS LICENCE**

The provisions provided for in Article 30 of this Law shall apply to the renewal of a Class License.

## **ARTICLE 34**

### **MODIFICATION AND REVOCATION OF CLASS LICENCES**

- (a) The Authority may modify the terms and conditions of or revoke the Class Licence. When it intends to amend or revoke any type of Class Licence, the Authority shall announce such matter in the Official Gazette at least thirty days before the amendment or revocation.

The announcement shall state the following:

- 1 that the Authority intends to amend or revoke that type of Class Licence, setting out the effect of such modification or revocation.
  - 2 the reasons that justify the modification or revocation.
  - 3 that the holders of Class Licences are entitled to respond in writing to the Authority within the notice period specified by the Authority in the announcement.
- (b) After consideration of the responses submitted during such notice period, the Authority shall issue the appropriate decision which shall be announced in the Official Gazette and in such manner as the Authority considers appropriate to bring the matter to the attention of the Licensees of the type of Class Licence being modified or revoked.

## **ARTICLE 35**

### **ENSURING COMPLIANCE WITH INDIVIDUAL AND CLASS LICENCES**

- (a) If it is apparent to the Authority that a Licensee has been or is in material breach of any provision of this Law or any condition of the Licence or that there are serious indications or evidence that a Licensee is likely to commit such breach, the Authority shall issue an order in accordance with the procedures provided for in paragraphs (b), (c) and (d) of this Article by taking the measures it considers necessary to secure compliance by the Licensee with the provisions of this Law and the conditions of the Licence, and sending a copy of such order to the Licensee.
- (b) Before issuing such order, the Authority shall notify the Licensee in writing, stating:
- 1 the order to be issued, and its effect.
  - 2 aspects of breach by a Licensee of any condition of the Licence, and the act or omission which in the opinion of the Authority constitutes such breach, or such indications and evidence which in the opinion of the Authority make the occurrence of the breach likely.
  - 3 the notice period for responding to the proposed order, which shall be not less than thirty days from the date of the notice.

- (c) The Authority shall consider any response submitted to it in writing within the specified period.
- (d) Following expiry of such notice period, the Authority shall issue an order containing the following:
  - 1 a direction to the Licensee to do or to refrain from doing such things as are specified in the order to remedy, prevent or rectify the breach which is the subject matter of the notice referred to in paragraph (b) of this Article.
  - 2 the imposition of an appropriate fine on the Licensee, provided that such fine is objectively justified and when assessing the fine the principle of justice and equality amongst the Licensees shall be considered.
  - 3 warning the Licensee that the Licence may be revoked if the Licensee fails to comply with such direction or to pay the fine.
- (e) If the Licensee fails to comply with any direction given or to pay the fine provided for in the preceding paragraph within the time determined by the Authority, the Authority may revoke the Licence, provided that it shall notify the Licensee accordingly.

## **ARTICLE 36**

### **APPEALING AGAINST DECISIONS AND ORDERS**

A Licensee may object to the Authority against any decision or order issued in accordance with the provisions of this Law and the Licensee shall have the right to appeal against the decision or order in accordance with the provisions of Chapter Sixteen of this Law.

## **ARTICLE 37**

### **EFFECTS OF TERMINATION OF A LICENCE**

- (a) As a result of the revocation or non-renewal of a Licence, all rights and obligations of the Licensee under such Licence shall cease with effect from the date of the revocation or expiry of the term of the licence, as the case may be.
- (b) No Licensee shall accept new subscriptions as of the date on which it is notified of the revocation or non-renewal of the Licence. Such Licensee shall not continue to operate as of such date except with the written consent of the Authority and during the period specified by the Authority and for so long as is necessary for the Subscribers to transfer to another Licensee.

## **ARTICLE 38**

### **APPROVAL OF EQUIPMENT AND DESIGNATION OF STANDARDS**

- (a) Telecommunications Equipment may be approved by the Authority for connection to a Telecommunications Network either by way of:

- 1 regulations issued by the Authority in accordance with this Law.
  - 2 a certificate issued by the Authority (or any Person or entity approved to undertake this purpose by virtue of a resolution issued by the Authority, including, the manufacturer of the equipment) in respect of any type of Telecommunications Equipment based on the application of the Licensee or the manufacturer or supplier of the equipment.
- (b) The Regulation or certificate shall indicate compliance with the technical standards issued by international standard-setting bodies designated from time to time by the Authority.
- (c) Any Person applying for approval under paragraph (a) of this Article may be required by the Authority to comply with such requirements as the Authority may consider appropriate having regard to the duties provided for in Article 3 of this Law and to pay such fee as is prescribed by a resolution issued by the Authority.
- (d) An approval of Telecommunications Equipment under this Article may apply either to particular equipment or to any equipment of a certain specification indicated in the Regulations issued by the Authority or in the certificate issued in this respect, and such approval shall also apply either for the purposes of a particular Telecommunications Network or for any Telecommunications Network of a certain specification.
- (e) The approval provided for in this Article may specify the technical and functional specifications, standards or any other technical specifications to which the Telecommunications Equipment must conform.
- The approval may specify terms and conditions with which Licensees, manufacturers or suppliers must comply, for the approval to be valid.
- (f) The Authority shall have the power, where warranted, to vary or withdraw an approval given under this Article provided that prior notice of such variation or withdrawal shall be given to the Licensee.

## **CHAPTER 8**

### **TIMETABLE FOR INTRODUCING COMPETITION**

#### **ARTICLE 39**

##### **TIMETABLE FOR ISSUING LICENCES FOR INTRODUCING COMPETITION**

- (a) As an exception to any provision in this Law, provision of the services provided for in paragraph (b) of this Article shall be licensed by the Authority in accordance with the time table contained in the same paragraph; provided that where no compliant applications are received or no acceptable tenders or bids exist (as the case may be) for the Licence referred to in subparagraph (1) of

paragraph (b) of this Article, the Authority shall re-initiate the process for such Licence as soon as practicable.

(b) In addition to any Licence granted to Batelco pursuant to the provision of Article 80(e) of this Law, each of the following services shall be licensed by the Authority in accordance with the provisions of this Law, by the date set forth in each category:

1 **Mobile Telecommunications Licence:** one such GSM Licence (including the right to provide third generation and associated services) shall be granted as soon as practicable, but in any event within six months of the effective date of this Law.

