THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT, 2010

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THE UNITED REPUBLIC OF TANZANIA

NO. 3 OF 2010

I ASSENT,

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President

20th March, 2010

An Act to make provisions for the enactment of electronic and postal communications law with a view to keeping abreast with developments in the electronic communications industry; to provide for a comprehensive regulatory regime for electronic communications service providers and postal communications service providers, to establish the Central Equipment Identification Register for registration of detachable SIM card and built-in SIM card mobile phones; to provide for duties of electronic communications and postal licensees, agents and customers, content regulation, issuance of postal communication licences and to regulate competitions and practices; to provide for offences relating to electronic communications and postal communications and to provide for transitional provisions, consequential amendments and other related matters.

ENACTED by Parliament of United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and Commence-ment

1.–(1) This Act may be cited as the Electronic and Postal Communications Act, 2010.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2.–(1) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

(2) This Act shall not apply to Tanzania Zanzibar, with respect to those activities, which by virtue of the Zanzibar Broadcasting Commission Act, fall within the jurisdiction of the Zanzibar Broadcasting Commission.

Interpreta-tion

3. In this Act, unless the context otherwise requires -

"abuse of the dominant position" means an act whereby-

(i) a firm holds a position of such economic strength that allows it to operate in a market without being significantly affected by competition and it engages in conduct that is likely to impede the development or maintenance of effective competition;

(ii) a tied selling firm exercises, predatory pricing, exclusive dealing, market restriction and price squeezing but does not include an act where by a licensee's vigorous competition takes business from less efficient competitors;

"access" means the making available by one person or network, of electronic communications services or electronic communications networks, or parts thereof, to another person or network, for the purpose of enabling -

(a) construction, maintenance and operation of an electronic communications network;

(b) provision of an electronic communications

service; and use of electronic communications services;

(c) to construct, maintain and operate an electronic communications network; and

(d) to provide an electronic communications service;

"Applications Service Licence" means an electronic communications licence entitling the holder to provide one or more applications services;

"application service licensee" means a holder of an application service licence;

"assignee" means a person who holds an individual assignment or who is registered under a class assignment;

"assignment" means an individual assignment or a class assignment;

Cap.172 "Authority" means the Tanzania Communications Regulatory Authority established under Tanzania Communications Regulatory Authority Act;

"authorized dealer" includes agent and distributor authorized by applications service licensee to sell or distribute SIM cards and, or non - SIM card devices to subscribers;

"blacklisting" means, to render a mobile telephone inactive by any mobile cellular operator, and to deliberately disable any access which any person in control of the said mobile telephone may have, to any of the mobile cellular operators;

"blacklist" means all IMEI numbers reported as lost, stolen or destroyed;

"broadcasting apparatus" means an apparatus for the reception of television broadcast or for reception of sound broadcasts and, where an apparatus is designed or constructed for the reception of both television and sound broadcasts other than those relating to television broadcasts, such apparatus shall be deemed to comprise two sets of apparatus, one for the reception of television which is television broadcasts and another one for the reception of sound broadcast which is radio, as the case may be;

"broadcasting flag" means a set of status bits or "flag" set in the data stream of a digital television programme that indicates

whether or not the data stream can be recorded or if there is any restrictions in the recorded content;

"broadcasting service" means a radio communication service in which the transmissions are intended for direct transmissory reception by members of the general public and "broadcast" used as a verb shall be construed accordingly;

"broadcasting station" means all premises whatsoever used for the purpose of carrying on broadcasting services together with the transmitters, apparatus and equipment, including vehicles required in connection with them;

"built-in SIM card" means embedded SIM card to mobile terminal equipment;

"Central Equipment Identification Register" in its abbreviation CEIR means an electronic database which holds unique pairs of phone numbers and IMEIs in form of three lists white list, black list and grey list;

"class assignment" means a declaration issued by the Authority pursuant to this Act granting a class of persons, subject to certain rules, rights to use—

(a) frequencies; or

(b) numbers or electronic addresses;

"class licence" means a declaration issued by the Authority pursuant to this Act authorizing a class of persons to provide electronic communication services subject to requirements as may be determined by the Authorty;

"conditional access" means to restrict television programme access to certain groups of users either because of concerns for privacy or the desire to collect revenue for the services. This requires secure encryption of the programme content secure decryption in a set top box for each viewer;

"Centre" means the Subscribers Information Centre established under sub-part (i);

"co-location" means the accommodation of two or more switches, antennas or other electronic communications equipment in or on a single building, tower or other structure;

"computer" means an electronic device used to input, process store and output data;

"content" means information in the form of speech or other sound, data, text or images whether still or moving, except where transmitted in private communications;

"content service" means service offered for speech or other sound, text or images whether still or moving except where transmitted in private communications;

"Content Service Licence" means an electronic communications licence entitling the holder to provide one or more content applications services;

"content service licensee" means a holder of a content service licence;

"construction permit" means the authorization granted by the Authority to an applicant whose applicant for the provision of broadcasting services has been approved by the Authority for the Construction of facilities for the provision of content services;

"consumer" means any person who uses electronic communication or postal product or services;

"convergence" means the integration of different networks into a common digital platform that allows various services to be deployed for example video, audio, text, graphics, data and other new services;

"Courier Service" means specialized services for the speedy collection, conveyance and delivery of postal articles other than letter;

"customer" means any person who obtains or seeks to obtain services of any kind from a person undertaking activities pursuant to this Act, and includes subscribers;

"customer equipment" means equipment, including cabling, hardware and software, employed on the customer side of the network boundary;

"dealer" means a person who -

(a) carries on a trade, business or industry in which electronic communication apparatus are assembled, manufactured, imported, bought, sold, hired or exchanged;

(b) deals in motor vehicles in which broadcasting apparatus are installed; or

(c) auctions broadcasting apparatus;

"Director General" means the Director General of the Authority;

"dominant licensee" means a licensee who has been determined by the Authority to have more than thirty five percent of the electronic communication or postal services market;

"electronic communication" means radio communication or, as appropriate, the communication of information in the form of speech or other sound, data, text or images, by means of guided and unguided electromagnetic energy;

"electronic communication equipment" means an equipment used for radio communication or, as appropriate, the communication of information in the form of speech or other sound, data, text or images, by means of guided or unguided electromagnetic energy;

"electronic communications licence" means an individual licence or a class licence;

"electronic communications licensee" means a person who holds an individual licence or who is registered under a class licence;

"electronic communications market" covers all the electronic communications market and services including fixed line voice telephone, mobile and broadband communications and cable and satellite television;

"electronic communications network" means any network that enables or facilitates the provision of an electronic communications service;

"electronic communications service" means any service the purpose or effect of which is to enable or facilitate electronic communication;

"electronic communication system" means any system used or intended to be used for electronic communication;

"Electronic Serial Number in its abbreviation "ESN" means a unique code or number used by electronic communications network to identity an individual electronic communications equipment;

Cap.285 "Fair Competition Commission" means the Fair Competition Commission established under the Fair Competition Act;

Cap.285 "Fair Competition Tribunal" means the Fair Competition Tribunal established under the Fair Competition Act;

"financial services" means money orders, postal orders, postal drafts, postal cheques, postal travelers' cheques, giro, cash-on-delivery, savings service, electronic commerce services and any other related services;

"grey list" means entries that are temporarily blocked or temporarily allowed;

"hybrid postal services" means services resulting from a process in which an operator combines telecommunications and information technology with a physical network to convert a message into correspondence during the performance of activities inherent in postal services;

"International Mobile Equipment Identity" in its abbreviation "IMEI" means is a unique code used to identify an individual mobile telephone in Global Systems for Mobile Communication networks;

"individual assignment" means a document issued by the Authority pursuant to this Act granting the holder, subject to certain rules, rights to use-

(a) radio frequencies; or

(b) numbers and electronic addresses;

"individual licence" means a document issued by the Authority pursuant to this Act authorizing the licensee, subject to certain rules to -

(a) construct, maintain, own and make available one or more network facilities;

(b) provide one or more network services; or

(c) provide one or more content services;

"installation or plant used for posts" means all buildings, lands structures, machinery, equipment, boxes and receptacles used or intended for use in connection with the transmission of postal articles by post;

"interconnection" means the physical or logical linking of one public electronic communications network to another for the purpose of allowing the persons using one of them to be able to—

(a) communicate with users of the other network; or

(b) make use of services provided by means of the other one;

"letters" means any form of written communications in the nature of current and personal correspondence and includes postcards;

"licence" means a licence issued under the provisions of this Act;

"local shareholder" means shareholders of an applicant or licensee who is Tanzanian national where it is an individual or company registered in Tanzania with shares as required under section 26 of this Act;

"mail bag" means any bag, container, envelope or covering in which postal articles are conveyed;

"Minister" means the Minister responsible for communications except in relation to content and broadcasting services;

"mobile telephone" means a mobile apparatus or mobile terminal equipment which is capable of connection to a cellular telecommunication system and which is used by a customer to transmit or receive indirect communications over such telecommunications system;

"multiplex" is a digital transmission channel which combines programme material and other data in a digital form for transmission via a frequency channel;

"multiplex operator" means that entity that compiles, operates content offering on a digital multiplex that decides on the conditional access and Subscriber Management System (SMS) to be used and provides signal transmission to the end user;

"network facilities" means any element, or combination of elements, of physical infrastructure used principally for, or in connection with, the provision of one or more network services or multiplex operations, but not including customer equipment;

"Network Service" means a service for the carrying of information in the form of speech or other sound, data, text or images, by means of guided or unguided electromagnetic energy but does not include services provided solely on the customer side of the network boundary;

"Network Service Licence" means an electronic communications licence entitling the holder to provide one or more network services;

"network service licensee" means a holder of a network service licence;

"parcel" means a postal article which is posted at a post office as a parcel or is received at a post office by parcel post;

"physical co-location" means a type of co-location where the party controlling the building, tower or other structure in or on which another party's switches, antennas or other electronic communications equipment are accommodated, also allows the other party to operate those switches, antennas or other electronic communications equipment;

"post" means a system for the collection, dispatch, conveyance, handling and delivery of postal articles by or through a public postal licensee;

"postcode" or ''postal code'' means a series of letters or digits appended to a postal address for the purpose of making the processing and delivery of mail precise, easier and faster;

"post office' means any building, house, room, vehicle or place where postal articles are received, delivered, sorted, made up or dispatched;

"postage" means the fee chargeable for the transmission by post of postal articles;

"postage stamp" means any label or stamp for denoting any postage or other sum payable in respect of a postal article, and including any adhesive postage stamp or stamp printed,

impressed or otherwise indicated on a postal article, whether the postage stamp is issued under this Act or by the government of any other country;

"postal article" or "postal item" means material goods, with or without mercantile value, that comply with the post ability requirements determined by this Act and by regulation, and that are delivered via a physical network to a specified address or a person with a specified address;

"postal communications" means the communications of information by means of post;

"postal exclusivity" means exclusive rights given to the public postal operator to issue stamps, installing private and posting letter boxes and the use of the words "Post Office", "letter box and postage stamps;

"postal licence" means a licence issued pursuant to Part III of this Act;

"postal licensee" means a person who holds a postal licence;

"postal service' means conventional postal, hybrid postal and couriers' services;

"postal undertaking" means all the lands, buildings, and other property, movable or immovable, vested in the Minister immediately before the transfer date for the postal purposes of the Minister and all assets, powers, rights, interests, privileges, debts, liabilities and obligations connected therewith;

"postcard" means a card recognized as a postcard in accordance with the terms of the convention regulating the affairs of the Universal Postal Union;

"posting box" means any pillar box and wall box and any other box or receptacle provided by or under the authority of a public postal licensee for the purpose of receiving postal articles for transmission by, or under the authority of, a public postal licensee;

"public postal licensee" means a person designated by the Authority under this Act;

"public postal licensee's installation or plant" means any installation or plant used for posts belonging to or used by a public postal licensee;

"radio communication" means electronic communications by means of radio waves;

"service neutral" means in relation to the converged licensing framework whereby a licensee is authorized to provide any electronic communication service;

"shareholder" an individual or company; including a corporation that legally owns one or more shares of stock in a joint stock company;

"SIM card" means Subscriber Identity Module which is an independent electronically activated device designed for use in conjunction with a mobile telephone to enable the user of the mobile telephone transmit and receive indirect communications by providing access to telecommunication systems and enabling such telecommunication systems identify the particular Subscriber Identity Module and its installed information;

"subscriber" means a person who receives an applications service or a content service under an agreement with or pursuant to terms and conditions established by an applications service licensee or a content service licensee;

"technology-neutral", means the use any technology for the provision of electronic communication services;

G.N.No. 186 of 2007

"TBC" means Tanzania Broadcasting Corporations established by Tanzania Broadcasting Corporations (Establishment) Order;

"undeliverable postal article" means items which for some reasons have not been claimed by addressee;

"Universal Communication Services" means a defined minimum set of communications service of specified quality which is available to all users independent of their geographical location, and in the light of specific national conditions, at an affordable prince;

"Universal Postal Services" means basic postal services within the United Republic which includes the acceptance, conveyance and delivery of letters up to 500gms, parcel and packets of up to 10kgs, and financial services delivered at equal tariffs and conditions accessible by all the population;

"virtual co-location" means a type of co-location where the party controlling the building, tower or other structure in or on which another party's switches, antennas or other electronic communications equipment are accommodated, operates those switches, antennas or other electronic communications equipment on behalf of the other party;

"user" means any person or body of persons who uses or operates a radio communication channel or frequency or runs telecommunication systems or services;

"white list" means any unique pairs of subscriber number and IMEI number as captured by a licensee of electronic communication service where IMEI is not in the black list.

PART II
ELECTRONIC COMMUNICATIONS

(a) Licensing

Power to issue licence and regulate electronic communication systems

4. —(1) Subject to the provisions of this Act, the Authority shall have the power of licensing and regulating electronic communication systems and services in the United Republic.

(2) The power conferred on the Authority under sub-section (1) shall -

(a) include the right to issue licence and to regulate the establishment, installation, use, working, maintenance, development, construction, promotion, hiring and selling of electronic communication systems and services; and

(b) extend to every vessel or aircraft registered in the United Republic and to every other vessel, aircraft and any vehicle, whether mechanically propelled or not, in the United Republic.

(3) The power conferred under this section shall not be infringed by -

(a) the running by any person solely for his own use or for the purpose of his business and not for providing any telecommunication services to another person or electronic communication system in which all the equipment comprised therein is situated -

(i) on a single set of premises in a single occupation;

(ii) in a vessel, aircraft or vehicle or in two or more vessels, aircraft or vehicles mechanically coupled together; or

(b) the operation of the electronic communications system in the course of their duties by the armed forces, the police force and national security officers of the United Republic; or

(c) a licence granted under subsection (1) to a person or class of persons; may be granted either to any person, or class of persons and may in addition, contains conditions requiring the interconnection or access to electronic communication systems of any person or class of persons licensed under sub section (1).

Types and duration of Licences

5. –(1) Types of licences issued under this Act are –

(a) network facilities licences;

(b) network services licences;

(c) application services licences;

(d) content services licences;

(e) postal and courier services licences; and

(f) other licences as may be determined by the Authority.

(2) The duration of the licence shall be as specified in the Regulations made under this Act.

Application for licence

6.–(1) Any person or a company that wishes to operate any electronic communications system or offer postal communications, electronic communications or content services shall apply to the Authority for a licence.

(2) An applicant for a licence shall be required to submit the following information-

(a) a certificate of incorporation or registration;
(b) business plan for the proposed services;
(c) technical proposal for the services to be provided including roll out plans;
(d) shareholding structure as prescribed under section 26;
(e) previous experience in the provision of the services;
(f) proof of the applicant being financially capable; and
(g) any other information as the Authority may require.

(3) Any applicant for electronic communication licence which uses frequency bands that are competitive shall in addition to requirements under subsection (2), submit the following -

(a) network plan and configuration for deployment;
(b) technical specifications and manuals of equipment to be used; and
(c) products and services to be offered.

(4) Every applicant shall be required to have physical address in a place within the United Republic and shall provide the same to the Authority.

(5) A licensee shall inform the Authority of any change of physical address.

(6) Where an applicant for an individual licence has submitted to the Authority all the relevant requirements for the licence application, the applicant shall present business and technical plans to the Authority.

Failure to submit documents or information

7. Where an applicant fails to submit documents or informations as required under this Act, the Authority shall reject the application and the applicant shall be so informed in writing.

Publication of notice of application

8.—(1) Upon receipt of an application, the Authority shall publish a notice of the application in local newspapers inviting comments from the public, within fourteen days from the date of publication.

(2) The requirement for publication shall not apply to licence of a duration below five years.

