

Unofficial Translation Only

**Kingdom of Bahrain
The Official Gazette**

Annex to Issue No. 2553, Wednesday, 17 Sha'aban 1423 (h). (23 October, 2002)

Fifty-fifth Year

TABLE OF CONTENTS

	Page
LEGISLATIVE DECREE NO. 48 OF 2002 PROMULGATING THE TELECOMMUNICATIONS LAW	1
THE TELECOMMUNICATIONS LAW	3
CHAPTER 1	3
SECTION (1) Definitions	3
CHAPTER 2 THE AUTHORITY	7
SECTION (2) Establishment of the Authority	7
SECTION (3) Duties and Powers of the Authority	7
CHAPTER 3 THE BOARD OF DIRECTORS	10
SECTION (4) Appointment and Cessation of Membership	10
SECTION (5) Functions and Powers of the Board	10
SECTION (6) Meetings	10
SECTION (7) Conflict of Interests	11
CHAPTER 4 THE GENERAL DIRECTOR	11
SECTION (8) Appointment and Vacancy of Office	11
SECTION (9) Authority	12
SECTION (10) Remunerations	12
SECTION (11) Resignation of General Director	12
SECTION (12) Removal of General Director	12
SECTION (13) Structure of the Authority	12
SECTION (14) Employment and Remuneration of Staff	13
CHAPTER 5 THE MINISTER	13
SECTION (15) Responsibilities of the Minister	13
SECTION (16) Independence of the Authority	14
CHAPTER 6 FINANCIAL AND RELATED MATTERS	14
SECTION (17) Annual Accounts, Report and Audit	14
SECTION (18) Funding of the Authority	15
SECTION (19) Expenditure	16
SECTION (20) Borrowing Powers	16
SECTION (21) Conflict of Interests	17
SECTION (22) Outside Employment of the General Director and the Authority's Staff	18
SECTION (23) Confidentiality	18
CHAPTER 7 LICENSING AND EQUIPMENT APPROVALS	18
SECTION (24) Telecommunications License Requirement	18
SECTION (25) Grant of Telecommunications Licenses	18
SECTION (26) Requirements Related to Preferred and Class Licenses	19
SECTION (27) Submission of the License Application	19
SECTION (28) Contents of a Telecommunications License	19
SECTION (29) Individual Licenses	20
SECTION (30) Renewal of an Individual License	21

TABLE OF CONTENTS

(continued)

	Page
SECTION (31) Modification and Revocation of Individual Licenses	21
SECTION (32) The Class License.....	22
SECTION (33) Renewal of Class License.....	22
SECTION (34) Modification and Revocation of Class Licenses	22
SECTION (35) Ensuring Compliance with Preferred and Class Licenses.....	23
SECTION (36) Appealing Against Decisions and Orders	24
SECTION (37) Effects of Termination of a License	24
SECTION (38) Approval of Equipment and Designation of Standards.....	24
CHAPTER 8 TIME TABLE FOR INTRODUCING COMPETITION	25
SECTION (39) Time Table for Issuing Licenses for Introducing Competition.....	25
SECTION (40) Time Table for Other Matters	26
SECTION (41) Bahrain Internet Exchange	27
CHAPTER 9 RADIOCOMMUNICATIONS.....	28
SECTION (42) Oversight over Telecommunications Frequencies	28
SECTION (43) Frequency License.....	28
SECTION (44) Grant of a Frequency License	28
SECTION (45) Contents of a Frequency License	29
SECTION (46) Use of Radiocommunications Stations for Navigation Purposes.....	29
SECTION (47) Migration of Frequencies	30
SECTION (48) Compliance with International Treaties and Other Legislation	30
SECTION (49) Preventing Harmful Interference with Radiocommunications.....	30
SECTION (50) Obligations of a Frequency Licensee	30
SECTION (51) Modification and Revocation of a Frequency License.....	30
CHAPTER 10 REGISTER, INFORMATION AND DISPUTES AMONG LICENSEES AND SUBSCRIBERS	31
SECTION (52) Register.....	31
SECTION (53) Undertaking to Provide the Authority with Information.....	32
SECTION (54) Publication of Information	32
SECTION (55) Procedures for Dealing with Complaints	33
SECTION (56) Disputes Between Operators and Subscribers.....	33
CHAPTER 11 INTERCONNECTION AND ACCESS.....	33
SECTION (57) Interconnection and Access.....	33
CHAPTER 12 TARIFFS CONTROL	35
SECTION (58) Tariffs for Telecommunications Services	35
CHAPTER 13 PUBLIC AND PRIVATE PROPERTY	36
SECTION (59) Use of Public Property	36
SECTION (60) Protection of the Environment and Historic and Touristic Sites.....	36
SECTION (61) Use of Private Property	36
SECTION (62) Expropriation.....	37
SECTION (63) NATURAL obstructions	38

TABLE OF CONTENTS

(continued)

	Page
CHAPTER 14 UNIVERSAL SERVICE	38
SECTION (64) Universal Service Obligations.....	38
CHAPTER 15 PROMOTION OF COMPETITION	39
SECTION (65) Anti-Competitive Conduct	39
CHAPTER 16 ARBITRATION	41
SECTION (66) Resorting to Arbitration.....	41
SECTION (67) Arbitration Rules and Procedures.....	41
SECTION (68) Formation of the Arbitration Panel	41
SECTION (69) Impartiality and Independence of the Arbitration panel	42
SECTION (70) Publication of the Decisions of the Arbitration Panel.....	42
SECTION (71) Finality of the Decisions of the Arbitration Panel.....	42
CHAPTER 17 COMPLAINTS AND PENALTIES.....	42
SECTION (72) Complaints Submitted to the Authority.....	42
SECTION (73) Penalties.....	43
SECTION (74) Use of Fraudulent Means	44
SECTION (75) Diversion, Interception and Disclosure of Messages	45
SECTION (76) Liability of a Juristic Entity.....	45
CHAPTER 18 INSPECTION AND SUPERVISION PROCEDURES	45
SECTION (77).....	45
CHAPTER 19 NATIONAL SECURITY	46
SECTION (78) Licensees' Obligations Concerning National Security	46
SECTION (79) National Safety and Martial Law	47
CHAPTER 20 TRANSITIONAL PROVISIONS	47
SECTION (80) Harmonization of Circumstances	47
SECTION (81) Invalidation of Prior Powers.....	48

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

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

After perusal of:

the Constitution;

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

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

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

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

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

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

Legislative Decree No. 27 of 1981 concerning Martial Law;

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

Legislative Decree No. 15 of 1986 concerning tourism, as amended by Legislative Decree No. 12 of 1994;

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

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

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

Legislative Decree No. 11 of 1995 for the protection of antiquities;

Legislative Decree No. 21 of 1996 regarding the environment, as amended by Legislative Decree No. 8 of 1997;

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

the Civil Law promulgated by Legislative Decree No. 19 of 2001;
the Commercial Companies Law promulgated by Legislative Decree No. 21 for 2001;
Legislative Decree No. 28 of 2002 regarding electronic transactions;
the Law regulating Governmental Tenders and Purchases promulgated by Legislative Decree No. 36 of 2002;
the Criminal Procedural Law promulgated by Legislative Decree No. 46 of 2002;
and on the basis on the proposal submitted by the Minister of Transportation, and after the approval thereof by the Council of Ministers,

Decree the following Law:

The First Article

The provisions of the law attached hereto shall apply to telecommunications.

The Second Article

The provisions of the law attached hereto shall govern all telecommunications except radio frequency spectrum, telecommunications networks and services used by the Bahrain Defence Forces and all security organs.