The Authority may grant an additional mobile Telecommunications Licence of the same type within two years of the grant of such Licence if Batelco and the Licensee under this subparagraph engage in anti-competitive conduct as set forth in Article 65(a) of this Law. The Authority may, after such two-year period, grant further Licences at its discretion in this regard.

2 **Mobile Virtual Network Operator Licence:** one or more such Licences may be granted at the discretion of the Authority after two years following the grant of the mobile Telecommunications Licence referred to in the preceding paragraph.

The Authority may grant a Licence of the same type within such period if the Licensees referred to in the preceding paragraph engage in anti-competitive conduct as set forth in Article 65(a) of this Law.

3 **VSAT Licence:** one or more such Licences may be granted, provided that this shall not be earlier than 1/1/2004.

4 **Paging Licence:** one or more such Licences may be granted, provided that this shall not be earlier than 1/1/2004.

5 **Public Access Mobile Radio Service Licence:** one or more such Licences may be granted, provided that this shall not be earlier than 1/1/2004.

6 **National Fixed Service Licence:** one or more such Licences may be granted, provided that this shall not be earlier than 1/7/2004.

7 **International Facilities Licence:** one or more such Licences may be granted, provided that this shall not be earlier than 1/1/ 2004, and provided that no service shall commence before 1/7/2004.

8 **International Services Licence:** one or more such Licences to be granted, provided that this shall not be earlier than 1/7/2004.

9 **Internet Exchange Licence:** only one such Licence shall be granted within six months of the effective date of this Law, in accordance with the



provisions of Article 41 of this Law. Additional such Licences may be granted after two years of the grant of the first Licence.

- 10 **Internet Service Provider Licences And Value Added Service Licences:** such Licences shall be granted as soon as practicable after the effective date of this Law.

## ARTICLE 40

### TIMETABLE FOR OTHER MATTERS

Public Telecommunications Operators with Significant Market Power and every other Licensee whose Licence provides for the following obligations to Subscribers and Users or other Licensees provided for in his/its License shall provide the following:

- 1 **Carrier Pre-Selection:** with effect from 1/4/ 2004.
- 2 **Number Portability in fixed services:** when the Authority determines that sufficient demand exists for such a service.
- 3 **Number Portability in mobile services:** when the Authority is satisfied that sufficient demand exists for such a service.
- 4 **wholesale DSL services:** with effect from 1/7/2003.
- 5 **Unbundled Local Loop:** with effect from 1 /7/2004.
- 6 **Access to Telecommunications Facilities,** (including, DSL co-location, fibre that is not in service or only partially in service and, where the Authority so determines, ducts): from 1/7/2004. The Licensee granted a Licence pursuant to Article 39(b)(1) shall have Access to ducts from the date of the grant of the Licence.
- 7 **Domestic Roaming:** from no later than the date of the grant of the mobile Telecommunications Licence referred to in Article 39(b)(1) of this Law provided, however, such obligation shall cease after the one year anniversary of such date unless such period is extended by the Authority.

## ARTICLE 41

### BAHRAIN INTERNET EXCHANGE

- (a) The Ministry shall carry out the procedures required to establish a not-for-profit entity to be known as the "Bahrain Internet Exchange", provided that the Bahrain Internet Exchange shall submit to the Authority an application for an exchange licence within four months of the effective date of this Law.
- (b) The object of the Bahrain Internet Exchange shall be to provide the holders of internet service Licences with a connection mechanism in which internet communications are aggregated, transmitted and distributed to licensed internet services providers.

- (c) The first internet exchange Licence issued by the Authority shall be issued to the Bahrain Internet Exchange within sixty days of the date of the submission of the application for the Licence in accordance with the provisions of paragraph (a) of this Article. Such Licence shall be granted at no charge.
- (d) The Charter of the Bahrain Internet Exchange shall incorporate the internal rules regulating its work, which rules are subject to the approval of the Authority, provided that the contents of such rules shall ensure equality between licensed internet service providers regarding Access to the Exchange.
- (e) The government shall provide the initial funding or credit support required for the Bahrain Internet Exchange, provided that the Exchange shall aim to become self-funding as soon as is practicable. Licensed internet service providers and other users of the exchange shall bear its operating costs in an equitable usage-based manner, as set forth in the Articles of Association of the Exchange.
- (f) The Bahrain Internet Exchange shall make its Telecommunications Facilities available to all Licensees of an internet service provider Licence on fair and non-discriminatory terms and conditions.
- (g) The Bahrain Internet Exchange shall have Access to the international Telecommunications Facilities of Batelco upon receipt of the Licence referred to in paragraph (c) of this Article.
- (h) Licensed internet service providers shall use the facilities made available by the Bahrain Internet Exchange for two years from the date on which the Licence is issued to the Bahrain Internet Exchange.

The internet service providers Licence may provide for the use of other facilities in case the operation of the Bahrain Internet Exchange ceases or the facilities of the Bahrain Internet Exchange are inadequate.

## **CHAPTER 9**

### **RADIOCOMMUNICATIONS**

#### **ARTICLE 42**

##### **SUPERVISION OF TELECOMMUNICATIONS FREQUENCIES**

- (a) The Radiocommunications Authority shall be responsible for overall frequency co-ordination in the Kingdom and it shall consult with and take into account the requirements of the Authority in connection with Telecommunications Frequencies to enable it to carry out its duties as provided for in this Law.
- (b) Within the framework of the National Frequency Plan, the Authority shall be responsible for the co-ordination, Assignment, and monitoring the enforcement of Telecommunications Frequencies.

- (c) The procedures followed in the Assignment of frequencies, shall be objective, transparent, timely and non-discriminatory.

## **ARTICLE 43**

### **FREQUENCY LICENCE**

No Person shall operate a Telecommunications Network which uses frequency spectrum in the Kingdom, or operate or use any Radiocommunications Equipment associated with such a network without obtaining a License therefore from the Authority.