Rejection of application

9.—(1) The rejection of an application pursuant to the provisions of this Act shall not prevent the applicant from resubmitting another application with the required information except where a tender process is involved.

(2) Resubmission of application under sub-section (1) shall be treated as a new application.

Grant of licence

10.—(1) On completion of evaluation process, the Authority shall within thirty days notify the successful and unsuccessful applicants the results of the application.

(2) Where frequency requirement is involved, the applicant shall make a separate application for a radio frequency user licence.

(3) A grant of licence shall be subject to satisfaction of the Authority that the facilities are in accordance with conditions stipulated in the construction permit.

Network facilities licence

11. A person shall not install, operate, manage, construct, maintain, own or make available network facilities in the United Republic except under the terms and conditions of an individual licence granted by the Authority.

Network Services Licence

12.—(1) A person shall not operate, manage and provide network services in the United Republic except in accordance with the terms and conditions of an individual licence granted by the Authority.

(2) An applicant for Network Services Licence shall, in addition to conditions stipulated for in sections 6 and 26 of this Act, submit the following-

(a) interoperability and compatibility of the system with other systems; and
(b) availability of access to emergency services.

(3) The network services shall be operated and managed in the United Republic by a holder of network services licence.

Content services licence

13.—(1) A person shall not provide content services except in accordance with the terms and conditions of an individual or class licence granted by the Authority.

(2) Successful applicant for Content Service Licence shall be given construction permit for a period of one year.

(3) The Authority shall define each content service licence in relation to one of the following categories:

(a) public services;
(b) commercial services;
(c) community services;
(d) non-commercial services;
(e) subscription broadcasting service;
(f) support services for subscription content services; and
(g) any other licence as may be determined by the Authority.

(4) Every Content Service Licensee shall be required to enter into a service level agreement with the holder of a Network Facilities Licensee for purposes of transition and distribution of signals.

Application Services licence

14. A person shall not provide Application Services except in accordance with the terms and conditions of an individual licence granted by the Authority.

Licence fees

15.-(1) An applicant shall pay to the Authority the fees as may be prescribed and such fees shall include-

(a) an initial licence fee payable before the licence is issued;

(b) an annual fee of the amount specified in the Rules made under this Act;

(c) fee in respect of the assigned frequency, frequency bandwidth or radio communication station; and

(d) fee in respect of assigned electronic numbering resource.

(2) The Authority may from time to time review the licence fee.

Individual Licence

16.–(1) An individual licence shall be issued by the Authority to any person fulfilling the eligibility requirements set forth in section 6 and who, in the Authority's reasonable opinion, is financially and technically capable of meeting his statutory and regulatory obligations as well as the obligations set forth in the individual licence concerned.

(2) The Authority shall make Rules -

(a) setting forth in details the procedures to be followed for the grant of an individual licence under this section;

(b) determining the format of individual licence application forms, which shall include a section where the applicant indicates in details the training and instruction programmes which intends to implement in accordance with the obligations of the individual licence;

(c) determining-

(i) filing fees of individual licence application forms; and

(ii) initial licence fees payable for the actual granting of individual licence.

(3) The procedures prescribed in the rules made under this section shall be fair, non discriminatory and transparent.

Terms and conditions of an individual licence

17. An individual licence shall include terms and conditions set by the Authority including quality of service, licensed area, interconnection, consumer protection, universal service obligation, shareholding structure and roll out plan.

Additional obligations for network service licensee holding individual licence

18.–(1) A licensee holding individual licence shall be obliged to provide network services, or ensure that a third party provides essential applications services twenty-four hours a day or seven days a week, at a level of quality as set by the Authority in all areas without discrimination and shall include–

(a) emergency service numbers;

(b) directory assistance service, enabling any subscriber to obtain a telephone number through the assistance of an operator or through automated means;

(c) operator assistance service, enabling any subscriber to obtain assistance regarding, amongst other things, accessing services, setting up calls and remedying faults; and

(d) such other applications services as may be reasonably determined by the Authority from time to time.

(2) The essential applications services shall be provided in accordance with the terms and conditions of a class licence granted under this Act.

(3) A licensee of a network service shall provide the following essential and emergency services free-of-charge -

(a) emergency service;

(b) operator assistance for remedying faults,

(c) customer assistance;

(d) crime stoppers;

(e) child help line;

(f) health help line;

(g) anti-corruption services;

(h) fire services;

(i) ambulance services; and
(j) any other services relating to human safety and life.

Renewal of an individual licence

19. The Authority shall renew an individual licence for a term to be agreed between the Authority and the licensee concerned, where the licensee-

(a) continues to fulfill the shareholding requirements set forth in section 26;
(b) in the Authority's reasonable opinion, continues to be financially and technically capable of meeting its statutory and regulatory obligations as well as the obligations to be set forth in the individual licence concerned; and
(c) has not, during the current term of the licence, committed a material breach of this provisions.

Modification of a licence

20.—(1) The Authority and the licensee shall agree in writing to modify a licence during the duration of the licence in either of the following ways-

(a) by a licensee submitting to the Authority a written request for modification of licence and the request for modification shall be considered by the Authority to establish whether or not such request is contrary to the provisions of the Act or Regulations made there under and shall respond to the licensee accordingly; or
(b) by the Authority subject to sub-section (2) of this section.

(2) The Authority shall, prior to modifying the licence, issue a notice in writing, to the licensee stating the following-

(a) the reasons for the proposed modifications;
(b) the modification to the licence that the Authority proposes to make; and
(c) the date by which the licensee shall respond in writing to the proposed modifications within twenty eight days from the date on which the Authority serves the notice on the licensee.

(3) Where the licensee fails to respond in accordance with this Act or where the licensee responds but subsequently withdraws that response, the Authority may modify the licence as specified in the notice.

(4) Where the licensee responds in accordance with subsection (2)(c) the Authority may either-

(a) issue the licence modified in accordance with the notice;

(b) issue the licence with modifications by incorporation of the licensee's response partially or wholly as it may deem fit; or

(c) make no modifications to the licence.

Material breach

21. The following shall constitute fundamental or material breach -

(a) failure of a licensee to commence constructions of the network within twelve months from the date of issuance of the licence;

(b) failure of a licensee to provide service to customers within twelve months from the date of issuance of the licence;

(c) continuous interruption of service for a consecutive or combined period of thirty days over any six months period provided that the interruption is not a result of *force majeure*;

(d) bankruptcy or filing of any insolvency proceeding against the licensee or adjudication of the same in favour of creditors of such proceeding is filed against the licensee;

(e) any proceeding or assignment of assets for the benefit of creditors, or any state of the licensee which may be considered as "insolvency" under any written law in force;

(f) repetition or continuation of an event of infraction following written notice by Authority to cease operation or a combination of the events of infraction;

(g) repeated failure of a licensee to pay licence fees as provided under the rules or regulations made under this Act;

(h) failure to comply with any other condition set out in the licence;

(i) breach of joint venture contract by the majority shareholder which results into the dissolution of the joint venture or otherwise jeopardizes the performance of the licensee; and

(j) alienation of shares by majority shareholder without prior approval of the Authority and to transfer, subcontract or assign any interest in his shares or the majority shareholder be reduced to a minority shareholder.

Suspension and cancellation of licence

22. The Authority may suspend or cancel a licence if -

(a) the licence is in material breach of licence conditions provided for in section 21 or the provisions of section 26 and has not remedied any such breach within thirty days of receiving notification of the breach from the Authority;

(b) the licensee and the Authority have agreed in writing to terminate the licence; or

(c) the licence terminates upon expiry of the term and is not renewed.

Registration of installation and maintena-nce, importation and distribution licence

23.–(1) Notwithstanding any other written law to the contrary, a class licence shall be issued to any person who intends to undertake the following activities –

(a) construction, installation and maintenance of electronic communication equipment or broadcasting apparatus;

(b) importation of electronic communication equipments;

(c) distribution of electronic communication equipments;

(d) selling of electronic communication equipments including broadcasting apparatus; and

(e) providing V-SAT services and any other services to be determined by the Authority:

Provided that such person shall register and apply to the Authority to obtain approval of appropriate class licence, upon payment of fee as may be prescribed by the Authority.

(2) The Authority shall make rules prescribing the format of class licence and registration forms referred to in sub-section (1).

(3) A person who undertake the activities of importation or distribution of communication equipment or broadcasting apparatus shall issue a warranty for a minimum of one year to protect the consumer.

(4) Any person registered and granted a class licence under this section shall not be bound by the requirement on shareholders under section 26.

Transfer of licence

24.–(1) A licence issued under this Act shall not be transferred, assigned, pledged or otherwise disposed off without prior written consent of the Authority.

(2) Where a licensee proposes to transfer a licence, the licensee and the person to whom the licence is proposed to be transferred to, shall jointly submit a request in writing to the Authority for consent of the transfer.

(3) The transferor shall submit the request together with the transferee's documents to the Authority for consent of the transfer.

(4) An application to transfer a licence shall be treated by the Authority in the same manner as a request for the issuance of a licence under this Act.

Transfer of shares

25. Any shareholder or licensee shall not transfer, alienate, sub-contract or assign any interest in his shares under the licence without approval of the Authority.

Requirement on shareholders

26.–(1) Notwithstanding any provision of any other law, a company incorporated in the United Republic holding an individual or class licence under this Act shall be required-

(a) in the case of electronic communication or postal licensee where the shareholding structure has a minimum local shares holding requirements as an ongoing obligation throughout the life of the licence; and

(b) in the case of content service licensee where the local shareholding structure has a minimum of fifty one per cent of the shares as an ongoing obligation throughout the life of the licence.

(2) The Minister shall, in consultation with the Authority, make regulations prescribing the minimum local shareholding requirement and procedure for approval and transfer of shares of electronic communications and postal licence.

(3) Existing licensee of Network Facilities, Network Services, Application Services or Content Services shall, notwithstanding the provisions of any other written law to the contrary, within three years from the commencement of this Act, and in accordance with requirements of the Capital Market and Securities Act, be required to offer shares to the public and subsequently list with the stock exchange.

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(4) Any person licensed as Network Facilities, Network Services, Application Services or Content Services after commencement of this Act shall be required to offer shares to the public and subsequently list with the Stock Exchange in accordance with the requirement of the Capital Markets and Securities Act within three years from the date of grant of the licence.

(b) Interconnection and access

Interconnection

27. The Authority shall-

(a) regulate all interconnection arrangements between

network service licensees where there is market failure;

(b) issue interconnection negotiations procedure and guidance on approval or rejection of interconnection agreements;

(c) place all interconnection agreements in the public register; and

(d) arbitrate or appoint an arbitrator to arbitrate on interconnection disputes.

Access

28.—(1) Every electronic communications licensee has the right for the purposes of enabling the provision of electronic communications services to the public, to negotiate an agreement for access to-

(a) electronic communications network elements of any network facilities licensee; and

(b) electronic communications services provided by any network service licensee,

that appear in a list as published in the *Gazette* by the Authority, and, when solicited in writing by an electronic communications licensee, every network facilities licensee and every network service licensee has, for the purposes of enabling the provision of electronic communications services to the public, the obligation to negotiate such an agreement.

(2) The Authority shall -

(a) regulate access arrangements between network service licensees;

(b) issue access negotiations procedure and guidance on approval or rejection on interconnection agreements; and

(c) place all access agreement in the public register.

Co-location and infrastru-cture sharing

29.—(1) The Authority shall have the powers to-

(a) regulate the co-location arrangements between network facilities licensees;

(b) issue access negotiations procedure and guidance on approval or rejection on co-location agreements; and

(c) place all co-location agreement in the public register.

(2) The Authority shall, on infrastructure sharing determine standards of communication infrastructure and shall regulate-

(a) passive network elements including towers, masts, ducts, poles, power systems and cooling systems, among network facilities licensee;

(b) active network elements including microwave transmission fibre, antenna access network and related elements and infrastructure sharing amongst network facilities licensees;

(c) infrastructure sharing arrangements between network facilities licensees;

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(d) in liaison with the Tanzania Civil Aviation Authority established under Tanzania Civil Aviation Act the establishment of broadcasting stations so as to prevent harmful interference with aircraft navigation systems.

(3) The provisions of this section shall not apply to towers, masts, ducts, poles, power systems and cooling systems, which have been constructed prior to the commencement of this Act.

Interconnection, access, co-location and infrastructure sharing

30. The Authority shall -

(a) set forth rules procedures to be followed in settlement of interconnection, access, co-location and infrastructure sharing disputes; and

(b) have a mandate to approve or reject communication services providers' infrastructure sharing agreements.

Prices for services to the public

31.—(1) Subject to the provisions of this Act and any regulations or declarations made under this Act, electronic communications licensees may, for the applications services and

content services which they provide to the public, set and revise such prices as they deem appropriate.

(2) The prices so determined by an electronic communications licensee shall respect the following principles -

(a) be transparent, based on objective criteria, and non-discriminatory;

(b) not contain discounts that unreasonably prejudice the competitive opportunities of other licensees providing applications services and content services to the public; and

(c) take account the regulations and recommendations of the international organizations of which the United Republic is a member.

(3) Each electronic communications licensee shall-

(a) file with the Authority the prices so determined at least two weeks prior to their introduction; and

(b) publish the prices at its own expense in the public media at least one week prior to their introduction.

(4) An electronic communications licensee shall provide all its application services and content services in accordance with the prices filed with the Authority.

(5) The Authority shall be entitled to carry out reviews of the prices referred to in this section in order to ensure that they respect the principles set forth in sub-section (2).

(6) Electronic communications licensees shall, for the application services or content services which they provide to the public, make sufficient detailed billing information to enable customers to verify whether or not they have been billed correctly.

(7) The Authority shall have powers from time to time to carry out reviews of rates and charges applied by electronic communications service licensees in provision of the licensed services.

PART III
POSTAL COMMUNICATIONS

Powers to make rules as to the types of the postal service

32. The Authority shall make rules describing the types of postal services in terms of their nature, form and scope, the mode of postage, technology used, service standards and attributes.

Power to issue postal licence and to regulate provision of postal services

33.–(1) The Authority shall have the power to issue postal licence for-

(a) conveying by post from one place to another whether by land or by sea or by air all letters, postcards and commercial valuable documents;

(b) performing all incidental services of receiving, collection, sending, dispatching and delivering all letters and postcards, except those letters falling within any of the following categories -

(i) trade announcements, circulars, printed extracts from newspapers, or advertisements, not addressed to any person;

(ii) letters delivered by an employee of the sender;

(iii) letters delivered by a messenger employed by the sender especially for the purpose, not being a person employed or engaged in the course of his business or employment in delivering procuring the delivery of letters;

(iv) letters exceeding 500 grammes in weight per letter;

(v) letters concerning goods sent with the goods and delivered therewith;

(vi) letters carried to or from a post office;

(vii) letters carried in accordance with an agreement entered into by the licensee;

(viii) transfers between document exchanges;

(ix) letters carried to the premises of a provider of electronic main service for the purposes of being transmitted as electronic mail, or letters carried from the premises of such a person after having been so transmitted;

(x) letters carried and delivered by a private friend without hire, reward or other profit; and

(xi) letters carried and delivered personally by the sender.

(2) Where any question arises as to whether or not any postal article is a letter within the meaning of this Act, the decision of the Authority shall be final.

Postal licences to be issued unconditionally or subject to condition

34.–(1) The Authority may grant a postal licence on such terms and conditions and in consideration of such payments as it thinks fit to any person for the doing of any act or the performance of service falling within section 33 as is specified in the postal licence, and anything done in accordance with a postal licence granted under this section shall not constitute an infringement of the privilege conferred by section 33**.**

(2) A postal licence granted under sub-section (1) may be granted either to any person, class of persons or particular person, and may include without prejudice to the power to impose conditions conferred by that subsection and conditions requiring the payment of a fee to the Authority on the grant of the postal licence or the payment to the Authority of a periodic fees during the validity of the postal licence or to both of such amount as may be determined under the postal licence.

(3) A payment required by sub-section (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

Designation of public postal licensee

35.-(1) The Authority shall have the power to designate a public postal licensee to perform all or any of the functions relating to the operation and provision of universal postal services in the United Republic.

(2) The Public postal licensee shall have postal exclusivity rights to issue stamps, installing private and installing posting letter boxes and use of the word "post office" "letter box" and "postage stamps" for a period to be determined by the Authority.

Application of postal licence

36. No person shall operate postal services in the United Republic unless that person is licensed as a postal licensee under this Act.

Application for postal licence to be in writing

37.–(1) Any application for a postal licence under this Act shall be addressed in writing to the Authority.

(2) The Authority may, in consideration of any application under this Act, require the applicant to produce evidence or information to show the capacity to operate postal systems and services as the Authority may deem necessary to enable it make a decision.