The Third Article

Every contrary provision shall be superseded by the provisions of the attached Law. This Law shall be construed in accordance with the provisions of the relevant international conventions applicable in the Kingdom and the regulations of any international body or commission or organization operating in the field of telecommunications in which the Kingdom is a member.

The Fourth Article

The Prime Minister and the Ministers shall, each according to his Authority, implement the provisions of this Law which shall take effect on the day following the date of its publications in the Official Gazette.

Bahrain

King of the Kingdom of
Hamad Bin Isa Al Khalifa

The Prime Minister
Khalifa Bin Salman Al Khalifa

The Minister of Transportation
Ali Bin Khalifa Al Khalifa

Issued at Al-Rifa Palace:

Date: 17 Sha'aban 1423 (h) (23 October, 2002)

THE TELECOMMUNICATIONS LAW

CHAPTER 1

SECTION (1) DEFINITIONS

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

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

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

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

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

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

“**Authority**”: the Authority regulating telecommunications that is established by virtue of the provisions of this Law;

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

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

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

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

“**Chairman**”: the Chairman of the Board of Directors of the Authority;

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

“Domestic Roaming”: the ability of the Subscribers of one holder of a mobile telecommunications License to use their handsets while in the telecommunications service area of another holder of a mobile telecommunications License;

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

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

“Frequency License”: a License for the use of Telecommunications Frequency granted in accordance with the provisions of Section 44 of this Law;

“General Director”: the Authority’s General Director appointed in accordance with the provisions of Section 8 of this Law;

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

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

“Interconnection”: the physical and logical linking of Telecommunications networks used by the same or a different organisation in order to allow the Users of one organisation to communicate with Users of the same or another organisation, or to Access services provided by another organisation;

“Kingdom”: the Kingdom of Bahrain

“License”: a Telecommunications license or a Frequency License;

“Licensed Operator”: a Person who is licensed to operate a Telecommunications Network or to provide a Telecommunications service under Section (25) of this Law;

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

“Local Exchange”: the facility in the Public Telecommunications Network to which User lines are connected within the same Local Exchange area;

“Minister”: the Minister with responsibility for the Telecommunications sector;

“Ministry”: the Ministry with responsibility for the Telecommunications sector;

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

“National Frequency Plan”: the national plan for radio frequency spectrum allocations prepared and managed by the Radiocommunications Authority;

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

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

“Notice”: a letter sent to the addressee by certified mail;

“Number Portability”: a capability whereby a Subscriber to a Telecommunications service from the holder of one national fixed service License who so requests can retain his telephone number when changing service from that holder to another holder of a national fixed service License or whereby a Subscriber to a Telecommunications service from the holder of one mobile Telecommunications license changes services from that holder to the holder of another mobile Telecommunications license;

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

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

“Person”: any natural or artificial person or public authority;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2 THE AUTHORITY

SECTION (2) ESTABLISHMENT OF THE AUTHORITY

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

SECTION (3) DUTIES AND POWERS OF THE AUTHORITY

- (a) The Authority shall carry out its duties and exercise its powers efficiently, effectively, regularly, reasonably and in a non-discriminatory and transparent manner.
- (b) The Authority undertakes in carrying out its duties relating to Telecommunications services in the manner best calculated to:
- 1 protect the interests of Subscribers and Users in respect of:
 - the tariffs charged for services;
 - availability and provision of service;
 - quality of services; and
 - protection of Personal particulars and privacy of services;
 - 2 promote effective and fair competition among new and existing Licensed Operators; and
 - 3 ensure, when assessing applications involving provision of Public Telecommunications Services, that any applicant or any Person to whom any such service falls to be provided, shall be able to provide those services.

(c) The Authority shall have the power to:

- 1 issue regulations, orders and determinations as may be necessary for the implementation of the provisions of this Law, including in particular regulations, orders and determinations in connection with technical standards and rules, Licenses and payment of License fees, licensing, frequency migration, accounting separation, Interconnection, Access to the network and its facilities, services tariffs, Access to, acquisition and removal of encumbrances on real property, numbering, Universal service, the promotion of competition, equipment approvals, compliance with License conditions and all other matters covered by this Law or the resolution of which is necessary to give effect to the provisions of this Law;
- 2 monitor and investigate compliance with the provisions of this Law and any regulations, orders and determinations made hereunder, both on its own initiative and at the request of any Person, and making such orders and determinations as are necessary to ensure compliance in accordance with this Law and any such regulations, orders and determinations including ordering a Licensee to be reconstituted into two or more entities, if necessary;
- 3 give final decisions as to applications for Licenses in accordance with the provisions of this Law;
- 4 monitor and enforce compliance with License terms by Licensees;
- 5 propose and effect modifications to Licenses where appropriate in accordance with the provisions of this Law;
- 6 set and collect application, initial, annual and renewal fees for Licenses, collect fines and fees under any License and, where appropriate, collect fees for services provided by the Authority;
- 7 assist the Authority responsible for Radiocommunications in relation to the preparation of the National Frequency Plan as it applies to Telecommunications Frequencies;
- 8 co-ordinate Telecommunications Frequency Assignments with the competent authorities of other countries in accordance with the applicable requirements of the International Telecommunications Union;
- 9 in co-ordination with the Authority responsible for Radiocommunications, publish and update a national register of Telecommunications Frequency allocations and publish regulations related to Telecommunications frequencies;
- 10 License Telecommunications frequencies to Licensed Operators in accordance with the National Frequency Plan;
- 11 in co-ordination with the Radiocommunications Authority, monitor and enforce the use of Telecommunications Frequency in the Kingdom in accordance with the law and to ensure the efficient use thereof;

- 12 prepare and follow up the execution of the National Numbering Plan and assigning numbers to Licensed Operators in accordance with such plan;
 - 13 encourage, regulate and facilitate adequate Access and Interconnection and interoperability of services, including, where necessary, enforcing the sharing by Public Telecommunications Operators of the benefit of facilities and property;
 - 14 review tariffs to ensure that they are fair and reasonable and develop formulae, tariff rebalancing plans and other measures for tariff controls for inclusion in Telecommunications Licenses where appropriate and determine tariffs, if necessary, including, without limitation, by benchmarking tariffs charged by a Licensee against tariffs in comparable Telecommunications markets and determining the future incremental costs of providing a Telecommunications service;
 - 15 adopt and publish technical specifications and standards for the import and use of Telecommunications Equipment and for connecting Telecommunications Equipment to Telecommunications Networks and for Interconnection;
 - 16 issue approvals or to entrust that to others, in accordance with others subject to the Authority's discretion, for the use of Telecommunications Equipment for which no relevant technical specifications or standards have been issued by the Authority and connection or Interconnection thereof to a Telecommunications Network;
 - 17 examine complaints and resolve disputes arising between Licensees, Subscribers and any other Person involved in the Telecommunications industry, and taking any necessary and proportionate measures in relation to such matter; and
 - 18 exercising all other powers granted to the Authority hereunder and taking all other actions as may be reasonably necessary to give effect to the provisions of the foregoing subsections.
- (d) In the course of fulfilling the duties that are entrusted to it by virtue of this Law, the Authority may when necessary:
- 1 contract with any third parties and liaise and co-operate with specialised agencies, academic or technical institutes and advisory committees; and
 - 2 entrust some of its technical or administrative functions to third parties, authorities or committees that have the required technical and administrative capacities to perform those functions.
- (e) In the fulfilment of its duties and the exercise of its powers, the Authority shall act in a manner that is consistent with the objectives of the National Plan for Telecommunications; provided that this shall not be construed to derogate from the independence of the Authority in accordance with the provisions of this Law.
- (f) Except in emergency cases, the Authority shall, when determining to take measures that will have a material effect on a particular Telecommunications market, give interested parties the opportunity to give their opinions as to such measures within a reasonable period. The Authority shall issue a bylaw regarding such consultations, in a

manner that ensures that all of the public is informed from a single information source of the ongoing consultations, excluding information which is supplied on the basis that it should not be disclosed.