## **ARTICLE 44**

### **GRANT OF A FREQUENCY LICENCE**

- (a) An application for a Frequency Licence shall be in writing addressed to the Authority in the form prepared by the Authority for this purpose and accompanied by such information and evidence of payment of the application fees as the Authority shall prescribe by way of a resolution issued in accordance with the provisions of this Law. The Authority shall notify the applicant in writing within fourteen days of its receipt of the application.
- (b) The Authority may require further information in support of the application, including information on the purpose of establishing any Radiocommunications Station, and the types and specifications of Radiocommunications Equipment which will be operated or used.
- (c) The Authority shall, within a period not exceeding thirty days after the date of submission of the application, decide on the application. If the Authority considers it necessary to obtain any further information, the Authority shall notify the applicant of such requirement within fifteen days of the submission of the application. In such case, the final decision shall be passed within the longer of:
- 1 fifteen days from the date of receipt of such required information,
  - 2 sixty days from the date of submitting the licence application.
- (d) The Authority shall, before issuing its decision with respect to the License application, ensure that all the conditions provided for in this Law and in the Regulations and Resolutions issued in enforcement of the provisions hereof with respect to the application for the Licence are satisfied, and shall have regard to the following:
- 1 the availability of Telecommunications Frequencies and coverage and allocation of Radiocommunications Stations.
  - 2 that the decision issued with respect to the Licence application shall not conflict with the National Frequency Plan.

- 3 the provisions relating to the introduction of competition provided for in Article 39 of this Law.
- 4 ensuring the efficient and competent use of radio frequency spectrum.
- 5 any other factors relating to the field of Telecommunications Frequencies.

The Authority shall, immediately upon issuing a decision to reject an application for a Frequency Licence, notify the applicant of the reasons for its refusal.

- (e) The grant of a Frequency Licence in accordance with the provisions of this Article shall not prejudice any conditions, licences, permits or other obligations provided for in any other law.
- (f) The Frequency Licence granted in accordance with the provisions of this Article is personal and may not be assigned without the prior written consent of the Authority.

#### **ARTICLE 45**

##### **CONTENTS OF A FREQUENCY LICENCE**

A Frequency Licence shall include, in the opinion of the Authority, such necessary terms and conditions, including in particular, terms relating to the efficient use of radio frequency spectrum.

#### **ARTICLE 46**

##### **USE OF RADIOCOMMUNICATIONS STATIONS FOR NAVIGATION PURPOSES**

No vessel that arrives at the ports or coasts of the Kingdom or aircraft that lands in the airports of the Kingdom shall use its own Radiocommunications Stations for any purpose other than the purposes of sea or air navigation, rescue and emergency operations without obtaining a Frequency Licence. No foreign vehicle shall use the Radiocommunications Stations located in the Kingdom except after obtaining a Licence therefore.

The Radiocommunications Authority shall, in coordination with the Authority, take the necessary measures to report to the government of the relevant country of any acts that take place onboard any aircraft, vessel or foreign vehicle which constitute a violation of the provisions of this Law.

#### **ARTICLE 47**

##### **MIGRATION OF FREQUENCIES**

- (a) Within three months of the effective date of this Law, any user of the following frequencies shall cease to use such frequencies and inform the Authority in writing that such frequencies are available for Assignment by the Authority in accordance with Article 44 of this Law:

- 1 a contiguous set of GSM channels equal to 50% of the total available channels in the 900 MHz band, as directed by the Authority.
  - 2 a contiguous set of GSM channels equal to 66.67% of the total available channels in the 1800 MHz band, as directed by the Authority.
- (b) A User of frequencies who has complied with the provision of paragraph (a) of this Article shall have the right to such pro rata rebate of the annual fee that it has paid as is proportionate to the period of use remaining.

## **ARTICLE 48**

### **COMPLIANCE WITH INTERNATIONAL TREATIES AND OTHER LEGISLATION**

In exercising the powers provided for in this chapter, the Authority shall comply with the obligations arising from international treaties to which the Kingdom is a party and the provisions of legislation regulating air and maritime traffic and meteorology.

## **ARTICLE 49**

### **PREVENTING HARMFUL INTERFERENCE WITH RADIOCOMMUNICATIONS**

No Person shall unlawfully use any Telecommunications Equipment for the purpose of causing harmful interference with any communications or continue to cause such harmful interference after receipt of an order from the Authority to cease such interference unless such interference is caused by force majeure or emergency or rescue operations.

## **ARTICLE 50**

### **OBLIGATIONS OF A FREQUENCY LICENSEE**

Without prejudice to any condition contained in any Frequency License:

- 1 The operation of a Telecommunications Network that uses radio frequency spectrum is the sole responsibility of the relevant Licensee.
- 2 The Frequency Licence holder and its employees and agents may not use a secret sign or code in messages and conversations over the Telecommunications Network in contravention of the provisions of this Law and the regulations issued for the enforcement of this Law.

## **ARTICLE 51**

### **MODIFICATION AND REVOCATION OF A FREQUENCY LICENCE**

- (a) Subject to the provisions provided for in Article 34 of the Law, the Authority may modify the conditions of a Frequency Licence.
- (b) The Authority shall have the right to revoke a Frequency Licence before the expiry of its term in any of the following cases:

- 1 the Licensee consents to the revocation.
- 2 revocation by the Authority in the same circumstances and by virtue of the procedures provided for in Article 35 of this Law.
- 3 expiry or revocation of any Telecommunications Licence relating to the Licensee's own Frequency Licence.
- 4 the Licensee is adjudged bankrupt by a competent court or ceases exercising its commercial activity. In both cases, the Licence is deemed automatically terminated and all the frequencies constituting the subject matter of the Licence shall revert to the Authority.

## **CHAPTER 10**

### **REGISTER, INFORMATION AND DISPUTES BETWEEN LICENSEES AND SUBSCRIBERS**

#### **ARTICLE 52**

##### **THE REGISTER**

- (a) The Authority shall maintain one or more registers to record the following:
- 1 the categories of Licences issued.
  - 2 all Licences granted.
  - 3 all Licences revoked.
  - 4 all Licensees determined to be in a Dominant Position.
  - 5 all regulations issued by the Authority and certificates issued in respect of Telecommunications Equipment in accordance with the provisions of Article 38 of this Law.
  - 6 the Authority's most recent audited accounts pursuant to the provisions of Article 17(d) of this Law, including the auditor's report.
  - 7 all resolutions issued by the Board waiving ordinary and non-material interests concerning the General Director and any of the Authority's staff members in accordance with the provisions of Article 21(c) of this Law.
  - 8 other matters that this Law, the regulations or resolutions issued by the Authority require to be entered in the register.

The Authority shall keep such register at its principal office and in such form as the Authority may consider appropriate, and shall publish this information in the annual report referred to in Article 17(e) of this Law.

