

A SUPPLEMENTARY ACT TO THE
TELECOMMUNICATIONS ACT OF 2007

OF THE



REPUBLIC OF LIBERIA

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CHAPTER I PRELIMINARY

SECTION 1.1 PREAMBLE

Whereas, the Thirty-First Session of the Authority of Heads of State and Government of ECOWAS held on January 19, 2007 in Ouagadougou mandated Member States to enact national laws that will develop, modernize, coordinate and standardize their telecommunications networks in order to provide reliable interconnection within the ECOWAS region, coordinate efforts to mobilize national and international financial resources aimed at attracting private sector participation in the provision of telecommunication services; and

Whereas, realizing the link between telecommunications development and poverty reduction in the region, ECOWAS issued Six (6) Supplementary Acts, namely: the Harmonization of Policies and the Regulatory Framework for the Information and Communication Technology (ICT) Sector; the Management of Radio-Frequency Spectrum; Improving Access and Interconnection in respect of ICT Sector Networks and Services; Numbering Plan Management, Standardization of the Legal Regime Applicable to Network Operators and Service Providers, and coordinating Universal Access/Service; and

Whereas, the Government of Liberia, further realizing the fast paced development of the telecommunications sector has begun the transposition of the Six ECOWAS Supplementary Acts into its national law in compliance with the ECOWAS mandate to enable the people of Liberia maximize the benefits of the telecommunications sector;

NOW THEREFORE, IT IS HEREBY ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF LIBERIA, IN LEGISLATURE ASSEMBLED:

SECTION 1.2 Short Title

This Act shall be known as the Supplementary Act to the Telecommunications Act of 2007.

SECTION 1.3 Objectives

1.3.1 This Supplementary Act forms part of the Telecommunications Act of 2007 and lays the framework for harmonizing the regulation of the ICT sector in

the Republic of Liberia in line with the ECOWAS policy of Regional Harmonization of ICT Policies and laws as enshrined in article 32(1) of the ECOWAS Revised Treaty of 1993.

1.3.2 The special objectives of this Supplementary Act are as follows:

- a) to establish a harmonized framework for information and communication technology (ICT) policy and regulation;
- b) to harmonize the legal regimes that apply to the activities carried on by telecommunication network operators and service providers, and to lay down procedures for issuing licenses, authorizations and declarations and the conditions applicable to the different regimes;
- c) to establish an accessible, transparent and equitable regulatory framework in regard to network and service access and interconnection in the area of ICTs;
- d) to build durable competition by guaranteeing the interoperability of networks and services; to lay out the responsibilities assigned to the Liberia Telecommunications Authority (LTA) as the sole national regulatory authority for the understanding of the rights and obligations of operators and new entrants wishing to establish interconnection and/or access to their networks, and to empower the LTA to set the central principles of ICT policy and regulatory guidelines;
- e) to establish a series of procedures aimed at assuring the harmonized application of the regulatory framework throughout ECOWAS and to also deal with specific aspects of the ICT sector by focusing on the telecommunication sector in particular;
- f) to harmonize procedures for the management of numbering and of numbering plans within the ECOWAS zone;
- g) to harmonize procedures for the management of the radio-frequency spectrum by ECOWAS Member States;
- h) to establish a framework of guidelines and legal provisions within ECOWAS to assure policy coordination and, where applicable, the harmonization of conditions with respect to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the ICT market in the ECOWAS zone.

SECTION 1.4 **Definitions**

For the purpose of this Act, the following definitions shall apply:

- 1.4.1 **Authority** means the Liberia Telecommunications Authority;
- 1.4.2 **"Authorization"** means an Administrative Act (individual license, concession contract or general authorization) which grants a set of rights and obligations to an entity and grants the entity the right to establish and exploit telecommunication networks or to offer telecommunications services;
- 1.4.3 **Allocation** of frequency band means entry in the Table of Frequency allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radio communication services or the radio astronomy service under specified conditions. This term shall also apply to the frequency band concerned;
- 1.4.4 **"Provision of a telecommunication network"** means the setting up, operating, overseeing or making available of a telecommunication network;
- 1.4.5 **Information and communication enterprise** means any entity that executes a commercial agreement or is engaged in a business having a connection to information and communication technologies;
- 1.4.6 **"Information"** means signs, signals, writings, images, sounds or information of any other kind which make up the content transmitted by means of communication processes including telecommunication processes;
- 1.4.7 **"Installation"** means any equipment, apparatus, cable, radio or optical system, item of infrastructure or technical device that may be of use to information and communication technologies, or any other operation directly related thereto;
- 1.4.8 **Interoperability of networks and terminal equipment** means the ability of equipment to function, first, with the network, and second, with other terminal equipment that can be used to access the same service.
- 1.4.9 **"License"** means the administrative document (including individual license, concession class license) permitting the operation of a network or the provision of communication services or the use of the radio-frequency spectrum.
- 1.4.10 **Operator** means any juridical person operating a telecommunication network that is open to the public, or providing a telecommunication service to the public.