CHAPTER 3 THE BOARD OF DIRECTORS

SECTION (4) APPOINTMENT AND CESSATION OF MEMBERSHIP

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

SECTION (5) FUNCTIONS AND POWERS OF THE BOARD

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

SECTION (6) MEETINGS

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

The Chairman shall also call special meeting of the Board within 14 days of receipt of a request for that purpose addressed to him in writing and signed by any two other Board members or by the General Director. In all events, the notice calling the special meeting of the Board must state the purpose of such meeting.

- (b) A meeting of the Board shall be duly convened only if attended by at least three Board members.

- (c) Decisions of the Board shall be by a majority of votes of members present and voting and, in the event the votes are split equally, the Chairman shall have a casting vote in addition to his deliberative vote.
- (d) The Board shall appoint a secretary who shall prepare its agenda, record minutes of every meeting of the Board and keep all papers and documents of the Board, and carry out any tasks assigned to him by the Board.
- (e) The Board may invite the General Director or any other Person to attend any meeting of the Board where it considers it necessary to do so, but that Person shall not vote on any matter before the Board and shall not count for the purposes of forming a quorum.

SECTION (7)

CONFLICT OF INTERESTS

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

CHAPTER 4

THE GENERAL DIRECTOR

SECTION (8)

APPOINTMENT AND VACANCY OF OFFICE

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

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

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

SECTION (9) AUTHORITY

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

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

SECTION (10) REMUNERATIONS

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

SECTION (11) RESIGNATION OF GENERAL DIRECTOR

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

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

SECTION (12) REMOVAL OF GENERAL DIRECTOR

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

SECTION (13) STRUCTURE OF THE AUTHORITY

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

SECTION (14)
EMPLOYMENT AND REMUNERATION OF STAFF

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

CHAPTER 5
THE MINISTER

SECTION (15)
RESPONSIBILITIES OF THE MINISTER

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

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

- (b) The Minister shall carry out the following tasks:
 - 1 supervising the implementation of the National Telecommunications Plan;
 - 2 following up the implementation of the policy relating to Universal Services, proposing any amendments in connection therewith and submitting such amendments to the Council of Ministers for approval;
 - 3 promoting investment in the Telecommunications sector in the Kingdom and creating a competitive environment among Licensed Operators, so as to enable Subscribers and Users to have Access to state of the art Telecommunications services at the most suitable prices;
 - 4 following up the fulfilment of obligations arising under international Telecommunications conventions to which the Kingdom is a party;
 - 5 representing the Kingdom in regional, Arab and international organisations and committees that are concerned with Telecommunications affairs and co-ordinating

with other concerned ministries and departments (and the Minister may delegate such representation to the Authority);

- 6 proposing drafts of laws pertaining to the Telecommunications sector in co-ordination with the Authority; and
 - 7 working to remove obstructions from the Telecommunications sector, in co-ordination and co-operation with the Authority and the concerned authorities, and in such a way as to assist the Authority in carrying out its responsibilities.
- (c) In order to avoid a conflict of interest and without prejudice to the provisions of Section (41) of this Law, the Minister shall not have any direct or indirect interest in a License, exercise management control over a Licensee or participate in the management or government of a Licensee; provided that this shall not prevent the Government from holding shares in a Licensee as long as the Minister is not responsible for exercising rights over such shares.

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

SECTION (16)

INDEPENDENCE OF THE AUTHORITY

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

CHAPTER 6

FINANCIAL AND RELATED MATTERS

SECTION (17)

ANNUAL ACCOUNTS, REPORT AND AUDIT

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

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

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

SECTION (18)

FUNDING OF THE AUTHORITY

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

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

- (c) Activities and operations of the Authority shall be funded from the State General Budget during the year that follows the date on which this Law shall enter into force, provided that the activities of the Authority shall thereafter be funded from the revenues provided for in paragraph (a) of this Section and if such revenue is insufficient, the provisions of the following paragraph shall apply.

- (d) The Authority may, after co-ordination with the Ministry of Finance and National Economy, submit an application to the Council of Ministers for a grant from the public treasury to cover a deficit shown in its approved budget, including where the deficit results from non-payment by the Licensees of the fees payable to the Authority, provided that the Authority shall use such grant for funding the expenses included in its approved budget.

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

SECTION (19) EXPENDITURE

- (a) The Authority shall use the revenues collected by it under this Law in accordance with its approved budget to fund its activities, including:
- 1 meeting the administrative and operating costs of the Authority;
 - 2 payment of salaries, wages, remuneration and allowances, and other benefits payable to the General Director and staff members of the Authority, pensions and social insurance;
 - 3 meeting its requirements that are necessary for the effective and efficient carrying out of its duties, be such requirements real or moveable property, including apparatus, machinery and equipment or any other items within the category of capital expenditure;
 - 4 maintenance of real or moveable property owned by the Authority;
 5. meeting expenses that are necessary for carrying out the duties of the Authority as specified under this Law.
- (b) Any cash surplus actually accrued to the Authority on its approved budget for the previous financial year shall be delivered to the public treasury within one month after the date on which the accounts audit is completed in accordance with the provisions of paragraph (d) of Section (17) of this Law.

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

SECTION (20) BORROWING POWERS

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

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

SECTION (21)
CONFLICT OF INTERESTS

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

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

- (b) The General Director and the staff members of the Authority shall each present a written declaration when commencing occupation of the office or position and annually thereafter, as to:

- 1 any direct or indirect interest which he is aware of having in the Telecommunications sector he is aware of; and
- 2 any direct or indirect interest which he is aware that one of his relatives up to the third degree has in the Telecommunications sector and that conflicts with the requirements of his office or position at the Authority.

- (c) The Board may disregard the ordinary and non-material interests of either the General Director or any staff member which do not conflict with the requirements of office or position [in the Authority]. In such case the resolution of the Board shall specify the grounds on which it is based. If the Board so exercises its Authority it shall publish notice of such action in the register of interests referred to in Section (52) of this Law, which shall be open for public inspection in accordance with Section (49), stating the name and position of the Person and details of such interest.

- (d) The Board, in determining the extent of which the interest of the General Director or staff member of the Authority may conflict with the interest of the Authority, shall consider:

- 1 the degree to which the economic interest of the company or other entity [in which the General Director or staff member has] the interest may be affected by actions of the Authority;
- 2 the extent to which the Authority regulates and oversees the activity of the company or other entity in which the interest is held;
- 3 the seniority of the relevant staff member; and
- 4 the perceptions held or likely to be held by the public regarding the relevant Person's interest in the company or other entity in which the interest is held.

SECTION (22)
OUTSIDE EMPLOYMENT OF THE GENERAL DIRECTOR AND THE
AUTHORITY'S STAFF

- (a) Neither the General Director nor any staff member of the Authority may, during his tenure or term of employment, engage in any employment, consulting or similar service relating to the Telecommunications industry in the Kingdom outside the duties of his office or employment or engagement by the Authority. For one year after such term, any such Person may only engage in such employment, consulting or similar service with the prior written approval of the Board.
- (b) No employer shall employ the General Director or the Authority's staff members in contravention of subparagraph (a) of this Section.