- (b) The Authority shall enter in the register, in particular, the details of:

- 1 each Licence granted, details of the relevant Licensee, and every modification or revocation of, and every order, consent, notice given, or decision made or revoked in respect of such Licence.
- 2 all certificates issued and regulations made by the Authority, and any decision that is issued by way of variation, withdrawal or revocation of any of the same.

The Authority may, at the request of the Licensee or an interested party, decide not to enter any of the details referred to in subparagraphs (1) and (2) of this paragraph if it determines that this would be contrary to national security, would disclose a business secret or any other confidential information.

- (c) Any Person may inspect the entries in the register during such hours as may be prescribed by the regulations and decisions issued by the Authority in this respect in accordance with the provisions of this Law.
- (d) Any Person may request the Authority to provide him with an official copy of the data recorded in the register, after payment of such fee as may be prescribed in a decision issued by the Authority.

## **ARTICLE 53**

### **UNDERTAKING TO PROVIDE THE AUTHORITY WITH INFORMATION**

- (a) Licensed Operators shall provide the Authority, upon its request, with all such information, including information relating to financial matters, as is needed to enable the Authority to carry out its duties and exercise its powers as provided for in this Law, provided that the Authority shall indicate the reasons which justify its request.

The Licensee shall furnish such information to the Authority without delay, at such time and in such details as the Authority may specify.

- (b) Without prejudice to the provisions of the preceding paragraph, the Authority shall from time to time collect information relating to the level of overall performance achieved by Licensees and the cost of such performance in connection to the operation of Telecommunications Networks and the provision of Telecommunications services.

The Licensees shall furnish the Authority with information relating to the level of their performance in respect of each obligation prescribed in the conditions of the Licences issued to them or in the regulations or decisions issued in this respect, at such time and in such details as the Authority may specify.

## **ARTICLE 54**

### **PUBLICATION OF INFORMATION**

- (a) The Authority shall, at least once a year, arrange for the publication, in such form and manner as it deems appropriate, of the information collected in

accordance with the provisions of this Law as may appear to the Authority to be appropriate, including such information and advice as may be necessary to the Subscribers and Users.

- (b) When fulfilling the obligation referred to in the preceding paragraph, the Authority shall comply with the need to exclude any information which relates to the private affairs of a Person and information whose publication might, in the opinion of the Authority, seriously and prejudicially affect the interests of any Person.

## **ARTICLE 55**

### **PROCEDURES FOR DEALING WITH COMPLAINTS**

- (a) Each Licensee shall establish procedures for dealing with complaints by Subscribers in relation to the operation of a Telecommunications Network or provision of Telecommunications services.
- (b) The Licensee shall publish the procedures indicated in the regulation referred to in the preceding paragraph in such a manner as the Authority shall prescribe and shall provide a description of those procedures, free of charge, to any Person on request.
- (c) The Authority may direct any Licensee to review the articles of the procedures referred to in paragraph (a) of this Article or the manner in which the procedures operate and require modifications.

## **ARTICLE 56**

### **DISPUTES BETWEEN LICENSEES AND SUBSCRIBERS**

- (a) Any dispute between a Subscriber and a Licensed Operator may be referred to the Authority by either party after the exhaustion of the procedures referred to in Article 55 of this Law without resolution within sixty days after the date of submitting the complaint to the Licensee.
- (b) The Authority may combine disputes regarding the same subject-matter or Persons into a single dispute and determine such disputes by virtue of one decision.
- (c) The Authority shall issue a reasoned decision with respect to the dispute referred to it and may oblige the parties to the dispute to pay appropriate costs.
- (d) The Authority shall promulgate regulations establishing the procedures to be followed in determining disputes referred to the Authority.

## **CHAPTER 11**



## INTERCONNECTION AND ACCESS

### ARTICLE 57

#### INTERCONNECTION AND ACCESS

- (a) A Public Telecommunications Operator shall have the right to Interconnection and shall negotiate in good faith on request for the Interconnection to its Telecommunications Network at any technical feasible point to the Telecommunications Network of another Public Telecommunications Operator and in each case as specified in its Licence or in the regulations issued by the Authority.
- (b) A Public Telecommunications Operator determined by the Authority to have a Dominant Position in a particular Telecommunications market shall, within three months of such determination and every six months thereafter, publicise a reference Interconnection offer after obtaining the Authority's approval to such offer.

Such offer shall include a full list of basic Interconnection services, conditions of Interconnection and the tariff for every service.

The Authority may issue an order specifying the terms and conditions and the tariffs if it does not approve the contents of such offer in this respect, which order shall be effective from the date of issue, unless the Authority specifies another date.

Such terms and conditions and tariffs shall be fair, reasonable and non-discriminatory and the tariffs shall be based on forward-looking incremental costs or by benchmarking such tariffs against tariffs in comparable Telecommunications markets.

The tariffs and terms of the Interconnection offered may differ between a Licensed Operator and another only where objectively justifiable on the basis of the type of Interconnection provided.

- (c) A Public Telecommunications Operator in a Dominant Position shall offer Interconnection with any Licensed Operator on request by the latter on the terms and conditions and the tariffs set out in its most recent reference Interconnection offer announced by the former and shall be obliged to interconnect with the other Licensed Operator on such terms and conditions and tariffs, and shall, within three days of entering into an agreement in this respect, send a copy of such agreement to the Authority.
- (d) Publication of the reference Interconnection offer referred to in paragraph (b) of this Article shall be effected by:
  - 1 sending a copy of such offer to the Authority for approval.
  - 2 placing in each office of the Licensed Operator a copy thereof in order for any Person to inspect it free of charge during normal office hours.

3 sending a copy thereof to any Person requesting one.

- (e) A Public Telecommunications Operator in a Dominant Position shall offer upon request Access to its Telecommunications Network on fair and reasonable terms to any Licensed Operator. Such operator shall only be under an obligation to offer Access to the ducts if the Authority considers that there is an essential need for such Access, whereby such demand is deemed to exist in the case of Access for a holder of a mobile Telecommunications Licence.

The Authority may publish regulations with regards to Access, including a regulation concerning the reference Access offer similar to a reference Interconnection offer.

If the Authority considers the tariffs and the terms and conditions on which Access is offered by an operator in a Dominant Position are unreasonable, it may determine such tariffs and terms and conditions as it considers appropriate, and the provisions of paragraph (b) of this Article shall apply in this respect.