(3) The Authority may require an application for a postal licence to be accompanied by such a fee as the Authority may from time to time describe.

Grant of postal licence

38.-(1) The Authority may, subject to sub-section (2) of this section grant a postal licence to an applicant under this Act if it is satisfied that the information supplied to the Authority by the applicant it suitable to operate the postal system and services.

(2) The Authority shall upon receipt of application, consider it and within sixty days may in its absolute discretion either, grant a postal licence or refuse the application.

(3) A postal licence granted under this Act may be renewed on its expiry on application within the prescribed period by the Authority.

(4) No postal licence shall be transferred except with the prior consent in writing of the Authority.

Modification of postal licence

39.—(1) The Authority may modify the conditions of a postal licence granted under this Act.

(2) The Authority shall, prior to making modifications of the conditions of a postal licensee under this section give notice to the licensee by-

(a) stating that it proposes to make modifications in the manner as specified in the notice and the compensation payable for any damage cause thereby; and

(b) specifying the time not being less than twenty eight days from the date of service of the notice on such a licensee within which written representation in respect to the proposed modification may be made.

(3) Upon receipt of any representation referred to under subsection (2), the Authority shall consider such a representation and may-

(a) reject the representation; or

(b) amend the proposed modifications or compensations payable in accordance with the representation or other wise, and in either event, it shall issue a direction in writing to licensee requiring him to make proposed modification specified in the notice or any other modifications as subsequently amended by the Authority within reasonable time.

Suspension or cancellation of postal licence

40.—(1) Where the Authority is satisfied that a person who is granted a postal licence under this Act or any postal regulations made under this Act is contravening any of the conditions of the postal licence or the provisions of this Act the Authority may cancel or suspend the licence.

(2) Any person aggrieved by the decision of the Authority under this section may appeal to the Fair Competition Tribunal.

Addresses and Postcodes publication

41. The Authority shall -

(a) allocate, manage and regulate addresses, and postcodes; and

(b) regulate the publication and sale of postcode list and directories in compliance with the principle of publicity and requiring postal licensees to keep deliveries and postcode directories to be available to public free of charge.

Secrecy of correspondence, confidentiality and integrity of postal items

42.—(1) A postal licensees shall be responsible for the inviolability of the secrecy of correspondence and for the confidentiality and integrity of postal items.

(2) Notwithstanding sub-section (1), correspondence and other postal items may legally be opened only in exceptional circumstances expressly established under this section.

(3) The following acts shall not constitute violations of the secrecy of correspondence or of the confidentiality and integrity of postal items by-

(a) opening correspondence or obtaining knowledge of its contents when performed by a person residing at the same address as the addressee;

(b) submission of correspondence to the verification and control performed by competent police, senior staff of the Authority or Government customs or revenue official;

(c) opening of postal items that present signs of containing material subject to taxation;

(d) opening of correspondence or postal items earmarked for destruction by Authority or postal licensee; and

(e) opening of correspondence or postal items that present signs of containing material or substance whose dispatch, use or distribution is prohibited.

Postal licensee liability for losing

43.-(1) The postal licensee shall be responsible for correspondences and postal items entrusted to it and pay compensation to customers for losing, misplacing, delivery or failing to guarantee the integrity of correspondence or postal items in the form and amount specified in rules made by the Authority.

(2) The compensation of correspondences and postal items dispatched or received from abroad, shall comply with the international conventions and treaties ratified by the United Republic.

(3) The postal licensee shall not assume liability to the customer for losing, misplacing, delaying delivery or failing to guarantee the integrity of correspondence or a postal item if that customer-

(a) owing to user behavior involving an infringement of the law or regulation; and

(b) owing to defects or risks inherent in the nature of correspondence or postal items.

(4) Any postal customer who has correspondence or a postal item lost, misplaced, delivered with delay, spoiled or damaged in conditions specified in this Act shall apply to the postal operator compensation in the form and amount specified in the regulations.

(5) Where the postal licensee fails to comply with the request for compensation, the postal customer may complain to the Authority in the form and period specified in the regulations.

Posting and ownership of correspondence and postal item

44.–(1) A postal article shall be deemed to have been posted if it is deposited into a posting box or handed over to an employee or agent of a postal licensee authorized to receive it.

(2) Correspondences and postal items which have been posted shall remain the property of the sender until final delivery to the addressee or to the displayed address, except when they are apprehended by a competent authority;

(3) A postal article shall be in the course of transmission by post from the time of its being posted with or handled over to the postal licensee to the time of its being delivered to the addressee, or its being returned to the sender or otherwise disposed of in accordance with this Act.

Delivery of correspondence and postal item

45. For the purposes of this Act a postal article shall be deemed to be delivered if it is delivered into the private letter box or private bag of the addressee or is left at the house or office of the addressee, or with the addressee, or with his employee, or agent, or other person authorized to receive it and, where the addressee is a guest or is resident at a hotel, hostel or lodging of a similar nature, if it is left with the proprietor or manager thereof or with his agent.

Prohibitions in the Postal Services

46.—(1) A postal licensee may refuse to accept correspondence or a postal item that does not fulfill the requirements established in this Act or by regulations made under it with regard to shape, weight, value, dimensions, safety, packaging, franking, registration or address, including the correct postcode.

(2) The public postal licensee shall not receive, distribute or deliver anywhere in the United Republic or dispatch abroad any of the following articles—

(a) correspondence or a postal item whose weight dimension, volume, shape, address franking or packaging is in breach of the regulations or the international conventions and accords approved by the United Republic; or

(b) an explosive, fetid, corrosive, radioactive, perishable, with other characteristic that may constitute a hazard to damage other correspondence, postal items or

constitute a hazard to public health and safety such as-

(i) firearms or armaments of description;
(ii) drug and other prohibited narcotic substances except those legally authorized or dispatched for medical or scientific purposes;
(iii) live animals or plants except those allowed by international conventions ratified by United Republic;
(iv) dead animals;
(v) correspondence or postal items whose envelope, container or packaging contains words, image, drawing or other messages of an injurious, threatening or offensive nature;
(vi) correspondence or postal items whose circulation in United Republic on export or imports is prohibited; or
(vii) perishable foodstuffs.

(3) Failure to comply with any of the provisions of this section shall entail retention of the offending correspondence or postal item by the postal licensee or its apprehension by the competent authority, in accordance with the rules and without prejudice to the applicable administrative and penal sanctions.

(4) The sender shall be liable to the postal licensee for any damage caused by failure to comply with the portability requirements established in this Act, except in cases of error or negligence by the postal licensee involved in any of the activities inherent in postal services.

(5) The Correspondence or postal items subject to legal or fiscal formalities shall be accepted only under total and exclusive liability on the sender's part as to compliance with such requirements.

(6) The Authority may establish special rules regarding the packaging and safety of correspondence or postal items to enable them to be received, distributed or delivered in the situations to which this section refers.

Power to make Postal Regulations

47.—(1) The Minister may make postal regulations for purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters-

(a) the classes and the conditions for the grant of postal licences by the Authority; and

(b) the regulations of postal tariffs.

Provision of postage stamps and power to make rules

48.—(1) A public postal licensee may, subject to such directions as the Authority may give, cause postage stamps to be provided of such kinds and denoting values as the licensee may determine.

(2) The postage stamps provided under sub-section (1) shall be used for the prepayment of postage or other fees or sums chargeable under this Act in respect of postal articles, except where the public postal licensee determines, directs that prepayment may be made in some other manner.

(3) The Authority may make rules for the use of postage stamps as prepayment of fees or other sums chargeable under any written law by any government agency for services rendered and the recovery of the revenue from the licensee.

Philatelic materials

49.—(1) All philatelic archival materials produced by a public postal licensee shall belong to the government and shall be kept in such custody as the Authority directs.

(2) For the purpose of subsection (1), philatelic archival material shall include—

(a) postage stamps;

(b) artworks, proofs, progressive sheets; printed sheets and printing plates of postage stamps; and

(c) date-stamps, slogan dyes, and other artifacts used in connection with the production of postage stamps.

Exemption from postal charges

50.—(1) The Authority may make rules as to the exemption of certain classes of persons from postal charges on letter-post items and fees or other charges payable for services rendered.

(2) In particular and without prejudice to the generality of the foregoing power, the rules made under sub-section (1) may exempt letter-post items for charitable purposes from postal charges.

Power to make rules as to the transmission by post of postal articles

51.—(1) The Authority may make rules as to the transmission by post of postal articles and in particular such rules may-

(a) provide for the performance of supplementary services in respect of transmission by post of postal articles;

(b) prescribe the special charges or fees to be charged for the supplementary services provided;

(c) prohibit the transmission by post of postal articles not specified in section 46 or lay down special conditions on which such articles, may be transmitted by post; or

(d) provide for the payment of compensation for the loss or damage in course of transmission by post of postal articles, and the conditions under which such compensation may be paid and the limit of the amount of such compensation.

(2) For the purposes of this section, supplementary services include the registration, insurance and storage of postal articles, *Poste Restante* and any other form of supplementary service.

Transmission by post of anything injurious, etc prohibited

52.—(1) A person shall not send by post any article or thing which is likely to injure any person or postal article in the course of transmission by post.

(2) Except as otherwise provided by regulations made under this Act and subject to the condition as may be prescribed, no person shall send by post any explosive, inflammable, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure any person or any postal article in course of transmission by post.

(3) No person shall send by post opium, morphine, cocaine or any narcotic except under such rules as the Authority may make in this behalf.

(4) Nothing in this section shall affect the provisions of any written law relating to deleterious drugs.

Prohibition of transmission by post of anything indecent

53. A person shall not send by post any -

(a) indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article;

(b) postal article having or on the cover, have any words marks or designs of any indecent, obscene, seditious, scurrilous, threatening or grossly offensive character;

(c) postal article bearing any fictions stamp or purporting to be prepaid with any postage stamp which has previously been used to prepay any other postal article or which has been previously used in payment of any stamp duty; or

(d) other article which the Authority may prohibit.

Authority to make rules dealing with prohibited articles

54. The Authority may make rules for preventing the sending and delivery of articles prohibited under this Act and detaining, disposing of, or destroying any such postal article sent or tendered for transmission by post.

Obligation of Licensee to inform the Authority

55.—(1) Where a postal article sent by post is reasonably suspected by the licensee to be sent is in contravention of this Act, any rules made there under or any other written law, the licensee shall immediately inform and hand over such postal article to the Authority or any authorised officer.

(2) On receiving the information made under sub-section (1), an authorised officer shall detain such postal article for opening and examination.

Disposal of postal articles forfeited under this Act

56.—(1) Where a postal article opened or examined under this Act or of any other written law is found to be in contravention or to have been posted in contravention, the Authority or authorised officer may direct that the postal article be returned to the sender or forwarded to its destination, in each case charged with such additional postage, as the Authority may prescribes unless otherwise dealt with under sub-sections (2), (3), (4), and (5) of this section.

(2) Any postal article sent by post contravenes section 46 may, under the directions of the Authority or authorised officer, be forfeited and destroyed.

(3) Any postal article sent by post contravenes section 52 may, under the directions of the Authority or authorised officer, be destroyed.

(4) Any postal article sent by post in contravention of section 53 shall be dealt with as the Authority may direct.

(5) Notwithstanding any provisions in any written law to the contrary, where any postal article opened under this Act is found to be in contravention of the Customs (Management and Tariff) Act, shall be handed over to the customs Department to be dealt with in accordance with that Act.

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(6) Any postal article opened under this Act and found to contain any valuable or saleable enclosure shall, together with its contents, be safely kept pending its disposition under this section, and a list of any such postal articles together with a memorandum of the contents thereof shall be made and preserved.

(7) The detention, destruction or disposal under this Act of a postal article or its enclosure shall not relieve any person from liability for any offence under this Act or any other written law.

Power to make rules as to disposal of undeliver-able postal articles

57. (1) The Authority may make rules as to the disposal of undeliverable postal articles.

(2) The rules made under sub-section (1) may -

(a) prescribe the period during which undeliverable postal articles at a post office shall remain in that office;
(b) provide for the publication of lists of undeliverable postal articles, or of any class of undelivered postal articles; and
(c) provide for the manner in which undeliverable postal articles shall be finally dealt with or disposed of.

Power to provide for postal financial services and to make rules thereon

58.—(1) The Authority may allow the public postal licensee to carry out postal financial services on its own account or on behalf of government and non-government agencies and may make rules as to such services prescribing for.

(2) For the purposes of this section, "postal financial services" includes money orders, postal orders, postal drafts, postal cheques, postal travellers' cheques, giro, cash-on-delivery, and collection of bills, savings service, subscription to newspapers and periodicals and any other form of financial service.

Powers of the President in emergency or in the national or public interest

59.–(1) The President may, on occurrence of any event which gives rise to an emergency, or in the interest of national or public security, authorize the Authority to -

(a) suspend the public postal licence of postal licensee and take temporary possession of any post office under the control of any such licensee;

(b) withdraw either totally or partially the use of any postal service from any person or class of persons or from the public at large; or

(c) order that any postal article or class of postal articles or any letter or class of letters to or from any person or class of persons or relating to any specific subject shall not be conveyed, intercepted, detained or delivered to any officer mentioned in the order to be opened, examined or dealt with in such a manner as the President may direct, or that postal article or postal articles or letter or letters or the contents thereof shall be disclosed to an officer mentioned in the order.

(2) The President may also authorize any other public officer employed by the government to carry out the powers conferred under sub-section (1).

(3) The licensee shall give all necessary assistance whenever required to do so by an officer carrying out any of the powers conferred under this section.

PART IV
COMPETITION PRACTICES AND CONDUCT

(a) Anti-Competitive Practices and Conduct

Anti-competitive practice and conduct

60.–(1) A dominant licensee shall not take advantage of its power in a market for the supply of electronic and postal services with a view to -

(a) eliminating or substantially damaging another licensee in the market in which it operates or in any other market;
(b) preventing the entry of any other person in that market or any other market; and
(c) deterring any other licensee from engaging in competitive conduct in that or any other market.

(2) A dominant licensee shall not discriminate between persons who acquire or make use of electronic communication service in the market in which he operates in relation to -

(a) any fees or charge for the service provided;
(b) the quality of service provided; or
(c) any form or condition on which the service is provided;

(3) Nothing in sub-section (2)(a) shall prevent a dominant licensee from making a reasonable allowance, subject to the approval of the Authority, for the cost of providing an electronic and postal services where the difference results from -

(a) different quantities in which the service is supplied;
(b) different transmission capacities needed for the supply of the service;
(c) different places from, or to which the service is provided;
(d) different periods for which the service is provided;
(e) different performance characteristics of the service provided; or
(f) doing an act in good faith to meet a price or benefit offered by a competitor;

(4) Where it appears to the Authority that a dominant licensee telecommunications systems provider is taking or intends taking any action which has or is likely to have the effect of giving an undue preference to or causing undue discrimination against any person or category of persons, the Authority may, after giving the dominant licensee concerned an opportunity to be heard, direct the

licensee by written notice to cease or refrain from taking such action, as the case may be.

(5) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand US dollars or its equivalent in Tanzania shillings.

Powers of the Authority on dominant licensee

61. The Authority shall have powers to determine dominant position of electronic communication licensee in the relevant market.

(b) Competition practices

Electronic communi-cations licensees holding a dominant position

62.—(1) The Authority shall, not later than 31 December of each year, publish in the *Gazette* a list for the following calendar year of -

(a) all electronic communications markets that will or are likely to exist; and

(b) electronic communications licensees determined by the Authority to hold for each electronic communications market a dominant position.

(2) The Authority shall determine an electronic communications licensee to hold a dominant position in a given electronic communications market for a given calendar year for the electronic communications market and the electronic communications licensee has more than thirty five percent, acting alone, be able to profitably and materially restrain or reduce competition.

(3) The Authority shall produce and make public guidelines, for use by the Authority, on the manner of defining an electronic communications market and of determining whether a licensee holds a dominant position therein.

(4) The Authority shall be entitled at any time, by notice published in the *Gazette*, to modify for the remainder of the calendar year concerned, any list published pursuant to sub-section (1) of this section, subject to a notice period of at least four weeks.

Prices for services to the public offered by licensees holding a dominant position

63.—(1) Any application service licensee or content service licensee that has, for the calendar year in question, been deemed to hold a dominant position in a given electronic communications market in accordance with section 60 of this Act, shall, as concerns that electronic communications market-

(a) submit to the Authority for its prior approval the prices it intends to charge to the public for each applications service and each content applications service, together with a detailed justification of such prices; and

(b) refrain from applying the prices in question until they have been approved by the Authority in accordance with sub-section (2).