SECTION (23)
CONFIDENTIALITY

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

CHAPTER 7
LICENSING AND EQUIPMENT APPROVALS

SECTION (24)
TELECOMMUNICATIONS LICENSE REQUIREMENT

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

SECTION (25)
GRANT OF TELECOMMUNICATIONS LICENSES

- (a) A License for the operation of a Telecommunications Network or for the provision of Telecommunications services may be granted for a finite period of time by the Authority by way of either an Individual License or a Class License in accordance with the provisions of Sections (29) and (32) of this Law.

- (b) The granting of a License in accordance with the provisions of this Law shall not prejudice any other conditions, licenses, permits or obligations provided for in any other law.

SECTION (26)
REQUIREMENTS RELATED TO PREFERRED AND CLASS LICENSES

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

SECTION (27)
SUBMISSION OF THE LICENSE APPLICATION

- (a) An application for a Telecommunications License shall be in writing addressed to the Authority in the form prepared by the Authority for this purpose and accompanied by such information and evidence of payment of the application fees as may be required by the Authority in accordance with the provisions of this Law. The Authority shall notify the applicant in writing within 14 days of its receipt of the application.
- (b) The Authority shall, if it decides not to grant the License, notify the applicant of the decision and of the reasons for its decision in reasonable detail.

SECTION (28)
CONTENTS OF A TELECOMMUNICATIONS LICENSE

- (a) A Telecommunications License is personal and may not be assigned to a third party without the prior written consent of the Authority.
- (b) A Telecommunications License granted by the Authority shall be issued in writing and, unless revoked pursuant to the provisions of Sections (31) or (34) of this Law, shall continue in full force and effect for such period as may be specified in the License.

- (c) A Telecommunications License may include:
- 1 such terms as the Authority determines are necessary and reasonable; and
 - 2 terms requiring the Licensee to provide to the Authority, in such manner and at such times as may be reasonably required, such documents, data, accounts, estimates, returns or other information as the Authority may require for the purpose of exercising its powers and fulfilling its duties under this Law.

SECTION (29)
INDIVIDUAL LICENSES

- (a) An Individual License may only be granted on the recommendation of the General Director and following ratification thereof by the Board within thirty days after the date on which the recommendation of the General Director is put to the Board. When the Board refuses to ratify his recommendation or when such period expires without ratification, the General Director may resubmit the matter within 30 days to the Board for a final decision by the Board within 30 days of the re-submission.
- (b) When the recommendation of the General Director is refused, the Board shall, in all cases, indicate the grounds of such refusal in writing. The Authority may, with the prior written approval of the Board, hold an auction for Individual Licenses in accordance with rules and procedures issued by the Authority. Such auction shall be announced in such manner as the Authority deems appropriate at least thirty days prior to the date of holding such auction. The License shall in this case be granted without requiring ratification of the Board.
- (c) The Authority shall, before giving a final decision with respect to all applications for Individual Licenses, make sure that the applicant satisfy the conditions provided for in this Law and in the laws, regulations and resolutions issued in implementation of the provisions of this Law, with particular regard to whether:
- 1 the applicant has sufficient resources, skills and expertise in the field of the subject matter of the application.
 - 2 the applicant meets such criteria for the License applied for as are determined and issued by the Authority from time to time;
 - 3 the interests of Subscribers and Users will be served; and
 - 4 competition among Licensed Operators will be promoted.
- (d) The Authority shall, within no more than ninety days of such application, decide as to the application for a License and if the Authority considers it necessary to obtain any further information, the Authority shall notify the applicant of such matter within a period not exceeding thirty days after date of the submission of the application. In such case, the final decision shall be passed within the longer of:
- 1 thirty days of receipt of such required further information, and
 - 2 one hundred and fifty days of submission of the License application.

- (e) Individual Licenses shall be standardised as far as practicable, and any differences shall be for objectively justifiable reasons.

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

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

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

- (g) Any Person that directly or indirectly acquires five percent or more of the equity of an Individual Licensee shall notify the Authority of such matter within seven days as of the date of his/its acquiring of such share.

SECTION (30) **RENEWAL OF AN INDIVIDUAL LICENSE**

- (a) Without prejudice to the provision of paragraph (b) of this Section, an Individual License issued under this Law shall be renewed on the request of the Licensee, for a further limited term in accordance with the conditions of the License.
- (b) The Authority may refuse to renew an Individual License if it finds out that the Licensee is, or has been, in material breach of the conditions of the License, whether or not the Authority took enforcement action to obligate the Licensee to comply with the conditions of the License in accordance with the provisions of Section (35) of this Law.

The Authority shall notify the Licensee of its intention to refuse renewal at least two years prior to the expiry of the current License term and if a material breach occurs within two years of the expiry of the current License term, it shall notify the Licensee promptly upon becoming aware of such breach.

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

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

SECTION (31) **MODIFICATION AND REVOCATION OF INDIVIDUAL LICENSES**

The Authority may amend the terms of, or revoke, an Individual License in the following circumstances:

- 1 with the consent of the Licensed Operator; or
- 2 in accordance with any of the conditions provided for in such License; or

- 3 that the modification or revocation is in accordance with the provisions of Section (35) of this Law.

SECTION (32) THE CLASS LICENSE

- (a) The operation of a Telecommunications Network or the provision of Telecommunications services shall be authorized by way of a Class License with the exception of Licenses connected with any of the following:
- 1 the use of radio frequency spectrum; or
 - 2 the use of telephone numbers under the National Numbering Plan; or
 - 3 the provision of the services provided for in the subparagraphs from (1) to (9) of paragraph (a) of Section (39) of this Law,
- in which case an Individual License is required.
- (b) A Class License shall be granted to the applicant for such License if such applicant meets the conditions issued and published by the Authority from time to time concerning such type of Licenses. The Authority may require the applicant to provide any further information.
- (c) The Authority shall prepare the application form for a Class License, which shall be published in the manner that the Authority considers appropriate for bringing to the attention of Persons with an interest in that regard.

SECTION (33) RENEWAL OF CLASS LICENSE

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

SECTION (34) MODIFICATION AND REVOCATION OF CLASS LICENSES

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

The announcement shall state the following:

- 1 that the Authority intends to amend or revoke that type of Class License, setting out the effect of such amendment or revocation;
- 2 the reasons that justify the amendment or revocation; and
- 3 that the holders of Class Licenses are entitled to respond in writing to the Authority during the notice period specified by the Authority in the announcement.

- (b) After consideration of the responses submitted during such notice period, the Authority shall issue the appropriate decision which shall be announced in the Official Gazette and in such manner as the Authority considers appropriate to bring the matter to the attention of the holders of the type of Class License being amended or revoked.