- (f) A Public Telecommunications Operator that obtains information from another Public Telecommunications Operator during or after negotiations concerning Interconnection or Access procedures shall not use such information for any purpose other than the purpose for which such information is provided, and shall not divulge such information in any way. This restriction also applies to the provision of such information to any other parties or Persons that may derive competitive advantage from such information.
- (g) A Public Telecommunications Operator may refer to the Authority any dispute that arises between it and any other Public Telecommunications Operator with respect to Interconnection or Access, in order for the Authority to resolve such dispute if no agreement in that respect was reached with the other operator within one month of the commencement of negotiations between the parties.
- (h) The Authority may issue regulations containing the procedures for Interconnection and Access requests, the timeframe for response thereto and commencement of negotiations, and may issue a guideline regulation concerning the rules on which it shall rely upon for the resolution of disputes in connection with Interconnection and Access.

## **CHAPTER 12**

### **TARIFFS CONTROL**

#### **ARTICLE 58**

##### **TARIFFS FOR TELECOMMUNICATIONS SERVICES**

- (a) Licensed Operators with significant market power shall be subject to tariff controls in relation to any Telecommunications services for which the Authority determines that insufficient competition exists.

The Authority shall specify in the regulations or in the Licence granted to the operator, the tariff controls and the period during which they shall remain in effect.

- (b) Without prejudice to the provisions of the preceding paragraph, tariffs charged by Licensed Operators for their Telecommunications services shall be fair and equitable, non-discriminatory and based on forward-looking costs.

The Authority shall have the authority to review and control tariffs, establish the basis for tariff definition and tariff rebalancing plans and take any other steps in this respect in accordance with the provisions of Article 3(c)(14) of this Law.

## **CHAPTER 13**

### **PUBLIC AND PRIVATE PROPERTY**

#### **ARTICLE 59**

##### **USE OF PUBLIC PROPERTY**

A Public Telecommunications Network operator shall have the right to construct any installation or install connections required for the construction, development or maintenance of its network on, under, through or alongside public property if the following conditions are satisfied:

- 1 that the Authority considers such works necessary.
- 2 that the conditions of the Licence permit such matter.
- 3 the operator obtains the necessary approvals and permits from the competent authorities are obtained before commencing such works.
- 4 necessary measures are taken for the protection of public and infrastructure installations existing thereon during the construction, development or maintenance of the Licensee's network.
- 5 restoration of public property to the condition in which it was before such work was carried out and repair of any destruction or damage to such

property.

- 6 compliance with the rules promulgated by virtue of a resolution by the Council of Ministers in connection with the use of public property.

The Licensee shall have the right to carry out maintenance of infrastructure or to modify its routes if such conditions are satisfied.

## **ARTICLE 60**

### **PROTECTION OF THE ENVIRONMENT AND HISTORIC AND TOURIST SITES**

A Public Telecommunications Network operator shall, during the construction, development or maintenance of its telecommunication network, comply with the legal and regulatory provisions relating to the protection of the environment and historic and tourist sites.

## **ARTICLE 61**

### **USE OF PRIVATE PROPERTY**

- (a) A Public Telecommunications Network operator shall have the right to construct any installation or install any connections required for the construction, development or maintenance of its network on, under or through private real property after concluding an agreement between the network operator and the owner of such real property or the Person with a right thereto for fair compensation to be paid by such operator to the owner of the real property or the Person with a right thereto.
- (b) If the Public Telecommunications Operator and the owner of the real property or the Person with a right thereto fail to come to an agreement for the construction of the works referred to in the preceding paragraph within a reasonable period of time, the Authority may issue a decision enabling the operator to carry out such works if the following conditions are satisfied:
  - 1 that such works are, at the discretion of the Authority in this respect, necessary for the construction, development or maintenance of the Telecommunications Network.
  - 2 that no other technically and economically reasonable solution exists at the discretion of the Authority.
  - 3 that such works do not, at the discretion of the Authority, preclude ordinary use of the real property by its owner or the Person with a right thereto.
  - 4 that the operator pays to the owner of the real property or the Person with a right thereto such fair compensation as is determined by the Authority.

- 5 that the operator shall adhere to the conditions and measures prescribed by the Authority for the avoidance or limitation of damages that may be caused to the owner of the real property or a third party.
- (c) If an agreement between the operator and the owner of the real property or the Person with a right thereto cannot be reached with respect to the amount of the compensation, the Authority shall determine a fair compensation to be given to the owner of the real property or the Person with a right thereto. For this purpose, the Authority may seek the assistance of one or more experts.
- The operator shall in all cases bear the expenses of the Authority and the fees of the experts delegated by the Authority for the determination of the amount of compensation.
- (d) The owner of the real property or the Person with a right thereto may appeal against the decision issued by the Authority in accordance with the provisions of this Article before the High Civil Court within sixty days from the date of notifying said owner or entitled Persons of the decision.

## **ARTICLE 62**

### **EXPROPRIATION**

If the construction or development of a Public Telecommunications Network requires the acquisition of a third party's real property by the operator of the network, and the owner refuses to sell such property or part thereof at a fair price, the operator shall have the right to request the expropriation of that real property or the part thereof that is necessary – provided that this shall not adversely affect use of the remaining part of the real property – for the construction of the network according to the following procedures:

1. The network operator shall submit an application to the Authority requesting that the necessary legal steps be taken for the expropriation of the real property or part thereof, accompanying his application with the technical grounds that justify such application.
2. If the Board finds that such real property or the relevant part thereof is necessary for the establishment or development of such network and that there is no other technically and economically reasonable solution, it may submit a recommendation to the Minister of Housing and Agriculture to consider the project to construct or develop (as the case may be) the communications network a project for the public benefit and to take the measures for expropriation in accordance with the provisions of the Expropriation of Land for Public Benefit Law.
3. The Minister of Housing and Agriculture shall, after approving the recommendations of the Board, issue a resolution providing for expropriation of the real property or the relevant part thereof for the benefit of the Licensee in accordance with the rules and procedures provided for in the Expropriation of Land for Public Benefit Law.

## **ARTICLE 63**

### **NATURAL OBSTRUCTIONS**

- (a) If a tree or other natural object obstructs the construction, development or maintenance of a Public Telecommunications Network and a fair agreement between the owner and the operator of the network for the removal thereof cannot be reached within a reasonable period of time, the operator of the network may refer the matter to the Authority, and the Authority may, after ascertaining that no other reasonable technical and economical solution exists, issue a decision to remove such object at the expense of the Licensee, in return for paying the owner fair compensation to be assessed by the Authority, and for such purpose, the Authority may seek the assistance of one or more experts. The operator shall bear the expenses of the Authority and the fees of the experts delegated by the Authority to assess the compensation.
- (b) The owner or the Person with a right over the property shall have the right to appeal against the decision issued by the Authority in accordance with the provisions of this Article before the High Civil Court within thirty days from the date of notifying it/him of the decision.