(2) Subject to sub-section (4), the Authority shall issue a written decision approving or disapproving the prices so submitted, together with the reasons for such decision, within four weeks of the receipt of submission.

(3) The Authority shall base its decision on the extent to which the prices proposed by the licensee-

(a) in respect of the principles set forth in section 31(2);

(b) are reasonably cost oriented; and

(c) meets criteria as the Authority may reasonably consider relevant.

(4) The Authority may make reasonable requests for additional information from the applications service licensee or content service licensee concerned and, where it does so, the time limit set forth in sub-section (2), shall recommence upon receipt of the additional information requested.

Prohibition on entering into collusive agreements

64. A licensee shall not enter into any understanding, agreement or arrangement, whether legally enforceable or not, which provides for -

(a) rate fixing;
(b) market sharing;
(c) boycott of a supplier of apparatus; or
(d) boycott of another competitor.

Prohibition on tying or linking arrange-ments

65. A licensee shall not, at any time or in any circumstances, make it a condition for the provision or supply of a product or service in a communications market that the person acquiring product or service in the communications market is also required to acquire or not to acquire any other product or service either from himself or from another person.

Guidelines as to the meaning of "dominant position"

66.—(1) Subject to the provisions of this Act the Authority may publish guidelines for determination of a dominant licensees.

(2) The guidelines may specify the matters which the Authority may take into account, including -

(a) the relevant economic market;
(b) global technology and commercial trends affecting market power;
(c) the market share of the licensee;
(d) the licensee's power to make independent rate setting decisions;
(e) the degree of product or service differentiation and sales promotion in the market; and
(f) any other matters which the Authority deems fit.

(3) Where the conduct of a dominant licensee has the effect or may have the effect of substantially lessening competition the Authority may make an order requiring the dominant licensee to-

(a) cease the said conduct;
(b) impose a fine; and
(c) impose any other appropriate remedy.

Register of authorisations

67. The Authority shall maintain a register of current authorisations of a conduct under this section in accordance with provisions of this Act.

Remedies for non-compliance

68.—(1) The Authority or a person may seek an interim or interlocutory injunction against any conduct prohibited in this section.

(2) A person shall obtain a certificate from the Authority for leave to proceed to the court for enforcement of the provisions of this section except in the case of an injunction.

Penalty for offences

69. A person who contravenes any prohibition under this Part commits an offence and shall, on conviction, be liable to a fine not less than five hundred thousand shillings or to imprisonment for a term not less than five years or to both and shall be liable to a further fine of one thousand shillings for every day or part of a day during which the offence continues.

(c) Regulatory for-bearance

Regulatory forbearance

70.—(1) The Authority may forbear from applying to a licensee or a class of licensees, in any of its geographic markets, any provision of sub-part (b) and any regulation, declaration, guideline or other rule issued, if the Authority reasonably considers, after consultation with the Minister, that-

(a) application of such provision, regulation, guideline or rule is not necessary for-
   (i) the protection of consumers; or
   (ii) the promotion of competition amongst licensees; and

(b) forbearance from applying such provision, regulation, guideline or rule is consistent with the provisions of this Act.

(2) Where, pursuant to the provision of sub-section (1), if the Authority decides to forbear from applying any provision, regulation, guideline or rule, it shall, without undue delay, publish a

notice of forbearance in the *Gazette*, setting forth the details of, and the reasons for the decision, and inviting interested parties to make submissions in relation to that decision within a period specified in that notice, but in any event not shorter than four weeks from the date of publication of that notice.

(3) The Authority shall give due and proper consideration to any representation it may receive in accordance with sub-section (2) and shall thereupon issue its final decision.

(d) Spectrum Management

Authority to manage and assign the national radio frequency spectrum

71.—(1) The Authority shall have powers to manage and control all radio communication frequencies spectrum or frequency channels and provide mechanisms governing allocation and assignment to persons for limited periods of time by issuing licences under conditions determined by the Authority.

(2) The Authority shall make rules -

(a) governing harmful interference to other communications;

(b) establishing minimum performance standards of electronic appliances',

in regard to manufacture, import, sale, shipment and use of such devices or appliances.

(3) The Authority shall from time to time -

(a) classify radio stations, prescribe the nature of service to be rendered by each station, assign bands of frequencies to each class of stations and assign frequencies and time during which it may operate;

(b) make regulations to-

(i) prevent interference between stations under this Act;

(ii) require stations to maintain such records of communications or signals as the Authority may deem necessary; and

(iii) require stations to submit to the Authority reports as the Authority may from time to time require.

(4) The Authority shall have power to inspect all radio installations associated with stations required to be licensed under this Act to ascertain whether they confirm to the requirements of the regulations in regarding to construction, installation and operation.

Powers to allocate, reallocate, assign etc

72.—(1) Notwithstanding the provisions of any written law, compact, concession, contract, deed, deed of settlement, licence, memorandum of understanding or any other kind of agreement or provision to the contrary, the Authority shall, in the maintenance of its control over radio communication frequencies spectrum or frequency channels have power to allocate, reallocate, assign, reassign, issue, reissue, redistribute, retrieve, suspend, cancel, or otherwise modify the distribution amongst users or licensees of any radio communication frequencies or frequency channels.

(2) The Authority may exercise the powers conferred by subsection (1) where-

(a) as a result of any investigations or inquiry carried out by it or any other public authority; or

(b) in the ordinary course of performing its functions, under this Act, pursuant to sub-section (10); and

(c) the Authority is of the view that it is necessary or desirable in the public interest that it exercises its powers in relation to any user or licensee of any radio communication frequencies or frequency channels.

(3) Where the Authority carries out an investigation or inquiry pursuant to sub-section (2)(a) and it is proved to its satisfaction that a user or licensee of a radio communication frequencies or frequency channels, who has had the opportunity to be heard by the Authority is-

(a) utilizing the radio communication frequencies Spectrum or frequency channels for purposes other than those originally permitted; or

(b) not utilizing the radio frequencies efficiently or effectively;

(c) misusing, abusing or hoarding the radio communication frequencies or frequency channels or frequencies;

(d) engaging in practices intended to drive competitors out of business or deter any other licensee or user from establishing a competitive business in the country or in any specific area or location within the country;

(e) carrying out acts intended or likely to hurt, injure, infringe, harm or interfere with the radio communication frequencies or frequency channels or frequencies of other users or licensees;

(f) using or operating a radio communication frequencies or frequency channels or frequency without having a licence issued under this Act; or

(g) contravening any other conditions in relations to the assigned frequencies,

the Authority shall exercise the power conferred by sub-section (1) and in writing notify the user or licensee of a radio communication frequencies or frequency channels the decision of the Authority and direct him as to what he is supposed to do to comply with that decision.

(4) When the Authority takes the measures under sub-section (6) in pursuance of sub-section (3), no compensation shall be paid by the Authority or any other authority to the user or licensee of radio communication frequencies or frequency channels.

(5) Where in the ordinary course of performing its functions under this Act, pursuant to sub-section (2)(b) or upon complaint to the Authority by a user or licensee of a radio communication frequencies or frequency channels or frequency or by any other authority, the Authority thinks it desirable to consider whether or not it shall exercise any of the powers under sub-section (1) in relation to any user or licensee, it shall by notice in writing notify to any person intended or likely to be affected by the exercise, stating-

(a) the measure that it proposes to institute; and

(b) the time not exceeding twenty eight days within which any party affected or likely to be affected may make representations to the Authority.

(6) Where no representations are submitted by any person in response to any notice specified in sub-section (5), the Authority shall proceed to institute measures under sub-section (1).

(7) Where any party makes representations to the Authority in pursuance of sub-section (5), the Authority shall within fourteen days of receipt of such representations, consider those representations including whether or not any compensation is payable under this Act**,** and may-

(a) reject the representations or any of them.;
(b) amend the proposed measures in response to the representations;
(c) decide to exercise any of the powers conferred by sub-section (2); and
(d) direct in writing the user or licensee of radio communication frequencies or frequency channels or frequency concerned to give effect to the decision of the Authority.

(8) Upon receipt of a decision of the Authority on the representations pursuant to sub-section (7) the user or licensee to whom the decision of the Authority relates, shall not institute any action in any court of law in relation to the said decision if-

(a) he has not previously made any representations to the Authority; and
(b) he institutes any action, it shall be in the High Court, and the action shall be on procedural issues or on grounds that the decision of the Authority was based on extraneous factors.

(9) In exercising its powers conferred under sub-section (1) the Authority may fix or prescribe the minimum or maximum number or amount of radio communication frequencies or frequency channels which any user or licensee may be granted for the purposes of this Act.

(10) In the exercise of any power, the performance of any duty or the discharge of any right, privilege or obligation by any person or authority in pursuance of the provisions of this Act, shall always be regarded to the fact that all radio communication frequencies or frequency channels are national resource which is held in trust for the people by the Government, and maintained and controlled by the Authority for carrying out the purposes and provisions of this Act.

(11) A person who is aggrieved by a decision of the Authority under this section may, within twenty eight days of the notice of the decision of the Authority appeal to the High Court on procedural issues or on grounds that the decision of the Authority was based on extraneous factors.

Prohibition to transfer frequency

73. A person to whom radio frequency have been assigned shall not be permitted to transfer the rights to use such frequency to any third party, whether for remuneration or otherwise.

Offences

74.—(1) Any person who fails, neglects or refuses to comply with any directions of the Authority given under sub-section (3), (6) or (7) of section 72 commits an offence.

(2) Any person who commits an offence under sub-section (1) shall upon conviction be liable to a fine of not less than two billion five hundred thousand million Tanzanian shillings and in case of a continuing offence to a further fine of not less than seventy five million Tanzanian shillings for everyday or part thereof during which the offence continues after conviction.

(3) Notwithstanding the provisions of sub-sections (1) and (2), any person who willfully contravenes or fails to comply with the conditions imposed on his licence granted under this Act in relation to the use of a radio communication frequencies or frequency channel, shall have his licence cancelled.

Deposit before conviction

75.–(1) The Authority may require any licensee who has been issued a frequency user licence to deposit an amount not exceeding one billion two hundred million Tanzanian shillings or execute a bond to be secured against the assets of a user or licensee of a similar amount to defray any cost or liability incurred by the Authority or any other person which may arise out of any criminal or civil process in relation to this Act.

(2) Refusal or failure to pay the deposit or execute a bond under sub-section (1) shall be deemed to be an offence against this subsection, and shall be punishable as a continuing offence.

(3) Where a user or licensee is sentenced to pay a fine under this section, the court shall order forfeiture to the United Republic any deposit made or bond executed under this Act.

(e) Spectrum Consultative Committee

Establishment of the Spectrum Consultative Committee

76.–(1) The Authority shall establish a Spectrum Consultative Committee which shall consist of the following members –

(a) one member of the Board of the Authority who shall be the Chairman of the Committee;

(b) four members appointed by the Authority consisting of experts of Spectrum from the public sector, private sector, military and academic;

(c) one senior officer of the Authority from the department responsible for Spectrum Management who shall be the Secretary of the Committee;

(d) one senior lawyer of the Authority; and

(e) one senior officer of the Authority from the department responsible for licensing.

(2) The Authority may determine functions of the Committee which shall carry out the functions in relation to -

(a) advise on National Spectrum issues; or

(b) prepare issues for discussion at International fora.

Powers of the Authority in spectrum management

77.—(1) The Authority shall have powers to manage and control all radio communication frequencies spectrum or frequency channels and provide mechanisms governing allocation and assignment to persons for limited periods of time by issuing licences under the conditions determined by the Authority.

(2) The Authority shall make rules -

(a) governing allocation, assignment and use of radio frequencies or frequency channels;

(b) governing harmful interference to other radio communications stations and services;

(c) establishing minimum performance standards of electronic equipment, appliances and devices in regard to manufacture, import, sale, shipment and use of such equipment, appliances or devices;

(3) The Authority shall manage the radio frequency spectrum through the National frequency spectrum plan, under this Act.

Spectrum allocation and assignment

78.—(1) A national frequency spectrum plan developed by the Authority shall –

(a) be divided into such number of frequency bands as the Authority deems appropriate for the purpose of regulating radio communications under this Act;

(b) designate one or more bands to be used primarily for the general purpose of the government;

(c) specify the general purpose for which any other band may be used including the reservation of any band, whether for present or future use for public or community purposes or for the prevention or control of interference;

(d) provide for one or more purposes for which any part of a band and include any particular frequency or frequency channel which may be used whether with regard to a specified geographic area, period or otherwise; and

(e) include such other matters as the Authority deems necessary to give full effect to the spectrum plan.

(2) The Authority may develop a new national frequency spectrum plan to replace an existing national frequency spectrum plan, when the need arises, and prior to that the Authority shall issue a public notice in that respective.

(3) The Authority may revise, vary or revoke a national frequency spectrum plan under sub-section (2), and shall issue a Public Notice to that effect.

(4) Where the Authority has developed a new national frequency spectrum plan under sub-section (2) or has revised, varied or revoked any existing national frequency spectrum plan under sub-section (1), the new national frequency spectrum plan or the revised, varied or revoked spectrum plan shall supersede the existing National frequency spectrum plan or to the extent of the revision, variation or revocation, as the case may be.

(5) The Authority may make rules for spectrum assignment plan which shall consist of-

(a) methods, procedures and timetable to be followed for issuing an assignment;

(b) subdivision of the relevant frequency bands in the spectrum plan for the purposes of issuing an assignment;

(c) amount of the frequency spectrum in relevant bands frequency band that is to be reserved for future use or for public or community services;

(d) conditions which may be included in an assignment to be issued; and

(e) any other matter as the Authority may deem necessary.

(6) The spectrum assignment plan and any material modification of it shall be made available to the public for comment, and any comments received shall be considered by the Authority before issuing an assignment.

(7) The procedures for spectrum assignments shall be determined by the Authority, as the case may be, and may include the following-

(a) the method of determining the price;
(b) the method of payment of the assignment's fees;
(c) the advertisement of the proposed assignment;
(d) the potentiality of applications including the type of technology that may be used;
(e) the intensity of demand;
(f) the extent of spectrum usage;
(g) qualitative factors such as -
    (i) band quality;
    (ii) flexibility of band usage;
    (iii) availability of equipment for use in the band;
    (iv) ranges of band; and
    (v) any other matters as the Authority may deem necessary.

(8) The Authority may modify or vary the spectrum assignment plan as it deems fit, under the provisions of Radio Communication and Frequency Spectrum Regulations.

(9) The Authority shall from time to time -

(a) classify radio stations, prescribe the nature of service to be rendered by each station, assign radio frequency bands to each class of station and the time during which it may operate; and
(b) make rules with respect to-
    (i) manage and prevent interference between stations and to carry out the requirements under this Act;

(ii) require communication stations to maintain such records of radio communications operations or signals as the Authority may deem necessary;

(iii) require communication stations to submit to the Authority such reports as the Authority may from time to time require.

(10) The Authority shall have power to -

(i) inspect all wireless Network and radio installations associated with stations required to be licensed under this Act; and

(ii) ascertain whether the wireless networks and radio stations conform to the requirements of the regulations and licence conditions.

(f) Numbering and Electronic Addressing

Number and electronic address assignment

79. The Authority shall regulate all electronic communication numbering and electronic addresses and ensure efficient use by -

(a) performing proper planning, allocations and monitoring;

(b) maintaining the national electronic communication numbering and electronic address register for all carriers and operators in respect of resources which have been assigned;

(c) performing an oversight role on the management of country's code Top Level Domain (ccTLD); and

(d) maintaining electronic address registrer of electronic numbers assigned to service providers and their subscribers list.

Assignment exception

80.-(1) Notwithstanding the provisions of this Act, no assignment shall be required for the activities listed in a declaration to be issued by the Authority.

(2) The Authority may by declaration published in the *Gazette*, after consultation with the Minister, exempt a person or class of persons from the requirement to hold an individual assignment or a class assignment.

Prohibition to transfer numbers or electronic addresses

81. No person to whom electronic numbers or electronic addresses have been assigned shall be permitted to transfer his rights to use such numbers or electronic addresses to any third party, whether for remuneration or otherwise.

(g) Technical Standards

Technical standards for equipment connected to a network

82.-(1) The Authority shall be responsible for the establishment and publication of technical standards relating to all regulated services in the United Republic of Tanzania.

(2) In establishing such standards, the Authority shall-

(a) where appropriate, seek submissions from other interested parties, in particular those persons likely to be most affected by the publication of such standards; and

(b) participate in standardization activities and take due account of any relevant standards prescribed by international organizations to which the United Republic belongs, such as the International Telecommunications Union and other sub-regional groupings.