SECTION (35)

ENSURING COMPLIANCE WITH PREFERRED AND CLASS LICENSES

- (a) If it is clear to the Authority that a Licensee has been or is in material breach of any provision of this Law or any condition of the License or that there are serious indications or evidence that a Licensee is likely to commit such breach, the Authority shall make an order in accordance with the procedures provided for in paragraphs (b), (c) and (d) of this Section by taking the measures it considers necessary to secure compliance by the Licensee with the provisions of this Law and the conditions of the License, and sending a copy of the order to the Licensee.
- (b) Before making such order, the Authority shall notify the Licensee in writing, stating:
 - 1 the order to be issued, and its effect;
 - 2 aspects of breach by a Licensee of any condition of the License, and the act or omission which in the opinion of the Authority constitutes such breach, or such indications and evidence which in the opinion of the Authority make the occurrence of the breach likely; and
 - 3 the notice period for responding to the proposed order, which shall be not less than 30 days from the date of the notice.
- (c) The Authority shall consider any response submitted to it in writing within the fixed period.
- (d) Following expiry of such notice period, the Authority shall issue an order containing the following:
 - 1 a direction to the Licensee to do or to refrain from doing such things as are specified in the order to remedy, prevent or rectify the breach which is the subject matter of the notice referred to in paragraph (b) of this Section;
 - 2 the imposition of a suitable fine on the Licensee, provided that such fine is objectively justified; and non discriminatory; and
 - 3 a warning to the Licensee that the License may be revoked if the Licensee fails to comply with such direction or to pay the fine.
- (e) If a Licensee has failed to comply with any direction given or to pay the fine provided for in the preceding paragraph within the time determined by the Authority, the Authority may revoke the License, provided that it shall notify the Licensee accordingly.

SECTION (36)
APPEALING AGAINST DECISIONS AND ORDERS

A Licensee may object to the Authority against any decision or order issued in accordance with the provisions of this Law and the Licensee shall have the right to appeal against the decision or order in accordance with the provisions of Chapter 16 of this Law.

SECTION (37)
EFFECTS OF TERMINATION OF A LICENSE

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

SECTION (38)
APPROVAL OF EQUIPMENT AND DESIGNATION OF STANDARDS

- (a) Telecommunications Equipment may be approved by the Authority for connection to a Telecommunications Network either by way of:
 - 1 regulations issued by the Authority in accordance with this Law; and
 - 2 a certificate issued by the Authority (or any Person or entity approved by the Authority for this purpose by virtue of a resolution issued by the Authority, including, the Person manufacturing the equipment) in respect of any type of Telecommunications Equipment on the application of a Licensed Operator, or of the manufacturer or supplier of the equipment.
- (b) The regulations to be made or certificate to be issued shall confirm compliance with the technical standards issued by international standard-setting bodies designated from time to time by the Authority.
- (c) Any Person applying for certification under paragraph (a) of this Section may be required by the Authority to comply with such requirements as the Authority may consider appropriate having regard to the duties provided for in Section (3) of this Law and to pay such fee as is prescribed by a resolution issued by the Authority.
- (d) An approval of Telecommunications Equipment under this Section may apply either to particular equipment only or to any equipment of a description specified in the regulations issued by the Authority or in the certificate issued in this respect, and may apply either for the purposes of a particular Telecommunications Network or for the purposes of any Telecommunications Network of a description specified.

- (e) The approval provided for in this Section may specify the technical and functional specifications or standards or any other specifications to which the Telecommunications Equipment must conform.

The approval may specify terms with which Licensees, manufacturers or suppliers must comply, for the approval to be valid.

- (f) The Authority shall have the power, where warranted, to vary or withdraw an approval given under this Section; provided that prior notice of such variation or withdrawal shall be given to the Licensee.

CHAPTER 8 TIME TABLE FOR INTRODUCING COMPETITION

SECTION (39) TIME TABLE FOR ISSUING LICENSES FOR INTRODUCING COMPETITION

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

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

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

The Authority may grant an additional mobile Telecommunications License of the same type within two years of the grant of such License if Batelco and the Licensee under this subsection engage in anti-competitive conduct as set forth in Section (65) of this Law and, at the discretion of the Authority, other mobile Telecommunications Licenses after such two-year period;

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

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

- 3 **VSAT License:** one or more such Licenses may be granted, provided that this shall not be earlier than 1/1/2004;

- 4 **Paging License:** one or more such Licenses may be granted, provided that this shall not be earlier than 1/1/2004;
- 5 **Public Access Mobile Radio Service License:** one or more such Licenses may be granted, provided that this shall not be earlier than 1/1/2004;
- 6 **National Fixed Service License:** one or more such Licenses may be granted, provided that this shall not be earlier than 1/7/2004;
- 7 **International Facilities License:** one or more such Licenses may be granted, provided that this shall not be earlier than 1/1/ 2004, and provided that no service shall commence before 1/7/2004;
- 8 **International Services License:** one or more such Licenses to be granted not earlier than 1/7/2004;
- 9 **Internet Exchange License:** only one such License shall be granted within six months of the effective date of this Law, in accordance with the provisions of Section (41) of this Law. Additional such Licenses may be granted after the second anniversary of the grant of the first License; and
- 10 **Internet Service Provider Licenses And Value Added Service Licenses:** such Licenses shall be granted as soon as practicable after the effective date of this Law.

SECTION (40) TIME TABLE FOR OTHER MATTERS

Public Telecommunications Operators with significant market power and every other Licensee whose License provides for the following obligations to Subscribers and Users or other Licensees provided for in his/its License shall specified the following:

- 1 **Carrier Pre-Selection:** from 1/4/ 2004;
- 2 **Number Portability in fixed services:** when the Authority determines that sufficient demand exists for such a service;
- 3 **Number Portability in mobile services:** when the Authority is satisfied that sufficient demand exists for such a service;
- 4 **wholesale DSL services:** from 1/7/2003
- 5 **Unbundled Local Loop:** from 1 /7/2004
- 6 **Access to Telecommunications Facilities, (including, DSL co-location, fibre that is not in service or only partially in service and, where the Authority so determines, ducts):** from 1/7/2004; provided, however that a Licensee shall have Access to ducts from the date of the grant of the mobile Telecommunications License, by virtue of the provisions of subparagraph (1) of paragraph (b) of Section (39) of this Law; and

- 7 **Domestic Roaming:** from no later than the date of the grant of the mobile Telecommunications License contemplated in subparagraph (1) of paragraph (b) of Section (39) of this Law; provided, however, such obligation shall cease after the one year anniversary of such date unless such period is extended by the Authority.

SECTION (41) **BAHRAIN INTERNET EXCHANGE**

- (a) The Ministry shall carry out the procedures required to establish a not-for-profit entity to be known as the “Bahrain Internet Exchange”, provided that the Bahrain Internet Exchange shall submit to the Authority an application for an exchange License within four months of the effective date of this Law.
- (b) The object of the Bahrain Internet Exchange shall be to provide the holders of internet service Licenses with a connection mechanism in which internet communications are aggregated, transmitted and distributed to licensed internet services providers.
- (c) The first internet exchange License issued by the Authority shall be issued to the Bahrain Internet Exchange within sixty days of the date of the submission of the application for the License in accordance with the provisions of paragraph (a) of this Section. Such License shall be granted at no charge.
- (d) The charter of the Bahrain Internet Exchange shall incorporate the internal rules regulating its work, which rules are subject to the approval of the Authority, provided that the contents of such rules shall ensure equality between licensed internet service providers regarding Access to the Exchange.
- (e) The government shall provide the initial funding or credit support required for the Bahrain Internet Exchange, provided that the Exchange shall aim to become self-funding as soon as is practicable. licensed internet service providers and other Users of the Exchange shall bear its operating costs in an equitable usage-based manner, as set forth in the charter of Exchange.
- (f) The Bahrain Internet Exchange shall make its Telecommunications Facilities available to all holders of an internet service provider License on fair and non-discriminatory terms.
- (g) The Bahrain Internet Exchange shall have Access to the international Telecommunications Facilities of Batelco upon receipt of the License referred to in paragraph (a) of this Section.
- (h) Licensed internet service providers shall use the facilities made available by the Bahrain Internet Exchange for two years from the date on which the License is issued to the Bahrain Internet Exchange.