## **CHAPTER 14**

### **UNIVERSAL SERVICE**

## **ARTICLE 64**

### **UNIVERSAL SERVICE OBLIGATIONS**

- (a) A Public Telecommunications Operator with Significant Market Power shall be subject to the Universal Service obligations set forth in this Law.
- (b) The operator referred to in the preceding paragraph shall provide at its prevailing standard rates basic public telephone service to any Person requesting such service.
- (c) In the implementation of the provisions of this Article, “basic public telephone service” shall mean the following:
  - 1 the services that comprise technical features which are the minimum necessary to allow the establishing of a telephony channel capable of sending and receiving local and international calls supporting speech, facsimile and data.
  - 2 any other reasonable services as the Authority may determine from time to time as per the regulations it issues or such regulations as provided for in the Licence conditions.
- (d) The Authority may issue regulations in connection with Universal Service, including, regulations to establish a fund to promote Universal Service.

## CHAPTER 15

### PROMOTION OF COMPETITION

#### ARTICLE 65

##### ANTI-COMPETITIVE CONDUCT

- (a) A Licensed Operator shall not do or omit to do anything which has the effect of materially preventing, restricting or distorting competition in any commercial field concerning the Telecommunications sector in the Kingdom, where such act or omission is done in the course of operating a Telecommunications Network, providing a Telecommunications service or in connection with any such matter.
- (b) The act or omission referred to in the preceding paragraph mean the following:
- 1 abuse by the Licensed Operator, either independently or with others, of a Dominant Position in the market or in a substantial part of it which materially prevents or limits competition in an unfair manner.
  - 2 conclude any agreement, enter into any arrangement or understanding or undertaking any concerted practice with any other Person which materially prevents, restricts or distorts competition in the market.
  - 3 cause anti-competitive changes in the market structure, in particular anti-competitive mergers and acquisitions in the Telecommunications sector.
- (c) The restrictions provided for in subparagraph (2) of paragraph (b) of this Article shall not apply to any act or omission if it results in improving the provision of any goods or services or promoting technical or economic progress in the Kingdom if the Subscribers and Users have a reasonable share of the resulting benefit, provided that:
- 1 no restrictions other than those indispensable to attaining such objectives shall be imposed on Subscribers and Users.
  - 2 the act or omission shall not substantially reduce competition in the market for the relevant goods or services.
- (d) The Authority shall, when determining whether an act or omission (whether ongoing or temporary) constitutes anti-competitive conduct, have regard to the provisions of this Law and to the conditions of the Licence of the Telecommunications operator.
- (e) Before issuing a determination in accordance with the provision of the preceding paragraph, the Authority shall notify the Licensed Operator of the following:
- 1 that it is investigating a possible breach of the provision of this Article.

- 2 the reasons that made the Authority believe that a breach has occurred or is about to occur, including any facts or legal matters which it thinks relevant.
  - 3 such further information as the Authority may require from the Licensed Operator in order to issue its determination.
  - 4 where appropriate, the steps it considers the Licensed Operator would have to take in order to remedy the alleged breach.
  - 5 giving the Licensed Operator, and any other Person that the Authority considers appropriate to consult, such period as it considers reasonable within which to make written representations in response to the notice.
- (f) The Authority shall then determine whether the act or omission is prohibited pursuant to the provisions of this Article, and shall notify the Licensed Operator and any other Person whom it considers it appropriate of the determination issued by it in this respect and the reasons for issuing such determination.

Such determination may include the following:

- 1 directing the Licensed Operator to do or to refrain from doing such acts as are specified by the Authority in order to remedy, amend or prevent the breach of paragraph (a) of this Article.
  - 2 imposing a fine on the Licensed Operator not exceeding 10% of the annual revenues of such operator.
- (g) Should Batelco violate paragraph (a) of this Article and refrain from remedying such violation within the period of time specified by the Authority, the Authority may issue a resolution to bring forward the dates provided for in Article 39 and Article 40 of this Law, in addition to undertaking any of the said procedures provided for in this Law.
- (h) The Authority may issue regulations in connection with the continuation and regulation of efficient competition in the Telecommunications market, and may issue guideline directions stating therein in detail the conducts that constitute in its opinion anti-competitive conduct in accordance with the provisions of paragraph (a) of this Article.



## **CHAPTER 16**

### **ARBITRATION**

#### **ARTICLE 66**

##### **RESORTING TO ARBITRATION**

With the exception of the regulations and regulatory decisions issued by the Authority, and the decisions issued in accordance with the provisions of Article 56 of this Law, the Arbitration Panel which shall be formed in accordance with the provision of Article 68 of this Law shall have the power to determine the disputes arising between the Authority and any Licensed Operator.

The Licensee shall have the right to resort to arbitration, provided that it shall notify the Authority of its intention within thirty days of the date on which it become aware of the disputed decision, order or measure.

The disputed decision, order or action shall remain in effect unless the Arbitration Panel decides to stay the execution of the decision or to nullify it.

#### **ARTICLE 67**

##### **ARBITRATION RULES AND PROCEDURES**

Where no particular provision exists in this chapter concerning arbitration, the provisions provided for in Chapter Seven of the Civil and Commercial Procedural Law shall apply and not conflicting with the provisions of this Law.

The Appointing Authority may issue a decision with respect to any further procedural rule relating to determining the requests for arbitration, and such decision shall be published in the Official Gazette.

#### **ARTICLE 68**

##### **FORMATION OF THE ARBITRATION PANEL**

- (a) The Arbitration Panel shall consist of three arbitrators, of whom the Authority and the Licensed Operator shall each appoint one arbitrator within fourteen days from the date on which the Licensed Operator notifies the Authority of its intention to refer the dispute to the Arbitration Panel. The appointed arbitrators shall, within fourteen days from the date on which they are notified of the appointment, appoint the third arbitrator to be the Chairman of the Arbitration Panel.

The Chairman of the Arbitration Panel shall be proficient and experienced in the field of the dispute referred to the Arbitration Panel.