Approval of equipment connected to a Network

83.-(1) Any equipment to be used for connection to any electronic communications network for the purpose of receiving and, or transmitting electronic communication signals shall be approved by the Authority.

(2) Subject to applicable procedures and fees, the Authority shall, at the request of any electronic communications licensee, equipment manufacturer or equipment supplier, conduct type approval tests, and issue type approval certificates, in respect of

electronic communications equipment intended for use in the United Republic of Tanzania.

(3) The Authority shall, in conducting type approval of equipment, be guided by the technical standards formulated by the Authority under this Act**.**

(h) Central Equipment Identification Register (CEIR)

Establishment of Central Equipment Identification Register

84.-(1) There shall be established an equipment register known as Central Equipment Identification Register.

(2) The register shall be maintained by the Authority within its structure as the Authority may deem fit.

Cellular identification information

85.-(1) The Central Equipment Identification Register shall maintain white list, black list and grey list.

(2) White list shall hold information on any mobile telephone used in any networks.

(3) Black list shall hold information of all reported lost or stolen or destroyed mobile telephone.

(4) Grey list shall hold information of any pair that does not fit in the white or black list.

(5) White, black and grey lists shall contain all unique mobile telephone number or as IMEI number pairs.

IMEI registration requirement

86. All cellular operators shall capture any pair of subscriber number and IMEI number generated in the network.

Sub register

87. Each Network Services Licensee shall maintain a sub-register containing all the entries submitted to the CEIR and update black list.

Loss of Mobile telephone

88. A subscriber shall report loss of his mobile telephone to the serving Network Services Licensee who shall accordingly effect such changes to the register.

Keeping of data base

89. Every subscriber information shall be kept within the Authority.

Power of Network Services licensee to blacklist stolen mobile telephones

90.-(1) A Network Services Licensee shall blacklist reported stolen, lost or damaged mobile telephones.

(2) The procedure to blacklist reported stolen, lost or damaged mobile telephone shall include -

(a) a consumer whose mobile telephone has been stolen, lost or damaged shall report to the Network Service Licensee; or

(b) the network services licensee shall block the SIM card and deactivate the stolen mobile telephone so that it cannot be used on any network in Tanzania.

(3) All licensee shall create a procedure on blacklisting mobile telephone and publish for consumer information.

(i) Subscribers Information

Subscribers Database

91.-(1) There shall be a database kept within the Authority in which all Subscriber Information shall be stored.

(2) The Authority shall take charge of monitoring and supervision of the information stored in accordance with sub-section (1).

(3) Every application services licensee shall be required to submit to the Authority once a month a list containing its subscriber's information.

(4) The Authority shall issue guidelines on details of subscribers information to be submitted.

List and information of dealers

92.-(1) Every application service licensee shall keep and maintain records of all dealers engaged in selling or distribution of SIM card.

(2) Every application service licensee shall submit to the Authority once a month a verified list of dealers or outlet nationwide which they engage.

(j) Detachable SIM card and built-in SIM card mobile telephone registration

Registration requirement

93.-(1) Every person who owns or intends to use detachable SIM card or built-in SIM card mobile telephone shall be obliged to register SIM card or built in SIM card mobile telephone.

(2) Any person who sells or, in any other manner provides detachable SIM card or built-in SIM card mobile telephone to any potential subscriber shall-

(a) where the potential subscriber is a natural person, obtain and fill in a form which contain the following information-
  (i) the full name of the potential subscriber;
  (ii) identity card number or any other document which proves identity of the potential subscriber; and
  (iii) residential and business or registered physical address, whichever is applicable;

(b) where the potential subscriber is a legal person, obtain and fill in relevant a form accompanied with a certified copy of-
  (i) certificate of registration or incorporation;
  (ii) business license;
  (iii) Tax Payer Identification Number Certificates; and
  (iv) where applicable, the Value Added Tax.

(c) obtain from the potential subscriber any other information which the person who sells or in any other manner provides the detachable SIM card or built-in SIM card mobile telephone deems necessary.

(3) Subject to the provision of sub-section (2), the application service licensee, operator or the distributor, agent, dealer authorised to sell or provide the detachable SIM card and, or built-in SIM card mobile telephone by the respective application service licensee or operator shall, before filling in the form , verify all the information obtained.

(4) Subject to the provisions of subsection (3), the licensee or respective distributor, agent or dealer authorized to sell or provide the detachable SIM card and, or built-in SIM card mobile telephone by the respective licensee shall retain in hard copy or electronically all photocopies of documents obtained under sub-section (2).

Provision of information

94.-(1) Any person desiring to own and use detachable SIM card or built-in SIM card mobile telephone shall before purchase thereof avail to the application service licensee or to the authorized distributor, agent, dealer or any person selling or distributing the detachable SIM card or built in SIM card mobile telephone all the information specified under section 93.

Submission of information

95. An authorised distributor, agent, or dealer dealing with, selling or distributing the detachable SIM card or built in SIM card mobile telephone shall within fifteen days from the date of sale or distribution submit to the respective Application Services Licensee all the information and documents obtained under section 93 of this Act.

Change of information

96.— Any change to the information required in detachable SIM card and, or built-in SIM card mobile telephone registration shall be registered with the Network Services Licensee or operator within fifteen days from the date of occurrence of such change.

Sale, distribution by dealer and use by subscriber

97.—(1) A dealer shall not sell or distribute in any manner a detachable SIM card or built-in SIM card mobile telephone without prior authorization of the respective application service licensee.

(2) Every subscriber shall in pursuant to the provisions of this section use a registered SIM card and, built in SIM card mobile telephone.

(3) Any subscriber or dealer selling or distributing detachable SIM card or built-in SIM card mobile telephone without prior authorization of respective application service licensee commits an offence.

(k) Duties of network service licensee or operator, agents and customers

Duty of confidentiality

98.-(1) A person who is member, employee of application service licensee, or its agent, shall have a duty of confidentiality of any information received in accordance with the provisions of this Act.

(2) No person shall disclose the content of information of any customer received in accordance with the provisions of this Act, except where such person is authorised by any other written law.

Disclosure of information by authorized person for official duties

99. A person shall not disclose any information received or obtained in exercising his powers or performing his duties in terms of this Act except -

(a) where the information is required by any law enforcement agency, court of law or other lawfully constituted tribunal;

(b) notwithstanding the provision of this section, any authorized person who executes a directive or assist with execution thereof and obtains knowledge of information of any communication may -

(i) disclose such information to another law officer to the extent that such disclosure is necessary for the proper performance of the official duties of the authorised person

making or the law enforcement officer receiving the disclosure; or

(ii) use such information to the extent that such use is necessary for the proper performance of official duties.

Duty to report theft, loss of mobile telephone or SIM card

100.–(1) Where a mobile telephone or detachable SIM card is lost, destroyed or stolen, the owner of that equipment or detachable SIM card shall report such loss, theft or destruction in person or through a person duly authorised by him to police and to the application service licensee or to whose network the owner subscribed.

(2) Any authorised person, who receives the report provided in subsection (1), shall provide the reporter with written proof of the report which shall be accompanied with a special number.

(3) The customer shall, at the time of filling a report, produce unique identity number of the lost, stolen or damaged detachable SIM card or mobile telephone.

Duty to use registered mobile telephone and SIM card

101. A person who owns, posses, or controls a mobile telephone or detachable SIM card shall have a duty to register mobile telephone or detachable SIM card.

Duty to report change of ownership of mobile telephone or SIM card

102.–(1) Any person who owns, possess or has control of mobile telephone or detachable SIM card shall have a duty to report any change of ownership or possession of mobile telephone or SIM card to the respective application services licensee or to the network, the owner is subscribed to.

(2) Any person who owns, possesses or has control of mobile telephone or detachable SIM card which was previously owned by another person shall have a duty to register that said mobile telephone or detachable SIM card as provided for under section 99 of this Act.

(l) Content Regulation

Regulation of content-related matters

103.—(1) The Minister may make regulations upon recommendation of the Committee on content related matters.

(2) In exercising its powers, the Authority acting upon recommendation of the Content Committee may make rules on content related matters.

Code of conduct for content services licensees

104.—(1)The code of conduct contemplated in this section shall—

(a) be binding on all Content Service Licensees;

(b) prohibit the provision of content which is indecent, obscene, false, menacing or otherwise offensive in character.

(2) Without derogating from the generality of subsection 1(b), the code of conduct shall be designed to achieve the following objectives—

(a) the protection of children;

(b) the exclusion of material likely to encourage or incite the commission of crime, from content provided by content service licensees;

(c) the presentation of comprehensive, accurate and impartial news;

(d) the presentation of religious material in a balanced and responsible manner;

(e) the protection of the public against offensive and harmful content;

(f) appropriate regulation of advertising and sponsorships; and

(g) the prevention of communication methods or techniques that communicate a message to viewers or listeners, or otherwise influence their minds, without their being aware, or fully aware, of what has occurred, or that has the potential for doing so.

Events of National Interest

105.–(1) The regulations pertaining to the provision of content regarding events of National interest shall-

(a) be designed to ensure that content regarding events of national interest shall be reasonably accessible to members of the public simultaneously with the occurrence of such events or without undue delay after the occurrence of such events;

(b) clearly identify the nature of events that fall to be categorized as events of national interest; and

(c) not interfere unduly with the commercial affairs of content service licensees.

(2) Events of National interest shall include, but not be restricted to significant sporting events that are of interest or importance to a substantial proportion of mainland Tanzanian society.

(3) The Authority shall make rules or regulations to regulate Subscription Content Service Provider from acquiring exclusive rights that prevent or hinder the public broadcaster from broadcasting sporting events that are of national interest.

News and current affairs

106.–(1) The regulations relating to news and current affairs shall be made to ensure that content service licensees provide news and information on current affairs-

(a) on a regular basis;

(b) that is accurate, balanced, impartial and fair; and

(c) dealing with international, regional, national and, where appropriate, local matters.

(2) The regulations relating to news and current affairs shall give due regard to the commercial interests of content service licensees.

Original and independent productions of local content

107.–(1) The regulations pertaining to local content, independent and original productions shall be made to-

(a) stimulate the production of content in mainland Tanzania;

(b) prevent the excessive provision by content applications service licensees of-

(i) content that is not relevant to, or not conducive to the development of, as appropriate, mainland Tanzanian society; and

(ii) which is already, or has previously been made, available to the public.

(2) The regulations pertaining to local content, independent and original productions may specify-

(a) the extent to which content service licensees shall provide and shall include-

(i) the content produced in mainland Tanzania;

(ii) the content produced by independent producers; and

(iii) the content of an original nature;

(b) the times of the day or week when such content is provided.

Use of official language

108. The Minister may make regulations on the use and promotion of the use of official languages in a content provided by Content Service Licensees.

Advertising and sponsor-ship

109. Without derogating from the generality of the power of the Authority to make rules pertaining the advertising and sponsorships of such rules it may include the following provisions -

(a) prohibiting, restricting or regulating advertisements of specified goods, products, services, activities, prohibiting, restricting or regulating specified forms and methods of advertising or sponsorship;

(b) prohibiting, restricting or otherwise regulating political advertising;

(c) restricting or otherwise regulating the extent of coverage of advertising and sponsorships which a Content Service Licensee may give in the provision of its service, including, but not limited to-

(i) the maximum amount of time to be allocated to advertisements in any hour or other period;

(ii) the minimum interval which elapse between any two periods allocated to advertising;

(iii) the number of such periods to be allowed in any hour or day;

(iv) the prominence that may be given to advertisements or sponsorships; and

(v) the exclusion of advertisements or sponsorships from a specified part of a licensed service.

Content of an educational nature

110.—(1) The rules made by the Authority in relation to the provisions of content of an educational nature may impose an obligation on Content Service Licensees, or on certain specified classes of Content Service Licensees, to ensure that a specified proportion of content provided by each one of them constitutes content of an educational nature.

(2) The rules contemplated in sub-section (1) shall -

(a) include an appropriate definition of the term "Content of an educational nature";

(b) specify the extent to which content service licensee-

(i) shall be obliged to finance the production of content of an educational nature; and

(ii) may acquire and provide content of an educational nature produced by other persons;

(c) include provisions designed to ensure that content of an educational nature provided by content service licensee;

(d) require content service licensees, or specified classes of content applications service licensees, to ensure that a specified proportion of the content provided by them constitutes content of an educational nature are-

(i) of high quality; and

(ii) suitable to meet the needs and requirements of mainland Tanzanian society;

(e) may distinguish between different categories of content of an educational nature and impose differential obligations on content service licensees in relation to such categories.

Content designed for visually-impaired and hearing-impaired persons

111.—(1)The regulations made by the Minister relating to the provision of content designed to cater for the needs and interests of persons with sight or hearing impairments may determine the following-

(a) the extent to which content service licensees, or certain specified classes of content service licensees, shall promote the understanding and enjoyment of content provided by such content service licensees by persons-

(i) who are deaf or hard of hearing;

(ii) who are blind or partially sighted; and

(iii) with a dual sensory impairment;

(b) the means by which such understanding and enjoyment should be promoted; and

(c) different classes of content to which such regulations or rules shall apply.

(2) The content by persons of the nature described in paragraph (a) of sub-section (1) shall include, but not be limited to the-

(a) accompaniment of content by subtitling;

(b) accompaniment of content by audio-description for the blind; or

(c) translation of content into sign language.

(3) In making rules under this section, the Authority shall have regard to the following -

(a) the extent of the benefit which is conferred by the relevant form of assistance for disabled people;

(b) the size of the intended audience or recipients of the content concerned;

(c) the number of persons who would be likely to benefit from the relevant form of assistance, and the extent of the likely benefit to them;

(d) the technical difficulty of providing the relevant form of assistance; and

(e) the cost of providing the relevant form of assistance.

Content of a political nature

112.—(1) Any regulation made by the Minister in relation to the provision of content of a political nature, other than political advertising, may-

(a) not prohibit content service licensees from providing content of a political nature;

(b) regulate the provisions of content of a political nature by Content Service Licensees in a manner which is consistent with the fundamental objectives, directives, principles , basic rights and duties set out in Parts II and III of the Constitution of the United Republic.

(2) The regulation under sub-section (1) may differentiate between different classes of Content Services Licensees and may establish and differential standards in respect of the provision of content of a political nature by such classes of Content Service Licensees.

Counter-versions

113.—(1) A Content Service Licensee shall broadcast a counter-version presented by any person affected by an assertion of fact in any programme transmitted by that licensee, if the person concerned claims that the assertion of fact is in fact false.

(2) Notwithstanding the provision of sub-section (1), a content service licensee shall not transmit a counter version where -

(a) the person or organization concerned has no direct interest in the transmission of the counter-version; or

(b) the counter-version is not of reasonable length, and in particular, if it is substantially longer than the part of the broadcast which dealt with the false assertion of fact;

(3) The counter-version referred to in subsection (1) shall-

(a) be limited to a factual account;

(b) not contain any material which may reasonably be anticipated to expose the content service licensee to legal action if such material were to be broadcasted;

(c) be made in writing;

(d) specify the programme and the assertions to which objection is raised; and

(e) be signed by the person affected or, in the case of an organization, by the Chief Executive Officer.

(4) No person or body of persons affected shall be entitled to insist on the transmission of a counter-version as contemplated in sub-section (1) where the counter-version is presented to the content service licensee after the expiry of a period of thirty days from the date of broadcast of the false assertion of fact.

(5) The Content Service Licensee shall, subject to the provisions of sub-sections (2) and (4)-

(a) at the first opportunity, but not later than ten days from receipt of a counter-version referred to in subsection (1), broadcast the counter-version within the same programme or programme section as the one in which the false assertion was made and at the same time of day or, not be possible, at time equal in value to that of the programme objected to;

(b) broadcast the counter-version without any omissions and interruptions; and

(c) broadcast the counter-version free of charge.

(6) A Content Service Licensee shall immediately upon receipt of the counter version referred to in sub-section (1) inform the Authority of that fact, and shall keep and store the programme objected to and the counter-version until the content service licensee receives a notice to the contrary from the Authority.

(7) This section shall not apply to a broadcast of a public meeting or of the National Assembly.

PART V
ENFORCEMENT

Power to take enforcement measures

114. The Authority may take enforcement measures against any person who contravenes licence conditions, regulations and provisions of this Act.

Powers to inspect

115.—(1) The Authority may appoint any person to carry out inspection for the purposes of this Act.

(2) An inspector or authorized officer of the Authority may carry out an inspection of an electronic communication service station, postal services station or office and either licence issued under this Act, plant, apparatus or premises used by licensees to provide the licensed services.