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

CHAPTER 9 RADIOCOMMUNICATIONS

SECTION (42) OVERSIGHT OVER TELECOMMUNICATIONS FREQUENCIES

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

SECTION (43) FREQUENCY LICENSE

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

SECTION (44) GRANT OF A FREQUENCY LICENSE

- (a) An application for Telecommunications License shall be in writing addressed to the Authority in the form prepared by the Authority for this purpose and accompanied by such information and evidence of payment of the application fees as the Authority shall prescribe by way of a resolution issue in accordance with the provisions of this Law. The Authority shall notify the applicant in writing 14 days of its receipt of the application.
- (b) The Authority may require further information in support of the application, including information on the purpose of establishing any Radiocommunications Station, and the types and specifications of Radiocommunications Equipment which will be operated or used.
- (c) The Authority shall, within thirty days after the date of submission of an application for a License, decide whether to grant the License. If it requires any further information, it shall notify the applicant of such requirement within fifteen days of the submission of the application. In such case, the final decision shall be passed within the longer of:
 - 1 fifteen days after the receipt of such required further information, and
 - 2 one hundred and fifty days of submission of the License application.
- (d) The Authority shall, before issuing its decision with respect to the application for the License, ensure satisfaction of all the conditions provided for in this Law and in the

laws, regulations and resolutions issued in enforcement of the provisions hereof with respect to the application for the License are satisfied, and shall have regard to the following:

- 1 the availability of Telecommunications Frequency and coverage and allocation of Radiocommunications Stations;
 - 2 that the decision issued with respect to the application for the License shall not conflict with the National Frequency Plan;
 - 3 the provisions relating to the introduction of competition provided for in Section (39) of this Law;
 - 4 ensuring the efficient and competent use of radio frequency spectrum;
 - 5 any other factors relating to the filed of Telecommunications Frequencies; and
 - 6 if the Authority decides not to grant the Frequency License, it shall notify the applicant of the reasons for its refusal.
- (e) The grant of a Frequency License in accordance with the provisions of this Section shall not prejudice any conditions, licenses, permits or other commitments provided for in any other law.
- (f) A Frequency License granted in accordance with the provisions of this Section is personal and may not be assigned without the prior written consent of the Authority.

SECTION (45)

CONTENTS OF A FREQUENCY LICENSE

A Frequency License shall include such necessary terms as appear to the Authority to be reasonably necessary, including, in particular, terms relating to the efficient use of radio frequency spectrum.

SECTION (46)

USE OF RADIOCOMMUNICATIONS STATIONS FOR NAVIGATION PURPOSES

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

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

SECTION (47)
MIGRATION OF FREQUENCIES

- (a) Within 3 months of the effective date of this Law, any user of the following frequencies shall cease to use such frequencies and inform the Authority in writing that such frequencies are available for Assignment by the Authority in accordance with Section (44) of this Law:
- 1 a contiguous set of GSM channels equal to 50% of the total available channels in the 900 MHz band, as directed by the Authority; and
 - 2 a contiguous set of GSM channels equal to 66.67% of the total available channels in the 1800 MHz band, as directed by the Authority.
- (b) A user of frequencies who has complied with the provision of paragraph (a) of this Section shall have the right to such pro rata rebate of the annual fee that he/it has paid as is proportionate to the period of use remaining.

SECTION (48)
COMPLIANCE WITH INTERNATIONAL TREATIES AND OTHER LEGISLATION

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

SECTION (49)
PREVENTING HARMFUL INTERFERENCE WITH RADIOCOMMUNICATIONS

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

SECTION (50)
OBLIGATIONS OF A FREQUENCY LICENSEE

Without prejudice to any condition contained in any Frequency License:

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

SECTION (51)
MODIFICATION AND REVOCATION OF A FREQUENCY LICENSE

- (a) Subject to the provisions provided for in Section (34) of the Law, the Authority may modify the conditions of a Frequency License.

- (b) The Authority shall have the right to revoke a Frequency License before the expiry of its term in any of the following cases:
- 1 the Licensee consents to the revocation;
 - 2 revocation by the Authority in the same circumstances and by virtue of the procedures provided for in Section (35) of this Law;
 - 3 expiry or revocation of any Telecommunications License relating to the Licensee's own Frequency License; and
 - 4 the Licensee is adjudged bankrupt by a competent court, or ceases exercising its commercial activity. In both cases, the License is deemed automatically terminated and all the frequencies constituting the subject matter of the License shall revert to the Authority.

CHAPTER 10
REGISTER, INFORMATION AND DISPUTES AMONG LICENSEES AND
SUBSCRIBERS

SECTION (52)
REGISTER

- (a) The Authority shall establish and maintain one or more registers of:
- 1 the categories of Licenses issued;
 - 2 all Licenses granted;
 - 3 all Licenses revoked;
 - 4 all Licensees determined to be in a Dominant Position;
 - 5 all regulations laid down by the Authority and certificates issued in respect of Telecommunications Equipment in accordance with the provisions of Section (37) of this Law;
 - 6 the Authority's most recent accounts audited pursuant to the provisions of paragraph (d) of Section (17) of this Law, including the auditor's report;
 - 7 all resolutions issued by the Board waiving ordinary and non-material interests concerning the General Director and any of the Authority's staff members in accordance with the provisions of paragraph (c) of Section (21) of this Law; and
 - 8 other matters that this Law or the regulations or resolutions issued by the Authority require to be entered in the register.

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

- (b) The Authority shall enter into the register, in particular, the details of:
- 1 each License granted, details of the relevant Licensee, and every modification or revocation of, and every order, consent or notice given, or decision or determination made or revoked in respect of, such License; and
 - 2 all certificates issued and regulations made by the Authority, and any decision that is issued by way of variation, withdrawal or revocation of any of the same.

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

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

SECTION (53)

UNDERTAKING TO PROVIDE THE AUTHORITY WITH INFORMATION

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

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

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

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

SECTION (54)

PUBLICATION OF INFORMATION

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

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

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

SECTION (55)

PROCEDURES FOR DEALING WITH COMPLAINTS

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

SECTION (56)

DISPUTES BETWEEN OPERATORS AND SUBSCRIBERS

- (a) Any dispute between a Subscriber and a Licensed Operator may be referred to the Authority by either party after the exhaustion of the procedures referred to in Section (55) of this Law without resolution within 60 days after the date of submitting the complaint to the Licensee.
- (b) The Authority may combine disputes regarding the same subject-matter or Persons into a single dispute and determine such disputes by virtue of one decision.
- (c) The Authority shall issue a reasoned decision with respect to the dispute referred to it determining cost, and may oblige the parties to the dispute to pay reasonable costs.
- (d) The Authority shall promulgate regulations establishing the procedures to be followed in determining disputes referred to the Authority.

CHAPTER 11

INTERCONNECTION AND ACCESS

SECTION (57)

INTERCONNECTION AND ACCESS

- (a) A Public Telecommunications Operator shall have the right to interconnect, and the obligation to negotiate in good faith on request the Interconnection of, its

Telecommunications Network to the Telecommunications Network of another Public Telecommunications Operator at any technical feasible point, in each case as specified in its License or in a regulations issued by the Authority.

- (b) A Public Telecommunications Operator determined by the Authority to have a Dominant Position in a particular Telecommunications market shall, within three months of such determination and every six months thereafter, publish a reference Interconnection offer. Such offer shall set out a full list of basic Interconnection services, condition of Interconnection and tariff of every service.