- (b) If the Authority fails to appoint an arbitrator on its part within the period referred to in the preceding paragraph, or if the two appointed arbitrators fail to agree

upon the third arbitrator within the period, the Appointing Authority shall, at the request of the Licensed Operator, make such appointment.

If the operator fails to appoint an arbitrator on its part, the application for arbitration shall be deemed null and void.

- (c) The application for referring the dispute to the Arbitration Panel may be submitted by more than one Licensed Operator, provided that the subject matter of the dispute is one and the same. The arbitration applicants shall agree upon choosing one arbitrator in the Arbitration Panel. They may request that such arbitrator be appointed by the Appointing Authority.

## **ARTICLE 69**

### **IMPARTIALITY AND INDEPENDENCE OF THE ARBITRATION PANEL**

Arbitration Panel members shall be impartial and independent.

A selected member shall, prior to the approval of his appointment, disclose to the Appointing Authority any circumstance likely to give rise to any matters or doubts as to the member's impartiality or independence.

## **ARTICLE 70**

### **PUBLICATION OF THE DECISIONS OF THE ARBITRATION PANEL**

The Authority shall publish the decisions issued by the Arbitration Panel in such way as it deems appropriate.

## **ARTICLE 71**

### **FINALITY OF THE DECISIONS OF THE ARBITRATION PANEL**

Decisions issued by the Arbitration Panel are considered final and binding.

The original copy of the decision that determines the subject-matter of the dispute shall only be submitted to the Clerks' Office of the court that has jurisdiction to consider the claim within three days following the issue of such decision. The court clerk shall prepare a summary report on such deposit and a copy thereof shall be served on each of the two parties to the dispute.

Any concerned party may file an action to nullify the decision issued by the Arbitration Panel before the court that has jurisdiction to consider the dispute, in the circumstances and in accordance with the procedures provided for in Article 243 of the Civil and Commercial Procedural Law.

Unless the court orders otherwise, the filing of a legal action to nullify such decision shall not result in a stay of the execution of the decision.

## **CHAPTER 17**

### **COMPLAINTS AND PENALTIES**

#### **ARTICLE 72**

##### **COMPLAINTS SUBMITTED TO THE AUTHORITY**

The Authority shall investigate the complaints submitted to it with respect to breach of the provisions of this Law or breach of the regulations or decisions issued for the implementation hereof, and shall issue the appropriate decision with respect thereto within the limits of its duties and powers as provided for in this Law.

The Authority may require the complainant to submit a signed written statement to include all the facts and circumstances relating to the complaint.

The Authority shall inform the Public Prosecutor's Office if the Authority becomes, during the consideration of any complaint, suspicious that any of the offences provided for in this Law or in any other law has been committed, in order to take such action as may be necessary.

#### **ARTICLE 73**

##### **PENALTIES**

Without prejudice to any stricter penalty provided for in the Law of Penalties or any other law:

- (a) The following shall be punished by a fine not exceeding fifty thousand dinars:
- 1 a Board member who is proven to be in breach of the provision of Article 7(a) of this Law.
  - 2 the General Director or any staff member of the Authority who is proven to be in breach of the provision of Article 21(a) of this Law.

The court may adjudicate that the sums of money acquired by the Board member, the General Director or the staff member, in the case of convicting any of them, be confiscated.

- (b) The General Director or any staff member of the Authority who is proven to be in breach of any of the provisions provided for in Article 22(a) of this Law shall be punished by a fine not exceeding ten thousand dinars.
- (c) Every Person that knowingly employs the General Director or any staff member of the Authority in contravention of the provision of Article 22(b) of this Law shall be punished by a fine not exceeding one hundred thousand dinars.

- (d) The General Director or any staff member of the Authority who is proven to be in breach of the provision of Article 23 of this Law shall be punished by a fine not exceeding twenty five thousand dinars.

The court may order confiscation of the sums acquired by the Person convicted for breach of the provision of this Article.

- (e) Every Person who is proven to be in breach of any of the provisions of Articles 24(a) or (c) or Article 37(b) of this Law shall be punished by imprisonment for a period not exceeding six months and/or by a fine not exceeding five hundred thousand dinars.

The court may order confiscation of the equipment, tools, connections and everything used in committing the offence.

- (f) Every Person who is proven to be in breach of the provision of Article 24(b) of this Law shall be punished by imprisonment for a period not exceeding three months and/or by a fine not exceeding one hundred thousand dinars.

- (g) Every Person who is proven to be in breach of the provision of Article 43 of this Law shall be punished by a fine not exceeding five hundred thousand dinars. The court shall order the confiscation of the equipment, tools and connections and everything used in committing the offence.

- (h) Every Person who is proven to have violated the provision of Article 49 of this Law shall be punished by a fine not exceeding fifty thousand Dinars.

- (l) Every person who is proven to be in breach of the provision of Article 57(f) or Article 77(c) of this Law shall be punished by a fine not exceeding one hundred thousand dinars.

- (j) The following shall be punished by imprisonment for a period not exceeding three months and/or by a fine not exceeding fifty thousand dinars:

- 1 every Person that obstructs, modifies or deletes the contents of a message by means of Telecommunications Equipment or Telecommunications Network or instigates another Person to do so.
- 2 every Person that imports into the Kingdom or trades in or acquires Telecommunications Equipment that are not licensed by the Authority in accordance with the provisions of this Law, and every person who intentionally receives any communications that are not intended for the general public without the written approval of the Authority.

The court shall adjudicate to confiscate the equipment, tools and everything used in committing the offence.

## **ARTICLE 74**

### **USE OF FRAUDULENT MEANS**

Without prejudice to any stricter penalty provided for in the Law of Penalties or any other law, the following shall be punished by a fine not exceeding one hundred thousand dinars:

- 1 every Person that obtains any service provided by a Licensed Operator, by fraudulent means with intent to avoid payment of any prescribed tariffs for obtaining such service.
- 2 every Person that acquires, has under his control or provides or offers to provide anything that can be used for obtaining, or for a purpose relating to obtaining, any service provided by a Licensed Operator, with intent to avoid payment of any tariffs prescribed for obtaining such service.
- 3 every Person that uses or assists in using fraudulent means to obtain a service that is provided by a Licensed Operator with the intention to avoid payment of any tariffs prescribed for obtaining such service.