PART VI
OFFENCES AND PENALTIES

(a) Offences relating to electronic communications

Failure to observe licence requirements

116.—(1) Any person who installs, operates, constructs, maintains, owns or makes available network facilities without obtaining any relevant individual licence, commits an offence and shall be liable upon conviction to a fine of not less than five million

Tanzanian shillings or imprisonment for a term not less than twelve months or to both.

(2) Any person who provides network services without obtaining any relevant individual licence, commits an offence and shall be liable upon conviction to a fine of not less than six million Tanzanian shillings or imprisonment for a term not less than twelve months or to both.

(3) Any person who -

(a) provides application services without having first obtained any relevant individual licence;

(b) provides content services without having first obtained any relevant individual licence, or any relevant class licence commits an offence and shall be liable upon conviction to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both;

(c) imports, distributes, or sells electronic communication equipment or apparatus or; establishes, installs, maintains and operates an electronic communication system or imports non type approved electronic communication equipment or apparatus into the United Republic without a licence,

commits an offence and shall be liable upon conviction to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both.

Failure to observe assignment requirements

117.—(1) Any person who uses radio frequency spectrum without obtaining any relevant individual assignment, commits an offence and shall be liable upon conviction to a fine of not less than two billion five hundred thousand million Tanzanian shillings or imprisonment for a term not less than twelve months or to both and incase of continuing offence, to a fine of not less than seventy five

million Tanzanian shillings for everyday during which the offence continues after conviction.

(2) Notwithstanding the provision of sub-sections (1) and (3) any person who willfully contravenes or fails to comply with the conditions imposed on his licence granted under this Act in relation to the use of radio communication channel or frequency, shall have his licence cancelled.

(3) Any person who uses one or more numbers or electronic addresses without having first obtained any relevant individual assignment, or any relevant class assignment, commits an offence and shall be liable upon conviction to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both, and shall be liable to a fine of seven hundred and fifty Tanzanian shillings for every day during which the offence is continued after conviction.

Penalty for transmission of obscene communication

118. Any person who-

(a) by means of any network facilities, network services, applications services or content services, knowingly makes, creates, or solicits or initiates the transmission of any comment, request, suggestion or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person;

(b) initiates a communication using any applications services, whether continuously, repeatedly or otherwise, during which communication may or may not ensue, with or without disclosing his identity and with intent to annoy, abuse, threatens or harass any person at any number or electronic address;

(c) by means of any network services or applications service provides any obscene communication to any person; or

(d) permits any network services or application services under the person's control to be used for an activity described in section 117 (3),

commits an offence and shall, on conviction, be liable to a fine not less than five million Tanzanian shillings or to imprisonment for a term not less than twelve months, or to both and shall also be liable to fine of seven hundred and fifty thousand Tanzanian shillings for every day during which the offence is continued after conviction.

Penalty for failure to obtain radio frequency spectrum licence

119. Any person who uses radio frequency spectrum without having first obtained any relevant class license commits an offence and shall be liable upon conviction to a fine of five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both fine and imprisonment and in case of a continuing offence to a fine of not less than one million five hundred thousand Tanzanian shillings.

Penalty for interception of communi-cations

120. Any person who, without lawful authority under this Act or any other written law-

(a) intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept any communications; or

(b) discloses, or attempts to disclose to any other person the contents of any communications, knowingly or having reason to believe that the information was obtained through the interception of any communications in contravention of this section; or

(c) uses, or attempts to use the contents of any communications, knowingly having reason to believe that the information was obtained through the interception of any communications in contravention of this section,

commits an offence and shall, on conviction, be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than twelve months, or to both.

Authorized person discloses interception to others

121.–(1) Any person who is authorized under this Act intentionally discloses, or attempts to disclose, to any other person the contents of any communications, intercepted by means authorized by this Act-

(a) knowing or having reason to believe that the information was obtained through the interception of such communications in connection with a criminal investigation;

(b) having obtained or received the information in connection with a criminal investigation; or

(c) improperly obstructs, impedes, or interferes with a duly authorized criminal investigation,

commits an offence and shall, on conviction, be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than twelve months, or to both.

(2) It shall be lawful under this Act for an officer, employee or agent of any network facilities provider, network service provider, application service provider or content service provider whose facilities or services are used in communications, to intercept, disclose, or use those communications in the normal course of his employment while engaged in any activity which is a necessary incident to the performance of his facilities or services or to the protection of the rights or property of the provider of the facilities or services, but the provider shall not utilize the facilities or services for observing or random monitoring unless it is for mechanical or service quality control or checks.

Penalty for fraudulent use of network facilities, network services, applications service and content services

122. Any person who-

(a) dishonestly transmits or allows to be transmitted any communication or obtains a service provided by a licensed network facilities provider, network services provider, applications services provider or content services provider with intent to avoid payment of any rate or fee applicable to the provision of that facility or services; or

(b) posses, obtains or creates a system designed to fraudulently use or obtain any network facilities, network service, applications service or content service,

commits an offence and shall, on conviction, be liable to a fine not less than five million Tanzanian shillings or to imprisonment a for a term not less than two years, or to both.

Penalty for interference of transmission of electronic communications

123.–(1) Any person who without probable cause, interferes with or obstructs the transmission or reception of any electronic communications commits an offence and upon conviction shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than two years or to both.

(2) When a court is convicting a person of an offence under this section may in addition to any penalty that may impose, order forfeiture to the Authority of any electronic communication equipment or other material in relation to or in connection with the means the offence was committed.

(3) Not withstanding sub-section (2), no order for forfeiture shall be made by the Court where it is proved that the electronic communication equipment in question is not owned by the person so convicted.

Unauthorised access or use of computer system

124.-(1) There is hereby established a National Computer Emergency Response Team (CERT), which shall coordinate response to cyber security incidents at the national level and cooperate with regional and international entities involved with the management of cyber security incidents.

(2) The Minister may make regulations with respect to the composition and duties of CERT.

(3) Any person who secures unauthorized access to a computer or intentionally causes or knowingly causes loss or damage to the public or any person, destroy or delete or alter any information in the computer resources or diminish its value or

utility or affect it injuriously by any means, commits an offence and on conviction shall be liable to a fine not less than five hundred thousand Tanzanian shillings or to imprisonment for a term of not exceeding three months or to both.

(b) Offences and penalties relating to SIM card

Sale, transfer, or disposal of SIM cards without authority of Network Service Licensee

125. Any dealer or person who sells or distributes any SIM – cards without authorization of the appropriate Network Service Licensee shall be guilty of an offence and be liable on conviction to a fine of seven million Tanzanian shillings or to imprisonment for a term of two years or to both.

Failure to give satisfactory account of mobile telephone or SIM card

126. Any person who is found in possession of any mobile telephone or SIM - card in regard to which there is reasonable suspicion that it has been stolen and is unable to give a satisfactory account of such possession, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand Tanzanian shillings or to imprisonment for a term not exceeding three months.

Absence of reasonable cause for believing mobile telephone or SIM card properly acquired

127.-(1) Any person who in any manner acquires or receives into his possession from any other person a stolen mobile telephone or SIM card without having reasonable cause to believe that at the time of such acquisition or receipt that mobile telephone or SIM card was the property of the person from whom he acquires or receives it or that person has been duly authorised by the owner to deal with it or dispose of, is guilty of an offence.

(2) In the absence of evidence to the contrary which raises a reasonable doubt, proof of such possession is sufficient evidence of the absence of reasonable doubt.

(3) Any person who commits an offence under this section shall on conviction be liable to a fine of seven million Tanzanian shillings or to imprisonment a term of two years or to both.

Failure to report loss or theft of mobile telephone or SIM card

128. Any person who fails to report the loss, theft or destruction of a mobile telephone or SIM card commits an offence.

(2) Whenever a person is charged with an offence under sub-section (1) and it is proved that such person was, at the time, the owner or authorised possessor of the mobile telephone or SIM card alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such mobile telephone or SIM- card within seven days of a written request by a police or other law enforcement officer, shall, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the mobile telephone or SIM card has been lost, stolen or destroyed.

(3) Any person who commits an offence under this section shall on conviction be liable to a fine of three hundred thousand but not more than five hundred thousand Tanzanian shillings or to imprisonment for a term of six months or to both.

Tampering with mobile telephones and SIM card

129. Any person who, intentionally and unlawfully in any manner-

(a) tempers, modifies, alters, reconfigures or interferes with mobile telephone or SIM card or any part thereof; and

(b) reverse engineers, decompiles, disassembles or interferes with mobile telephone or SIM card, or any part thereof,

commits an offence and shall be liable on conviction to a fine of thirty million Tanzanian shillings or to imprisonment for a term not exceeding ten years or both.

Recording sale of mobile telephone and SIM card

130.–(1) Any person who sells or in any other manner provides, any mobile telephone or SIM card to any other person, natural or legal, without recording the particulars of that person as required by section 102 of this Act, commits an offence and on conviction shall be liable to a fine of three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

(2) Where the offender is a network service licensee or operator it shall be liable to a fine of fifteen million Tanzanian shillings.

(3) Where the offender is an employee of the Network Service licensee or a legal person, he shall be liable to the same penalty as provided under sub-section (1).

Use of unregistered SIM Card

131. Any person who knowingly uses or causes to be used an unregistered SIM card commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand Tanzanian shillings or imprisonment for a term not exceeding three months.

False information or statement

132. Any person who furnishes information or makes a statement knowing that such information or statement is false, incorrect or misleading or not believing it to be true, commits an offence and shall be liable on conviction to a fine of three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

Obstruction to perform duties

133. Any person who obstructs, hinders or interferes with an authorised person to execute any direction issued under this Act or assists with the execution thereof, commits an offence and shall be liable on conviction to a fine not exceeding three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

Offence of allowing use of black listed phone

134. Any Network service licensee who allows any black listed mobile telephones to operate commits an offence and shall be liable to a conviction to a fine of seventy five million Tanzanian shillings or imprisonment for a term of five years or to both.

Tampering with blacklisted phones

135. Any person who physically electronically tempers with any blacklisted mobile telephone commits an offence and shall be liable on conviction to a fine of one million five hundred thousand Tanzanian shillings or imprisonment for a term of five years or to both.

No prosecution if acts in course of employment or in good faith

136. No person shall be liable to prosecution for a contravention of this Act if he acts in the course of his employment or in good faith assists an authorised person and believes that such authorised person is acting in accordance with this Act.

Prohibitions in respect of radio communication and electronic communication equipment

137.—(1) No person shall –

(a) offer for sale, sell or possess for sale any electronic equipment; or communication broadcasting apparatus; or

(b) possess any radio communication equipment,

except in accordance with a licence issued under this Act.

(2) Any person who contravenes or fails to comply with sub-section (1) commits an offence.

(c) Offences relating to postal communications

Penalty for operating without postal licence

138. Any person who-

(a) conveys, otherwise than in accordance with the terms of a valid postal licence, and letter or postal article;

(b) performs any service incidental to conveying, otherwise than in accordance with the terms of a valid postal licence, any letter or postal article;

(c) sends, tenders or delivers in order to be sent otherwise than in accordance with the terms of a valid postal licence, any letter or postal article as aforesaid ;and

(d) makes a collection of letters or postal articles as aforesaid for the purpose of sending them otherwise than in accordance with the terms of a valid postal licence,

commits an offence and shall, be liable on conviction in case of a first offence to a fine of not less than five hundred thousand Tanzanian shillings and in the case of a subsequent offence, to a

fine of not exceeding four hundred and fifty million Tanzanian shillings for every day during which the offence continues.

Penalty for transmission of prohibited articles

139. Any person who sends by post any postal article or any thing which is injurious, indecent or prohibited under this Act, commits an offence and shall, on conviction, be liable to a fine not less than five million Tanzanian shillings or to imprisonment for a term not less than twelve month or to both.

Penalty for damaging or destroying letter boxes

140. Any person who places in or against any letter box provided public postal by the licensee for the reception of postal articles any fire, match or light, or any explosive, dangerous, filthy, noxious, or deleterious substance or any fluid, or commits a nuisance in or against any such letter box, or does anything likely to destroy or damage any such letter box or its appurtenances or contents, commits an offence and shall, on conviction, be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than twelve months or to both.

Penalty for affixing without authority anything to, or spoil the appearance of a post office

141. Any person who, without due authority affixes any placard, for advertisement, notice, list, documents, board or other thing in or on, or paints, tars, or in any way spoils the appearance of, any post office, commits an offence and shall, on conviction be liable to a fine of not less than five million Tanzanian shillings.

Penalty for unlawfully detaining mails or opening mail bags

142. Any person who, except under the authority of this Act or in obedience to the order in writing of the Minister or the Authority or the directions of a competent court, detains the mails or any postal article in the course of transmission by post or on any pretence opens a mail bag in course of transmission by post commits of an offence and shall, on conviction, be liable to a fine of not less than five million Tanzanian shillings.

Penalty for willfully retaining postal articles or mail bags

143. Any person who fraudulently retains or unlawfully secretes or makes away with or keeps or detains or when required by an authorised officer neglects or refuses to deliver up, any postal article in the course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, commits an offence and shall, on conviction, be liable to a fine of not less five million Tanzanian shillings or imprisonment for a term of not less than two years or to both .

Penalty for unlawfully diverting letters

144. Any person who, willfully and maliciously with intent to injure any other person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, commits an offence and shall, on conviction, be liable to a fine not less than five million Tanzanian shillings or imprisonment for a term of not less than six months or to both.

Penalty for unlawfully disclosing contents of postal article

145. Any person who reveals, discloses or in any way makes known the contents of any postal article opened under the authority of this Act, except so far as may be necessary for the purpose of returning the same or so far as may be authorised by the Authority in writing, commits an offence and shall, on conviction, be liable to a fine not less than five million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both.

Penalty for making fictitious stamps

146.—(1) Any person who-

(a) makes or knowingly alters, deals in, hawks, distributes, or sells any fictitious stamp or knowingly uses for postal purposes any fictitious stamp;

(b) has in his possession without lawful excuse any fictitious stamp;

(c) makes or without lawful excuse, has in his possession, any dye plate, instrument or materials for making any fictitious stamp; or

(d) makes issues or sends by post any stamped or embossed envelope, wrapper, card, form or paper in imitation of one issued under the authority of the licensee,

commits an offence and shall, on conviction, be liable to a fine of not less five million Tanzanian shillings or to imprisonment for a term not less than two years or to both .

(2) Any stamp, plate, instrument or materials found in the possession of any person in contravention of this Act shall be seized and forfeited.

(3) Forfeiture under this section may be declared by a Magistrate's Court, and all things forfeited shall be dealt with as the court may direct.

(4) Nothing in this section shall be held to exempt any person from any punishment to which he may be liable under any other law.

Prohibition of false notices as to reception of letters

147. Any person who, without authority from the Authority, places or maintains in or on any house, wall, door, window, box, pillar, or other place, belonging to him or under his control, any of the following words, letters, or marks-

(a) the words "post office" or "postal office";

(b) the words "letter box", accompanied with words, “letters”, or “marks”, which signify or imply or may reasonably lead the public to believe that it is a post office letter box;

(c) any words, letters, or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office, or that any box is a post office letter box,

commits an offence and shall, on conviction, in case of the first offence be liable to a fine not less than five million Tanzanian shillings and, on a subsequent conviction, to a fine of not exceeding three hundred for every day during which the offence so continues.

Offences by officer, employee or agent of a public postal licensee

148. Any officer, employee or agent of a public postal licensee who destroys or throws away any postal articles in the course of transmission by post or anything contained therein-

(a) steals or otherwise dishonestly misappropriates or secretes any postal article in the course or transmission by post or anything contained therein;

(b) except in obedience to an order under the hand of the Minister or the direction of a court, willfully opens or causes to be opened contrary to his duty any mail bag or postal article in the course of transmission by post or willfully detains or delays or causes to be detained or delayed the mail bag or postal articles;

(c) issues or causes to be issued a document specified for use in connection with the remittance of money with fraudulent intent;

(d) fraudulently puts any wrong official mark or a postal article;

(e) fraudulently alters, removes or causes to disappear any official mark on a postal article;

(f) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money which is not chargeable under this Act;

(g) sends by post, or puts into any mail bag any postal article upon which postage has not been paid or charged intending thereby to defraud the public postal licensee of the postage on the postal article;

(h) being entrusted with the preparation or custody of any document relating to the public postal licensee, fraudulently prepares the document incorrectly, or alters, or secretes or destroys the document; or

(i) being employed to carry or deliver any mail bag or postal article in the course of transmission by post does any act with intent to induce the belief that he has visited a place, or delivered a postal article or mail bag, which he has not visited or delivered,

commits an offence and shall be liable on conviction to a fine not less than five million Tanzanian shillings or to imprisonment for a term not less than three years or to both.