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

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

The tariffs and terms for Interconnection offered for different types of Licensed Operators may differ only where objectively justifiable on the basis of the type of Interconnection provided.

- (c) A Licensed Operator in a Dominant Position shall offer to interconnect with any Licensed Operator on request by the latter on the terms and at the tariffs set out in its most recent reference Interconnection offer announced by the former and shall be obliged to interconnect with the other Licensed Operator on such terms and tariffs, and shall, within three days of entering into an agreement in this respect, send a copy of such agreement to the Authority.
- (d) Announcement of the reference Interconnection offer referred to in paragraph (b) of this Section shall be effected by:
- 1 sending a copy of such offer to the Authority for approval;
 - 2 placing in each office of the Licensed Operator a copy thereof in order for any Person to inspect it free of charge during normal office hours; and
 - 3 sending a copy thereof to any Person.
- (e) A Licensed Operator in a Dominant Position shall offer Access to its Telecommunications Network and Telecommunications Facilities on fair and reasonable terms to any Licensed Operator on request. Such operator shall only be under an obligation to offer Access to ducts to a Licensed Operator unless the Authority considers that substantive demand exists for such Access. Such demand is deemed to exist in the case of a holder of a mobile Telecommunications License.

The Authority may publish regulations in connection with Access, including, regulations regarding a reference Access offer similar to a reference Interconnection offer.

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

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

CHAPTER 12 TARIFFS CONTROL

SECTION (58) TARIFFS FOR TELECOMMUNICATIONS SERVICES

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

Tariff controls and the period during which they shall remain in effect shall be specified by the Authority in the regulations or in the License granted to the operator.

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

The Authority shall have the Authority to review and control tariffs and to develop formulae for setting tariffs and tariff rebalancing plans and to take any other steps in this respect in accordance with the provisions of subparagraph (14) of paragraph (c) of Section (3) of this Law.

**CHAPTER 13
PUBLIC AND PRIVATE PROPERTY**

**SECTION (59)
USE OF PUBLIC PROPERTY**

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

- 1 that the Authority considers such works necessary;
- 2 that the conditions of the License permit such matter;
- 3 the operator obtains the necessary approvals and permits from the competent authorities before commencing such works;
- 4 measures are taken that are necessary for the protection of public and infrastructure installations existing thereon during the construction, development or maintenance of the Licensee's network;
- 5 restoration of public property to the condition in which it was before such work was carried out and repair of any destruction or damage to such property; and
- 6 compliance with the rules promulgated by virtue of a resolution by the Council of Ministers in connection with the use of public property.

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

**SECTION (60)
PROTECTION OF THE ENVIRONMENT AND
HISTORIC AND TOURISTIC SITES**

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

**SECTION (61)
USE OF PRIVATE PROPERTY**

- (a) A Public Telecommunications Network operator shall have the right to construct any installation or install any connections required for the construction, development or maintenance of its network on, under or through private real property after concluding an agreement between the network operator and the owner of such real property or the Person with a right there over for fair compensation to be paid by such operator to the owner of the real property or the Person with a right thereto.
- (b) If the Public Telecommunications Operator and the owner of the real property or the Person with a right thereto fail to come to an agreement for the construction of the

works referred to in the preceding paragraph, the Authority may issue a decision enabling the operator to carry out such works if the following conditions are satisfied:

- 1 that such works are, at the discretion of the Authority in this respect, necessary for the construction, development or maintenance of the Telecommunications Network;
 - 2 that no other technically and economically reasonable solution exists at the discretion of the Authority.
 - 3 that such works do not, at the discretion of the Authority, preclude ordinary use of the real property by its owner or the Person with a right thereto;
 - 4 that the operator pays to the owner of the real property or the Person with a right thereto such fair compensation as is determined by the Authority; and
 - 5 that the operator shall adhere to the conditions and measures prescribed by the Authority for the avoidance or limitation of damage to the owner of the real property or a third party.
- (c) If an agreement between the operator and the owner of the real property or the Person with a right thereto cannot be reached with respect to the amount of the compensation, the Authority shall determine a fair compensation to be given to the owner of the real property or the Person with a right thereto. For this purpose, the Authority may seek the assistance of one or more experts.
- The operator shall in all cases bear the expenses of the Authority and the fees of the experts delegated by the Authority for the determination of the amount of compensation.
- (d) The owner of the real property or the Person with a right thereto may appeal against the decision issued by the Authority in accordance with the provisions of this Section before the Grand Civil Court within 60 days after the date of notifying said owner or entitled Persons of the decision.

SECTION (62)

EXPROPRIATION

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

1. The network operator shall submit an application to the Authority requesting that the necessary legal steps be taken for the expropriation of the real property or part thereof, accompanying his application with the technical grounds that justify such application.

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

SECTION (63) **NATURAL OBSTRUCTIONS**

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

CHAPTER 14 **UNIVERSAL SERVICE**

SECTION (64) **UNIVERSAL SERVICE OBLIGATIONS**

- (a) A Public Telecommunications Operator with Significant Market Power shall be subject to the Universal Service obligations set forth in this Law.
- (b) The operator referred to in the preceding paragraph shall provide at its prevailing standard rates basic public telephone service to any Person requesting such service.
- (c) In the implementation of the provisions of this Section, “basic public telephone service” shall mean the following:

- 1 the services that comprise technical features which are the minimum necessary to allow the establishing of a telephony channel capable of allowing the making and receipt of local and international calls supporting speech, facsimile and data; and
 - 2 any other reasonable services as the Authority may determine from time to time by regulations or by such regulations as are provided for in the License conditions.
- (d) The Authority may issue regulations in connection with Universal Service, including, regulations to establish a fund to promote Universal Service.

CHAPTER 15 PROMOTION OF COMPETITION

SECTION (65) ANTI-COMPETITIVE CONDUCT

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

- (e) Before making a determination in accordance with the provision of the preceding paragraph, the Authority shall notify the Licensed Operator of the following:
- 1 that it is investigating a possible breach of the provision of this Section;
 - 2 the reasons that made the Authority believe that a breach has occurred or is about to occur, including any fact or matter which it thinks relevant;
 - 3 such further information as the Authority may require from the Licensed Operator in order to complete its determination;
 - 4 where appropriate, the steps it believes the Licensed Operator would have to take in order to remedy the alleged breach; and
 - 5 giving the Licensed Operator, and any other Person that the Authority considers appropriate to consult, such period as it considers reasonable within which to make written representations in response to the notice.
- (f) The Authority shall then determine whether the act or omission of the Licensed Operator is prohibited pursuant to the provisions of this Section, and shall notify the Licensed Operator and any other Person whom it considers it appropriate to notify of any determination issued by it in this respect and of its reasons for making such determination.

Such determination may include the following:

- 1 directing the Licensed Operator to do or to refrain from doing such things as are specified by the Authority in the order to remedy, reverse or prevent the breach of paragraph (a) of this Section; and
 - 2 imposing a fine on the Licensed Operator not exceeding 10% of the annual revenues of such Licensed Operator.
- (g) In case Batelco violates paragraph (a) of this Section and refrains from remedying such violation within the period of time specified by the Authority, the Authority may issue a resolution to bring forward the dates provided for in Section (39) and Section (40) of this Law.
- (h) The Authority may issue regulations in connection with the maintenance and regulation of efficient competition in the telecommunication market, and may issue guideline directions stating therein in detail the conduct that constitutes in its opinion anti-competitive conduct in accordance with the provisions of paragraph (a) of this Section.