## **ARTICLE 75**

### **DIVERSION, TAPPING AND DISCLOSURE OF MESSAGES**

Without prejudice to any stricter penalty provided for in the Law of Penalties or any other law, every Person that uses Telecommunications Equipment or Telecommunications Network shall be punished by a fine not exceeding ten thousand dinars for intending to:

- 1 send any message in the knowledge that the contents of the message are false, misleading, offensive to public policy or morals, endanger the safety of third parties or prejudice the efficiency of any service.
- 2 tap into or disclose the secrecy of any conversation or data relating to the contents of any message, its sender or receiver unless such tapping or disclosure is permitted by the Public Prosecutor's Office or by virtue of an order issued by the court of competent jurisdiction.

## **ARTICLE 76**

### **LIABILITY OF A JURISTIC ENTITY**

A juristic entity shall be criminally liable if one of the offences provided for in this Law is committed in its name, for its account or by using its equipment or network as a result of an act, material negligence, consent or acquiescence of any board member, director or any other person responsible within that juristic entity or by those acting in such capacity.

A juristic entity shall be punished by the fine prescribed for such offence in accordance with the provisions of this Law. Such matter shall not prejudice the criminal liability of natural persons in accordance with the provisions of this Law.

## **CHAPTER 18**

### **INSPECTION AND SUPERVISION PROCEDURES**

#### **ARTICLE 77**

### **INSPECTION AND SUPERVISION PROCEDURES**

Without prejudice to the provisions of the Criminal Procedural Law:

- (a) The staff members of the Authority designated by the Board shall have the authority to supervise the implementation of the provisions of this Law, the regulations, decisions and orders issued in implementation of the provisions of this Law, and shall have the right to enter the premises wherein there exists or wherein it is suspected that there exists Telecommunications Equipment, Network or Facilities, or all or a part of the infrastructure used in Telecommunications services to inspect and seize any Telecommunications sets or equipment that are unlicensed, unauthorized or used in an unlicensed activity, or whose use would interfere with or harm the existing Telecommunications systems.

In order to achieve this, such staff members shall have the right to:

- 1 request and examine Licences, permits, books, registers, documents and all papers relating to Telecommunications activity.
  - 2 inspect and examine any Telecommunications Equipment, Telecommunications Facility or any other facilities used in connection with the provision of a Telecommunications service or the establishment, operation or ownership of a Telecommunications Network.
  - 3 examine any information or other documents, in any form whatsoever, related to the provision of Telecommunication services.
- (b) The staff members referred to in the preceding paragraph shall have the right to enter any airplane, ship, boat or any vehicle that lands or docks in the Kingdom, in order to inspect any Radiocommunications Station or Radiocommunications Equipment related to Telecommunications Frequency therein or to examine papers and documents relating thereto.
- (c) No Person shall prevent or hinder any staff member authorised to supervise and inspect from carrying out the duties and powers provided for in this Article.
- (d) If it established from the inspection that any Radiocommunications Equipment interferes without reasonable justification with the proper functioning of, or causes malfunction to other Radiocommunications Equipment, or is in breach of the international treaties to which the Kingdom is a party, the Authority shall

notify the Licensee to take preventative measures and procedures within a reasonable period specified by the Authority.

- (e) If the inspection results in a suspicion that any of the crimes provided for in this Law or any other law is committed, the Authority is obliged to inform the Public Prosecutor in order to take such action as may be necessary.
- (f) A resolution of the Minister of Justice and Islamic Affairs in coordination with the Authority shall specify the staff members who are authorised to be Judicial Officers in accordance with the provisions of this Law, regulations and decisions issued in implementation thereof.

## **CHAPTER 19**

### **NATIONAL SECURITY**

#### **ARTICLE 78**

##### **LICENSEES' OBLIGATIONS CONCERNING NATIONAL SECURITY**

Every Licensed Operator shall undertake to provide, at its own expense, all technical resources, including Telecommunications Equipment, systems and programs relating to the Telecommunications Network that it is licensed to operate and which allow security organs to have access to the network for fulfilling the requirements of national security, provided that the provision of the service shall continue whilst the required technical resources are provided, giving regard to technical development and in accordance with the provisions of the regulations and decisions issued by the Authority.

#### **ARTICLE 79**

##### **NATIONAL SAFETY AND MARTIAL LAW**

It shall be permissible, if a state of national safety or martial law is declared, for the competent Authority to requisition the Telecommunications services and networks of any Licensed Operator as well as the personnel of such operator working in the operation and maintenance of such services and networks, to address the circumstances in respect of which the state of national safety or martial law has been declared.

The Licensed Operator shall be entitled to compensation for any damage which it suffers as a result of the exercise of the powers provided for in this Article.

## CHAPTER 20

### TRANSITIONAL PROVISIONS

#### ARTICLE 80

##### ADAPTATION OF CIRCUMSTANCES

- (a) Every Person that is lawfully providing on the date on which this Law comes into force, any of the services that are subject to the provisions of this Law or is operating a Telecommunications Network or using Radiocommunications frequencies spectrum in the Kingdom at such time shall be deemed a Licensee for a transitional period not exceeding six months from the date on which the provisions of this Law comes into force.
- (b) The Person referred to in the preceding paragraph shall, if it desires to continue carrying out the activity, submit an application to obtain the appropriate Licence within a period not exceeding four months after the date on which this Law comes into force.
- (c) The Authority may, upon the submission of a justified application by the Person referred to in paragraph (a) of this Article, extend the transitional period to more than six months from the date on which this Law comes into force if the Authority considers that the application shows due cause.

The Persons referred to in paragraph (a) of this Article may not provide any Telecommunications service, operate any Telecommunications Network or use the Radiocommunications frequency spectrum in the Kingdom after the end of the transitional period without obtaining a Licence therefore in accordance with the provisions of this Law.

- (d) The Authority may amend Licences that are valid on the date on which this Law comes into force to ensure compliance with the provisions of this Law. The provisions provided for in Articles 31 and 34 of this Law shall not apply to such amendment.
- (e) The Authority shall, within a period not exceeding six months after the date on which this Law comes into force, grant to Batelco Licences substantially in the form of the Licences promulgated by a resolution issued by the Council of Ministers within two months from the date on which this Law comes into force, and such resolution shall be published in the Official Gazette.

#### ARTICLE 81

##### INVALIDATION OF PRIOR POWERS

Without prejudice to the provision of Article 80 of this Law, any authorities, rights, privileges, powers, Licences or permits granted to any entity which are inconsistent with the provisions of this Law shall be invalidated.