Obstruction of public postal licensee

149. Any person who -

(a) while on any premises used for the purposes of the business of a public postal licensee, intentionally obstructs the course of business of the licensee concerned; or

(b) assaults or intentionally obstructs or incites any person to obstruct or impedes an officer or employee of a public postal licensee in the performance of his duties,

commits an offence and on conviction shall be liable to a fine of five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Protection of installation or plant used by public postal licensee

150.–(1) No person shall, without the written approval of a public postal licensee -

(a) lay or carry any mains, pipes, conduits, circuits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for postal services;

(b) perform any work of laying, installing, construction or maintaining any equipment for postal services; or

(c) affix any placard, advertisement, notice or other thing in or on, paint, tar or in any way disfigure any installation or plant used for postal services.

(2) Any approval under sub-section (1) may be granted or withheld by the licensee concerned or may be granted upon such terms and conditions as the licensee concerned thinks fit to impose.

(3) Any dispute relating to the withholding of any approval under sub-section (1), or the terms and conditions attached to the granting or such approval, shall be referred to the Authority whose decision shall be final.

(4) Where an offence under sub-section (1) is due to the act or default of some other person, that other person shall be guilty of the offence and may be charged and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under sub-section (1), it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by sub-section (5) involves an allegation that the author of the offence was due to the act or default of another person, the person charged shall not without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(7) Any person who contravenes or fails to comply with the provision of sub-section (1) commits an offence and shall, in addition to the forfeiture of any equipment seized, be liable on conviction to a fine not less five million Tanzanian shillings and, in the case of a continuing offence, a fine not less than five million Tanzanian shillings for every day during which the offence continues after conviction.

(d) Additional offences and penalties

Damaging postal or electronic communi-cation installation or plant

151.—(1) Any person who willfully removes, destroys or damages any installation or plant used for postal or Electronic communication services commits an offence and shall be liable on conviction to a fine not less than one million shillings, or to imprisonment for a term not less than three years or to both.

(2) Notwithstanding sub-section (1), any person who damages or suffers to be damaged any cable of a communication system belonging to or under the management or control of a public postal licensee commits an offence and shall be liable on conviction to a fine not less than one million shillings, or to imprisonment for a term not less than three years or to both.

(3) Where an offence under sub-section (2) is committed by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under the provision sub-section (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the Authority of the offence.

General Offences

152.—(1) Subject to the specific penalties set forth elsewhere in this Act, any person who contravenes or fails to comply with a provision of this Act commits an offence and is liable on conviction, for each such breach, to a fine not less than five million Tanzanian shillings or to imprisonment term not less than twelve months or to both.

(2) Subject to any specific penalties set forth therein, any person who contravenes or fails to comply with a provision of a regulations, rules, guidelines, declarations, determinations or other decision issued pursuant to this Act, including, without limitation, in respect of interconnection, access and co-location rights and obligations, commits an offence and is liable on conviction, for each breach, to a fine of not less than five million Tanzania shillings or to imprisonment for a term not less than six months or to both.

(3) Any person who without lawful excuse contravenes or fails to comply with any term or condition expressed in a licence he holds, commits an offence and is liable on conviction, for each such breach, to a fine not less than five hundred thousand shillings.

(4) Any person who-

(a) fails or refuses to furnish a return to supply information in the manner and within the time prescribed by the Authority or furnishes a false or incomplete return or supplies false or incomplete information;

(b) on being required to do so, fails or refuses to produce to an inspector or a duly authorized officer of the Authority a license, book, record or any document relating to any electronic communication service, equipment or apparatus or relating to postal service which is in his possession or under his control; or

(c) obstructs, in any manner, an inspector or officer of the Authority to perform any duties authorized to be performed under the provisions of this Act,

commits an offence and is liable on conviction, for each such breach, to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Offences by body corporate

153. Where an offence under this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a director, manager or other principal officer of the body corporate or was purporting to act in such capacity shall, as well as such body corporate, be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Penalty for abetting, or attempting to commit offences

154. Any person who abets the commission of any offence punishable under this Act, or attempts to commit any offence so punishable, shall, on conviction, be liable to the penalty provided for that offence.

Power of the Authority to compound certain offences

155.—(1) Where a person commits an offence under this Act, the Director General may, at any time prior to the commencement of court proceedings -

(a) compound the offence other than offences related to theft fraud, forgery and other similar offences ; and

(b) order the person to pay a sum of money specified by the Director General but not exceeding the amount of the fine prescribed for the offence.

(2) The Director General may compound an offence under this section if the person concerned admits in writing that the person has committed the offence.

(3)

(3) Where the Director General compounds an offence under this section, in accordance with the order referred to in sub-section (1) **—**

(a) shall be in writing, specifying the offence committed, the sum of money to be paid and the date for payment and have attached the written admission referred to in sub-section (2);

(b) shall be final and no subject to any appeal; and
(c) may be enforced in the same manner as an order of the High Court for the payment of the amount stated in the Order.

(4) Where the Director General compounds an offence under this section, the person concerned shall not be liable for a penalty in respect with that offence.

Recovery of fee or royalty from person owing money to the licensee

156.–(1) Where this section applies, the Director General may by notice in writing require any person -

(a) owing or who may subsequently owe money to the licensee;
(b) holding or who may subsequently hold money for or on account of the licensee;
(c) holding or who may subsequently hold money on account of a third person for payment to the licensee; or
(d) having authority from a third person to pay money to the licensee,

and the payer shall pay, on account of and to the extent of the fee due by the licensee, the money to the Director General on the date specified in the notice.

(2) Any person who contravenes the provision of sub-section (1) commits an offence, and shall be liable on summary conviction to a fine twice the amount stated on the notice or in default to imprisonment for a term not less than two years or to both.

(3) The Director General shall serve the payer with the notice referred to in sub-section (1) and, as soon as practicable after that service, serve the licensee with a copy of the notice.

(4) The date specified in the notice under sub-section (1) shall not be a date before -

(a) the money becomes payable to the licensee; and

(b) the payer is served with the notice.

(5) A notice under sub-section (1) ceases to have effect where the fee or royalty with respect to which the notice is issued is paid or otherwise satisfied.

(6) Where a person served with a notice is unable to comply with the notice by reason of lack of moneys owing to, or held for, the licensee shall, as soon as practicable and in any event before the payment date specified in the notice, notify the Director General accordingly in writing setting out the reasons for the inability to comply.

(7) Where a notice is served on the Director General under subsection (6), the Director General may, by notice in writing -

(a) accept the notification and cancel or amend the notice issued under sub-section (1); or

(b) reject the notification.

(8) A person making a payment pursuant to a notice under subsection (2) is treated as having acted under the authority of the licensee and of all other persons concerned and is hereby indemnified in respect of the payment against or proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provision to the contrary in any written law, a contract or agreement.

(9) For the purpose of this section, "money" includes a debt obligation dominated or payable in money.

Suit for unpaid fees or royalty

157. A person who fails to pay fees or royalties to the Authority commits an offence and shall be liable in any court of competent jurisdiction.

Charges over assets

158.—(1) The Authority may cause a charge to be created in its favor over the assets of a licensee who has defaulted payment of fees or royalty on or before the date the fee or royalty is due.

(2) The Authority shall create a charge referred to in sub-section (1) by serving a licensee with a notice in writing specifying the licensee, the assets charged, the extent of the charge as provided for in sub-section (3), the licensee to which the charge relates and details regarding the Authority's power of enforcement under section 116.

(3) The assets of a debtor licensee charged under sub-section (2) are charged to the extent of the fee or royalty payable, interest accruing with respect to that fee or royalty and any costs of charge and sale.

(4) A charge created under sub-section (2) shall not have effect until -

(a) where interest in land or buildings is charged, the Authority files an application to register the charge under sub-section (6); and

(b) in any other case, the notice is served on the debtor licensee under sub-section (2).

(5) A charge created under sub-section (2) shall be released when the debtor licensee pays to the Authority in full the amounts referred to in sub-section (3) that are secured by the charge.

(6) Where the Authority creates a charge over an interest in land or buildings under sub-section (2), the Registrar of Titles or otherwise referred to as the Registrar shall, without fee, register the charge on the title of the interesting land or buildings.

(7) Where a charge over an interest in land or buildings is released under sub-section (5), the Registrar shall, without fee, remove the entry of the charge from the title of the interest in land or buildings within thirty days of the release.

(8) The activities of the Authority under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty

(9) The Authority may at any time serve on a debtor licensee a notice in writing specifying any costs of charge and sale with respect assets of the debtor licensee incurred by the Authority to the date of service and requiring the debtor licensee to pay those costs to the Authority by the date specified in the notice.

(10) For the purpose of this section " costs of charge and sale" with respect to assets means any expenditure incurred or to be incurred by the Authority or an authorized agent-

(a) under this section with respect to creating or releasing a charge over the assets; or

(b) under section 114 with respect to taking possession of, holding and selling the charged assets.

Sale of charged assets

159.—(1) The Authority shall notify the licensee of the Authority's intention to sell charged assets owned by the licensee.

(2) The notice issued under sub-section (1) may be incorporated into or accompany a notice referred to in section 158 and shall be in writing, served on the debtor licensee and specify-

(a) the charged assets, the Authority's intention to sell those assets and the proposed method and timing of the sale; and

(b) in the case of tangible assets that the Authority intends to take possession of, the manner in and the place at which the possession shall occur.

(3) The Authority-

(a) may take possession of tangible assets referred to in sub-section (1) notice, whether directly or through an authorized agent, at any time after the notice is served;

(b) for the purposes of taking possession, may enter at any time, any premises described in the sub-section (1) notice and request the assistance of the Police;

(c) shall, at the time of taking possession, provide the debtor licensee with an inventory of assets seized; and

(d) where the assets are tangible assets other than an interest in land or buildings, store the assets at the cost of the debtor licensee, at any place the Authority considers appropriate

(4) Where the Authority serves a debtor licensee with a notice under sub-section (1), the Authority may, after public notice, sell the charged assets but not before-

(a) where the charged assets are an interest in land or buildings thirty days after taking possession under sub-section (3);

(b) where the charged assets are perishable tangible assets, one day after taking possession under sub-section (3);

(c) where the charged assets are tangible assets other than those referred to in paragraph (a) or (b) , ten days after taking possession under subsection (3); and

(d) in any other case, ten days after service of notice under sub-section (1).

(5) The proceeds of sale under sub-section (4) shall be used to pay the costs of charge and sale of the assets sold, then to pay the fee or royalty due and interests accrued with respect to that fee or royalty and any remainder shall be paid to the debtor licensee.

(6) After applying sale proceeds in accordance with sub-section (5) the Authority shall serve the debtor licensee with a written notice detailing the manner in which the sale proceeds have been applied.

(7) If the proceeds of a sale applied in accordance with sub-section (5) are insufficient to pay in full the costs of the charge and sale, the fee and royalty due and interest accrued with respect to that fee or royalty, the Authority may proceed to collect the insufficiency with fresh actions charge and sale of other assets.

(8) This section does not restrict the exercise of any other avenues the Authority has for recovery of fees and royalties.

(9) The activities of the Authority under this section, irrespective of whether they result in the transfer of tittle to an asset, are exempt from stamp duty.

Proof of outstanding fees or royalty

160. In proceedings for recovery by the Authority of the outstanding fees or royalty, production of a certificate signed by the Director General of the Authority or a person acting on his behalf in that capacity stating the name and address of the debtor licensee and the amount of fees or royalty payable by the debtor licensee is *prima facie* evidence of the amount of fees or royalty payable by such licensee.

PART VII
MISCELLANEOUS PROVISIONS

Access to public land

161.-(1) A network facilities licensee or network services licensee shall, for the purposes of enabling the provision of any electronic communications service to the public-

(a) seek the consent of a local government authority or public body stating the nature and extent of the act to be done upon any public land;

(b) enter upon any public land under control of a local government authority or other public body in order to construct, erect, place, maintain, examine, alter or remove any line, pole or radio link installation which is, respectively, either the property of the

network facility licensee or is under the control of the network service licensee; and

(c) a local government authority or other public body may, upon request under paragraph (a), permit subject to such conditions, including the payment of service and property fees for the use of the property, time or more of execution of works, or for any other related activity undertaken by the telecommunication operator under the section as may be agreed between the telecommunication operator and the relevant local authority.

(2) A licensee dissatisfied with the terms or conditions imposed by a local government authority under paragraph (c), may apply to the land tribunal for the review of such terms conditions within thirty days without unduly interfering with the use and enjoyment of such public property.

(3) Where any significant damage to land or property is caused, by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to receive compensation for it from the network facilities licensee or network services licensee.

(4) The licensee shall, in respect of services operated, maintained or offered under his licence, take all proper and adequate safety measures to safeguard life or property, including exposure to any electrical emission or radiations emanating from equipment or installation or installation from such operations.

Access to private land and acquisition of private property

162.-(1) Where, for the purposes of enabling the provision of electronic communications service to the public, a network facilities licensee or network services licensee reasonably requires to enter upon private land, or to effect the acquisition of private property or an interest in private property, and no reasonable alternatives to such entry or acquisition exist, the network facilities licensee or network services licensee shall be entitled to seek and

obtain consent of the land or property owner for the entry onto such land or acquisition of such property or property interest.

(2) Where a network facilities licensee or network services licensee seeks to enter upon private land, or to effect the acquisition of private property or an interest in private property, a network facilities licensee or network services licensee shall provide notice of the proposed entry or acquisition to the owner of the land or property, and other land or the property owners who may reasonably be expected to be affected by the proposed entry or acquisition, and seek their written comments.

(3) Where the land or property owner and the network facilities licensee or network services licensee, as the case may be, cannot agree, the network facilities licensee or network services licensee may apply to the relevant authority having jurisdiction over such private land or property in order to request that the authority order the proposed entry or undertake the proposed acquisition under applicable land laws.

(4) Where any significant damage to land or property is caused, by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to receive compensation for it from the network facilities licensee or network services licensee.

Power of search and seizure

163.-(1) A police officer or an employee authorized by the Authority may, if he has reasonable grounds to believe that an electronic communication system or service has been established, installed, maintained, operated or provided in contravention of this Act or any regulations made there under or in breach of any licence issued by the Authority that the electronic communication equipment used is of a type that is not approved by the Authority in the case of any -

(a) communication equipment or any electronic communication system or service, other than any radio communication system or service, ether and

inspect any place in which the electronic communication equipment is used or the electronic communication system or service is established, installed, maintained, operated or provided, and may seize any electronic communication system or equipment found therein which appears to be used for or in connection with electronic communication; and

(b) radio communication system or service, enter any place in the United Republic or stop or board any vessel, aircraft or vehicle and inspect any place and may seize any radio communication system or equipment found therein which appears to be used for or in connection with radio communications.

(2) Where any police officer or any employee authorised by the Authority has reasonable grounds for believing that an offence has been or is being committed under sections 113, 114, 115 and 121, he may seize electronic communication system , equipment, radio communication system or equipment used in the commission of the offence.

(3) If there is no prosecution with regard to any equipment or system seized under this section, the equipment or system shall be taken and deemed to be forfeited to the Authority unless a claim is made within two months from the date of seizure.

(4) Any person asserting that he is the owner of the equipment or system may personally or by his authorized agent give written notice to the Authority that he claims the same.

(5) On receipt of the notice, the Authority may direct that the equipment or system be released or may refer the matter to a Resident Magistrate's Court or a District Court.

(6) The Resident Magistrate's Court or the District Court may proceed to the examination of the matter and upon examination shall order that the equipment or system be forfeited or released.

Admissibility of documents

164.–(1) Notwithstanding any other law to the contrary -

(a) any document, or copy of or extract from any document, relating to the affairs of any person that has been seized or obtained by;

(b) any statement of a person relating to the affairs of any person has been seized or obtained by; or

(c) any statement of a person relating to the affairs of the person that is made to, an officer of the Authority in accordance with the provisions of this Act, is admissible in any proceedings with respect to any offence under this Act.

(2) A document, copy, extract or statement is admissible under sub-section (1) irrespective of whether any person we induced to provide the document, copy or extract or making the statement by reason that the person was led to believe -

(a) that the Director General or any officer of the Authority might, on any terms, settle the institution or prosecution of proceedings, or

(b) that the decision of the Director General or any officer of the Authority as to whether to settle the institution or prosecution of proceedings would be influenced by the fact that the person confessed to being guilty of an offence and provided full facilities for investigation.

Regulations and Rules

165. The Minister may make Regulations to regulate multiplex operator and transition from analogue to digital broadcasting and any other regulations and Rules which are not inconsistent with this Act as he considers necessary or desirable to give effect to the provisions of this Act.