CHAPTER 16 ARBITRATION

SECTION (66) RESORTING TO ARBITRATION

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

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

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

SECTION (67) ARBITRATION RULES AND PROCEDURES

Where no particular provision exists in this chapter with respect to any matter, the provisions provided for in Chapter 7 of the Civil and Commercial Procedural Law and not conflicting with the provisions of this Law shall apply.

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

SECTION (68) FORMATION OF THE ARBITRATION PANEL

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

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

- (b) If the Authority fails to appoint an arbitrator on its part within the period referred to in the preceding paragraph, or if the two appointed arbitrators fail to agree upon the third arbitrator within such period, the Appointing Authority shall, at the request of the Licensed Operator, make such appointment.

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

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

SECTION (69)

IMPARTIALITY AND INDEPENDENCE OF THE ARBITRATION PANEL

Arbitration Panel members shall be impartial and independent.

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

SECTION (70)

PUBLICATION OF THE DECISIONS OF THE ARBITRATION PANEL

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

SECTION (71)

FINALITY OF THE DECISIONS OF THE ARBITRATION PANEL

Decisions issued by Arbitration Panel are considered final and binding.

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

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

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

CHAPTER 17

COMPLAINTS AND PENALTIES

SECTION (72)

COMPLAINTS SUBMITTED TO THE AUTHORITY

The Authority shall investigate the complaints submitted to it with respect to violation of the provisions of this Law or breach of the regulations or decisions issued in implementation

hereof, and shall issue the appropriate decision with respect thereto within the limits of its duties and powers as provided for in this Law.

The Authority may require the complainant to file with it a signed written statement of all the facts and circumstances relating to his complaint.

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

SECTION (73) PENALTIES

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

- (a) The following shall be punished by a fine not exceeding fifty thousand Dinars:
- 1 a Board member who is proven to have violated the provision of paragraph (a) of Section (7) of this Law; and
 - 2 the General Director or any staff member of the Authority who is proven to have violated the provision of paragraph (a) of Section (21) of this Law.

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

- (b) The General Director or any staff member of the Authority who is proven to have violated any of the provisions provided for in paragraph (a) of Section (22) of this Law shall be punished by a fine not exceeding ten thousand Dinars.
- (c) Every Person that knowingly employs the General Director or any staff member of the Authority in contravention of the provision of paragraph (b) of Section (22) of this Law shall be punished by a fine not exceeding one hundred thousand Dinars.
- (d) The General Director or any staff member of the Authority who is proven to have violated the provision of Section (23) of this Law is established shall be punished by a fine not exceeding twenty five thousand Dinars.

The court may order confiscation of the sums acquired by the Person convicted of violation of the provision of this Section.

- (e) Every Person who is proven to have violated any of the provisions of paragraphs (a) and (c) of Section (24) or paragraph (b) of Section (37) of this Law shall be punished by imprisonment for a period not exceeding six months and/or by a fine not exceeding five hundred thousand Dinars.

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

- (f) Every Person who is proven to have violated the provision of paragraph (b) of Section (24) of this Law shall be punished by imprisonment for a period not exceeding three months and/or by a fine not exceeding one hundred thousand Dinars.
- (g) Every Person who is proven to have violated the provision of Section (43) of this Law shall be punished by a fine not exceeding five hundred thousand Dinars. The court shall order the confiscation of equipment, tools and connections and everything used in committing the offence.
- (h) Every Person who is proven to have violated the provision of Section (49) of this Law shall be punished by a fine not exceeding fifty thousand Dinars.
- (i) Every Person who is proven to have violated the provision of paragraph (f) of Section (57) or paragraph (c) of Section (77) of this Law shall be punished by a fine not exceeding one hundred thousand Dinars.
- (j) The following shall be punished by imprisonment for a period not exceeding three months and/or by a fine not exceeding fifty thousand Dinars:
 - 1 every Person that obstructs, modifies or deletes the contents of a message by means of Telecommunications Equipment or network or instigates another Person so to do;
 - 2 every Person that imports into the Kingdom or trades in or acquires Telecommunications that are not licensed by the Authority in accordance with the provisions of this Law; and
 - 3 every Person intentionally receives any communications that are not intended for the general public without the written consent of the Authority.

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

SECTION (74)

USE OF FRAUDULENT MEANS

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

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

shall be punished by a fine not exceeding one hundred thousand Dinars

SECTION (75)
DIVERSION, INTERCEPTION AND DISCLOSURE OF MESSAGES

Without prejudice to any stricter penalty provided for in the Criminal Law or any other law, every Person that uses Telecommunications Equipment or the Telecommunications Network intending:

- 1 to send any message in the knowledge that the contents of the message are false, misleading, offensive to public policy or morals, endanger the safety of third parties or prejudice the efficiency of any service; or
- 2 to bug, or disclosing the secrecy of, any conversation or data relating to the contents of any message or to its sender or receiver unless such bugging or disclosure is effected on the strength of a permit by the Public Prosecutor's Office or by virtue of an order issued by the court of competent jurisdiction,

shall be punished by a fine not exceeding ten thousand Dinars.

SECTION (76)
LIABILITY OF A JURISTIC ENTITY

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

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

CHAPTER 18
INSPECTION AND SUPERVISION PROCEDURES

SECTION (77)

Without prejudice to the provisions of the Criminal Procedural Law:

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

- 1 require and examine Licenses, permits, books, registers, documents and all papers relating to Telecommunications activity;
 - 2 inspect and examine any Telecommunications Equipment, Telecommunications Facility or any other facilities used in connection with the provision of a Telecommunications service or the establishment, operation or ownership of a Telecommunications Network; and
 - 3 examine any other documents or any information, in any whatsoever forms, related to the provision of telecommunication service.
- (b) The staff members referred to in the preceding paragraph shall have the right to enter any airplane, ship, boat or any vehicle that lands in the Kingdom, in order to inspect any Radiocommunications Station or Radiocommunications Equipment related to Telecommunications Frequency therein or to examine papers and documents relating thereto.
- (c) No Person shall prevent or hinder any staff member authorised to supervise and inspect from carrying out the duties and powers provided for in this Section.
- (d) If inspection establishes that any Radiocommunications Equipment interferes without reasonable justification with the proper functioning of, or damages, other Radiocommunications Equipment related to Telecommunications Frequency, or that such Radiocommunications Equipment contravenes international treaties to which the Kingdom is a party, the Authority shall notify the Licensee that it is required to take preventative measures and procedures within a reasonable period specified by it.
- (e) If the inspection results in a suspicion that any of the crimes provided for in this Law or any other law may have been or may be committed, the Authority is obliged to inform the Public Prosecutor in order to take such action as may be necessary.
- (f) A resolution of the Minister of Justice and Islamic Affairs in collaboration with the Authority shall specify the staff members who shall have the characteristics of Judicial Officers in accordance with the provisions of this Law, regulations and orders issued in implementation thereof.

CHAPTER 19 NATIONAL SECURITY

SECTION (78) LICENSEES' OBLIGATIONS CONCERNING NATIONAL SECURITY

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

SECTION (79)
NATIONAL SAFETY AND MARTIAL LAW

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

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

CHAPTER 20
TRANSITIONAL PROVISIONS

SECTION (80)
HARMONIZATION OF CIRCUMSTANCES

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

None of the Persons referred to in paragraph (a) of this Section may provide any Telecommunications service, operate any Telecommunications Network or use Radiocommunications frequency spectrum in the Kingdom without obtaining a License therefore in accordance with the provisions of this Law.

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

SECTION (81)
INVALIDATION OF PRIOR POWERS

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