Requirement to put in place mechanisms to implement this Act

166.-(1) The licensee shall put in place mechanisms within its organization or its main agents for keeping information and register his customers as required by this Act.

(2) A licensee who contravenes the provision of subsection (1) commits an offence.

Registration of all subscribers after commence-ment of the Act

167. The licensee shall register all new subscribers within three months from the date of commencement of this Act.

PART VIII
TRANSITIONAL PROVISIONS

Transitional provisions and savings Cap.306 Cap.172

168.–(1) Notwithstanding the enactment and operation of this act in relation to the relevant sectors, any licence issued under the Tanzania Communications Act, the Broadcasting Services Act and Tanzania Communications Regulatory Authority Act, shall remain in force in accordance with the terms and conditions of such licence.

(2) Regulations or rules made under the repealed Acts shall, to the extent that they are not inconsistent with this Act, remain in force until they are revoked or replaced by regulations or rules made under this Act.

(3) The Minister or as the case may be the Authority, may, where it is necessary for the orderly transition to the regulatory framework introduced by this Act, by notice published in the *Gazette* make such modifications to regulations or rules made under the previous Acts as it is reasonably considered appropriate.

(4) This Act shall not operate so as to affect in a prejudicial way the rights of any person under a licence or permit granted prior to the commencement of this Act or any contract entered into prior to the commencement of this Act.

PART IX
CONSEQUENTIAL AMENDMENTS
(a) THE TANZANIA COMUNICATIONS REGULATORY AUTHORITY ACT

Constru-

169. This Part shall be read as one with the Tanzania

ction Cap. 172

Communications Regulatory Authority Act, hereinafter referred as "principal Act" .

Amend-ment of Section 3

170. The principal Act is amended in section 3 by deleting the following definitions:

"Review panel" and "Internal Review Committee".

Amend-ment of Section 15

171. The principal Act is amended in section 15(2) by-

(a) inserting between paragraph (a) and (b) the following-

"(b) such powers as provided for under the Second Schedule;"

(b) re-naming paragraph (b) as paragraph (c).

Amend-ment of Section 21

172. The principal Act is amended in section 21 by -

(a) inserting immediately after section 21 the following new section.

"Judicial proceedings where the Authority is not a party

22.–(1) In any judicial proceedings to which the Authority is not a party and which deal with the interpretation or application of this Act or any regulations made or licence issued under this Act, or in which any matter related to electronic or postal communications arises, the court before which such proceedings are being conducted may, upon its own initiative or at the request of any party to such proceedings, require the Authority to make oral or written submissions to the court within such period as the court may specify.

(2) The powers of the court under sub-section (1) shall be subject to the following:

(a) the Authority shall not be obliged to make any submissions unless the matter in respect of which such submissions are required relates specifically to electronic or postal communications;

(b) any submissions made by the Authority shall be -

(i) considered by the court but not be binding upon the court;

(ii) confined to the legal and technical issues relevant to the proceedings concerned, and shall not deal with the factual aspects of those proceedings unless the court specifically require the Authority to make submissions on such factual aspects;

(iii) made on oath to the extent that they deal with the factual aspects of the proceedings

concerned, as contemplated in paragraph (ii) of this sub-section.

(c) the parties to the proceedings shall be entitled to -

(i) reply to or comment on any submissions of a legal or technical nature made by or on behalf of the Authority; and;

(iii) reply to or comment on any written submissions on factual matters made by or on behalf of the Authority, and cross-examine any person who gives oral evidence on factual matters on behalf of the Authority.

(3) No member or employee of the Authority shall be held personally liable for any act or default of the Authority done or omitted *bona fide* in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the Authority.

(b) re-numbering sections 13, 14, 15, to 80 as sections 14, 15, 16 to 81 respectively.

Amend-ment of section 26

173. The principal Act is amended in section 26(2) by deleting paragraph (a) and substituting for it the following -

"(a) The Board shall appoint within its members one member to be the chairperson of the Committee; and"

Amend-ment of section 27

174. The principal Act is amended in section 27 by inserting immediately after section 27 the following new sections:

"Functions of the Committee

27A.–(1) In addition to the functions conferred upon it by the Authority in terms of section 30 of this Act, the Committee shall -

(a) as soon as reasonably practicable after the commencement of this Act, make recommendations to the Minister or the Authority, as the case may be, regarding the making of regulations and rules of the content of services provided by content service licensees and, in particular, regarding the following aspects-

(i) a code of conduct applicable to different market segment of content provided by content services licensees;

(ii) the provision of content relating to events of national interest;

(iii) the provision of content relating to news and current affairs;

(iv) the extent to which content provided by content applications service licensees should be produced in the United Republic, should constitute original productions and should be produced by independent producers;

(v) the languages in which content is to be made available by content service licensees;

(vi) the provision of content of an educational nature;

(vii) the provision of content designed to cater for the needs and interests of deaf and visually-impaired persons;

(viii) the provision of content of a political nature;

(ix) advertising and sponsorships;

(x) protection of children; and

(xi) community broadcasting.

(b) from time to time, as it deems necessary, make recommendations to the Minister and the Authority, as the case may be regarding:

(i) the amendment or revocation of regulations or rules made by the Minister or the Authority pursuant to recommendations made by the Committee in terms of paragraph (a) of this sub-section;

(ii) the introduction of such new regulations or rules relating to matters listed in paragraph (a) of this sub-section (1) or relating to matters reasonably incidental to the matters so listed.

(2) The power of the Minister in terms of section 33 of this Act to give directions to the Committee shall not apply to the formulation of recommendations under sub-section (1).

(3) In exercising its power of making recommendations to the Minister or the Authority in terms paragraph (a) of sub-section (1) of this section, the Committee shall-

(a) seek to promote the development and growth of the communications industry in the United Republic;

(b) have due regard to the rights to freedom of expression and information entrenched in Article 18 of the Constitution;

(c) promote the dissemination of a diverse range of information, education content and the provision of entertainment which, when viewed collectively, caters for all language, cultural and other interest groups;

(d) endeavor to promote investment in, and the stability of, the communications industry;

(e) seek to facilitate the achievement of the objectives listed in section 13 of this Act;

(f) promote standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in content provided by content applications service licensees;

(g) promote standards, in relation to content provided by content applications service licensees, that provide adequate protection to members of the public and other persons from-

(i) unfair treatment in such content; and

(ii) unwarranted infringements of privacy.

(4) The Minister or the Authority shall, after receipt of a recommendation from the Committee, make regulations or rules of the nature contemplated in such recommendation.

Committee's procedure

27B.–(1) Whenever the Committee intends to make recommendations to the Minister or the Authority regarding the making of regulations and rules, as contemplated in subsection (2) of section 31, the Committee shall publish a notice in the *Gazette*-

(a) expressing its intention to make the proposed recommendations

(b) specifying the subject matter of the proposed recommendations;

(c) inviting interested persons to make written or oral submissions, or both written and oral submissions, as the Committee in its discretion may determine, in relation to

the subject matter of the proposed recommendations; and

(d) specifying the time periods for the making of such submissions.

(2) Any interested person shall be entitled to make submissions to the Committee in the manner and within the period specified in the notice contemplated in subsection (1), regarding the proposed recommendations.

(3) After considering all submissions by interested parties, it shall publish its draft recommendations in the *Gazette*, together with an invitation to interested parties to submit written comments on the draft recommendations to the Committee within twenty one days of the publication of such invitation.

(4) The Committee after considering the comments made by interested parties in terms of subsection (3), the Committee shall make its recommendations to the Minister or the Authority, as the case may be and shall simultaneously give notice in the *Gazette* of such recommendations.

(5) The Authority shall make rules or regulations to regulate acquisition by the Subscription Content Service Providers of exclusive rights for broadcasting sporting events that are of national interest.

(6) The Content Service Providers shall comply with copyright law and regulations.

(7) The Subscription Broadcasting Licensees shall apply encryption to prevent access to unauthorized subscription of their content.

(8) The Subscription Broadcasting Licensees shall comply with broadcasting flag provision."

Amendment of sections 33 and 34

175. The principal Act is amended in sections 33 and 34 by repealings them.

Amendment of section 35

176. The principal Act is amended in section 35 by deleting the whole of it and substituting for it the following:

"Decision be placed on the public register

35.–(1) A decision by the Authority, a Committee of the Authority, member or employees of the Authority shall, if there is no preference of an appeal against such decision, be placed on the Public Register.

(2) Where there is an appeal or intended appeal against a decision of the Authority, a Committee of the Authority or a member or employee of the Authority, that decision shall not be placed on the Public Register until the appeal is determined."

Amendment of section 41

177. The principal Act is amended in section 41 as renumbered by deleting the whole of it and substituting for it the following-

"Procedure and powers of the Authority

41.—(1) The Authority may make an order requiring a party to -

(a) supply goods or services for specified periods;

(b) to pay the costs of another party or of a person appearing at the hearing or producing documents;

(c) to pay the costs of another party or of a person appearing at the hearing or producing documents.

(2) Without prejudice to the generality of subsection (1), the Authority may make further order -

(a) dismissing a complaint;

(b) imposing fines;

(c) for specific performance;

(d) for refunds;

(e) appointing trustees;

(f) setting up of escrow accounts; and

(g) for such other relief as may be deemed necessary or reasonable."

Amendment of section 42

178. The principal Act is amended in section 42 as renumbered by inserting immediately after subsection (4) the following -

"(5) Any decision of the Authority in exercising regulatory powers granted under this Act shall be given effect to, whether or not the aggrieved party institutes or intends to institute an action in a court of law, quasi judicial body or makes any further representations to the Authority after the decision is made."

Amend-ment of section 45

179. The principal Act is amended in section 45 as renumbered by -

(a) deleting sub-section (3) and substituting for it the following:

"(3) A compliance order may require a person to refrain from the conduct which is in contravention of the provisions of this Act or regulations made under this Act or sector legislations to take actions required to be taken in order to comply with this Act or to pay fine as accessed by the Authority."

(b) inserting immediately after sub-section (6) the following new subsections:

"(7) Any person who willfully delays or obstructs an inspector or a police or other authorized officer in the exercise of powers conferred upon him by or under this Act; commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding twenty four months or to both that fine and that imprisonment.

(8) A court convicting a person of an offence under this Act may, in addition to any penalty that it may impose, order the forfeiture to the government of any electronic communication or broadcasting apparatus or other material in relation to it in connection with or by means of which the offence was committed.

(9) Notwithstanding sub-section (2), no order of forfeiture shall be made where it is proved that the broadcasting apparatus in question is not owned by the person so convicted, and if the owner proves that he did not have any knowledge of the unlawful use of the apparatus by the person so

convicted and could not have reasonably prevented such use."

Amend-ment of section 47

180. The principal Act is amended in section 47 as renumbered by deleting the words "five hundred" appearing at the end of sub-section (4) and substituting for it the word "three thousand".

Amend-ment of section 48

181. The principal Act is amended in section 48 as renumbered by deleting sub-section (7) and substituting for it the following -

"(7) For the purpose of the provision of this section, a penalty for non-compliance of an order of the Authority made under this Act shall be a fine which shall be equal to a civil debt as assessed by the Authority."

Amend-ment of section 51

182. The principal Act is amended in section 51 as renumbered by deleting subsection (2) and substituting for it the following subsection-

"(2) The accounts of the Authority may at any time and shall, at the end of each financial year, be audited by a person registered as an auditor under the Accountants and Auditors (Registration) Act, appointed by Controller and Auditor General in consultation with the Authority."

Cap.286

Amend-ment of the Schedule

183. The principal Act is amended by inserting immediately after the First Schedule the following new Second Schedule –

"SECOND SCHEDULE

———

Made under section 15, 16 and 17

———

POWERS OF THE AUTHORITY

1. To grant radio frequency licences for electronic communication purposes and to supervise and enforce compliance with the provisions of such licences.

2. To grant licences for operating electronic communication and postal services and to supervise and enforce compliance with the provision of such licences.

3. To give directions to any person granted a licence under this Act or any regulations made thereunder.

4. To levy such charges and fees for the granting of licences, radio frequency spectrum rights, administration of radio frequency spectrum registrations, equipment approvals, sellers of electronic communication equipments and electronic communication apparatus and other services provided by the Authority as may in its opinion be appropriate.

5. To give general guidelines in determination of tariffs.

6. To lay down standards and codes of conduct to be observed by all operators and users of electronic communications and postal system and services.

7. To regulate the interconnection of and access to systems of operators of electronic communication and postal systems and services.

8. To control and regulate the management and allocation of numbering plans and schemes electronic communications and postal systems and services.

9. To control and regulate and interference to electronic communications system in the United Republic by radio waves or, electrical or other means.

10. To control and regulate the importation for sale dealing in and use of electronic communication equipment and electronic apparatus.

11. To utilize all the property of the Authority, movable and immovable, in such manner as the Authority may think expedient including the raising of loans by mortgaging such property.

12. To lease or let, with or without taking a premium, any property vested in or acquired by it or to grant easements, rights of way, temporary licences or other rights or privileges over, under through of in respect of any land or building belonging to or vested in the Authority upon such terms and conditions as the Authority think fit.

13. To carry out such other works or activities as may appear to the Authority to be requisite, advantageous or convenient in pursuance of its regulatory role with a view to making the best use of any of the assets of the Authority.

14. To engage in conjunction with other authorities, international agencies or organizations in matters or regulation for the purposes of promotion electronic communication and postal systems and services.

15. to enter into all such contracts for the supply of goods or materials or for the execution of works or any other contract as may be necessary for the discharge of its duties and functions under this Act.

16. To receive and process complaints by users of electronic communication and postal services.

17. To impose sanctions set by regulations for the violation by any licensed operator of any law or under the terms of its licence.

18. To conduct administrative processes and hearing to resolve technological issues, inter-carrier disputes, user complaints or other matters which affect the structure and functioning of the electronic communication or postal sectors of the United Republic.

19. To ensure the proper maintenance of accounting systems by all licensed operators.

20. To guarantee equal access to monopoly or other licensed electronic communications.

21. To homologate and establish a process for authorization of equipment permitted to be connected to the electronic communications network in the United Republic.

22. To homologate and establish a process for authorization of equipment permitted to be connected to the electronic communications network in the United Republic.

23. To research and report on new technologies.

24. To keep the government appraised of obligations under international electronic communications treaties.

25. To oversee compliance with international electronic communications treaties.

26. To cooperate technically with the government and to define strategic policy.

27. To propose national technological development.

28. To propose international electronic communications and postal policy to the government.

29. To prepare policies for development of the national technology.

30. To create criteria for the opening and restructuring of services as and where appropriate and to ensure the compatibility of public systems, interconnection and quality of service.

31. To resolve issues of interconnection between networks where the operators involves are not able to reach agreement on terms of interconnection.

32. To inform the public of reports, studies and regulations as and when published.

33. To announce in a local gazette and invite comment by interested parties on new contemplated regulation or policies.

34. To do field investigations concerning:

(a) compliance by licensed operators with the law and the terms of their licences;
(b) any allegation that a non-licensed operator is providing service;
(c) any complaints filed by or against licensed or no-licensed operators;
(d) ensuring that licensed operators are providing only those services permitted by their licences;
(e) periodic measuring of quality of service;
(f) periodic sampling of users as to quality and extent of service.

35. To receive, review and evaluate accounting and other reports required to be filled by operators.

36. To raise public awareness to the structure and regulation of the electronic communications and postal sectors.

37. To conduct or to supervise the conduct of proficiency examinations which are conditional to the grant of licences by the Authority.

38. To receive donations and contributions from any source and raise funds by all lawful means.

39. To do any other act or thing incidental to any of its functions."

(b) AMENDMENT OF THE FAIR COMPETITION ACT, CAP 285

Construction Cap 285

184. The Fair Competition Act here in after referred to as the "principal Act is amended.

Amendment of section 65

185. The principal Act is amended by adding immediately after subsection (4) the following-

"Advice to the Fair Competition Authority

"65(5). Where, in the course of performing its functions under this Act, the Fair Competition Authority, encounters any matter related to electronic or postal communications, as those terms are defined in the Electronic and Postal Communications Act, it shall request the written advice of the Tanzania Communications Regulatory Authority on such matter and, upon receiving such request, the Tanzania Communications Regulatory Authority shall have the power to provide the Fair Competition Authority with such advice."

Repeals Cap. 306

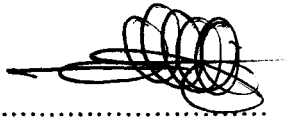
186.-(1) The following enactments are hereby repealed:

Cap. 302

(a) the Broadcasting Services Act; and

(b) the Tanzania Communications Act.

Passed in the National Assembly on the 29th January, 2010.



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Clerk of the National Assembly