- 1.4.11 **Message** means communication of any kind in the form of words, sound, data, text, visual image, signal or code, or in any other form or combination of forms.
- 1.4.12 **Radio-communication** means any emission, broadcasting, transmission or reception of radio waves specifically for telecommunication purposes.
- 1.4.13 **Broadcast** means any radio-communication whose emissions are intended to be received by the public.
- 1.4.14 **Information and Communication Services** mean services that involve the use of information and communication technologies, including telecommunication services.
- 1.4.15 **Information and communication technologies (ICTs)** mean technologies used to gather, store, use and send information, including technologies that involve the use of computers or any communication system, including any telecommunication system.
- 1.4.16 **Access** means a facility offered by one operator of a public telecommunication network to enable another operator of a telecommunication network or a service provider to access its resources, particularly its physical infrastructure.
- 1.4.17 **Number portability** means the possibility, on the part of the user, to use the same subscriber number regardless of the operator with whom the user is subscribed, even in cases where the user changes operator.
- 1.4.18 **Unbundling of the local loop** means a facility, which also includes associated facilities, in particular co-location, provided by one public telecommunication network operator to enable another to access all elements of the first operator's local loop in order to serve its subscribers directly.
- 1.4.19 **Carrier selection** means a mechanism that permits a user to choose from a number of authorized public telecommunication network operators or authorized telecommunication service providers to route some or all of the user's calls.
- 1.4.20 **Physical co-location** means a facility offered by a public telecommunication network operator which consists of making infrastructure, including premises, available to other operators for installing, if applicable, operating their equipment, especially for purposes of interconnection.
- 1.4.21 **Provision of interconnection** means a facility provided by one public telecommunication network operator to another or to a public telecommunication service provider which permits all users to communicate freely regardless of the networks to which they are connected or the services that they use.

- 1.4.22 **National roaming** means a form of active infrastructure sharing that permits the subscribers of a mobile operator (i.e. a mobile operator that possesses infrastructure, in contrast to a mobile virtual network operator) to have indirect access to the network and services offered by another mobile operator providing such roaming within an area not covered by the nominal network of those subscribers.
- 1.4.23 **Dominant operator** means a company which, either on its own or in connection with other companies holds a position equivalent to a dominant position: that is, a company which has a significant capacity to act in a manner independent of its competitors, its customers and ultimately consumers.
- 1.4.24 **Subscriber** means a person who receives and pays for the communication service over a given period of time pursuant to an agreement in accordance with terms established by the service provider, with the approval of the LTA.
- 1.4.25 **General authorization** means a general authorization or class license granted by LTA to any legal entity meeting the applicable conditions appended thereto and which obligates the company in question to obtain an explicit decision from the LTA before exercising rights deriving from such document and to communicate information about the service concerned as necessary to assure proper compliance with the applicable conditions appended thereto in accordance with current regulations.
- 1.4.26 **Declaration** means an act of registration of telecommunications activities with the Liberia Telecommunications Authority by a network operator or service provider which does not require the company to obtain an explicit decision from the LTA prior to commencing the operation of the network or provision of the service.
- 1.4.27 **Exclusive rights** mean rights granted by the National Legislature to a single company by means of a legislative, regulatory or administrative provision which reserves for that company the right to provide a telecommunication service or engage in a telecommunication activity within a specific territory.
- 1.4.28 **Special rights** mean rights granted by the National Legislature by means of a legislative, regulatory or administrative provision, which attribute to one or more companies an advantage or an entitlement to provide a telecommunication service or engage in a telecommunication activity on the basis of criteria that are not objective, proportionate and non-discriminatory.
- 1.4.29 **Independent network** means a telecommunication network reserved for private or shared use. In principle, it cannot be connected to a network that is open to the public.
- 1.4.30 **Internal network** means an independent network established entirely on

a single property, without making use of the public domain, including spectrum resources, or third party property.

- 1.4.31 **Public telecommunication network** means telecommunication networks established and/or operated for the purpose of providing public telecommunication services.
- 1.4.32 **Resale** means the act of reselling public telecommunication services or traffic (resale to the end user of minutes purchased by a provider at wholesale prices from another service provider).
- 1.4.33 **Distribution** means making available, pursuant to contractual clauses, of a number or a series of numbers to end users by the holder of an allocated resource.
- 1.4.34 **Number** means a series of digits that uniquely identifies a public network termination point. The number contains the necessary information for routing the call to that termination point and may be in a national format or an international format. The international format is known as the international public telecommunication number, consisting of the country code and subsequent digits.
- 1.4.35 **Frequency-spectrum management** means all the administrative and technical actions, taken as a whole, aimed at ensuring a rational use of the radio-frequency spectrum by users.
- 1.4.36 **Radio frequencies or radio frequency spectrum** means frequencies or spectrum of the electromagnetic waves propagated naturally in the 3 kHz to 300GHz band, used for the transmission and reception of telecommunications signals.
- 1.4.37 **“Universal access/service”**: access to a basic group of services for all citizens, regardless of their geographic location, at affordable rates.
- 1.4.38 **“Public payphone”**: a telephone station made available to the public, for use against payment in the form of coins and/or credit or debit cards and/or prepayment cards, including cards used with numbering codes.
- 1.4.39 **“Public telephone network”**: a telecommunication network used to provide publicly accessible telephone services. Between network termination points, it permits the transmission not only of voice communication but also of other forms of communication such as facsimile and data transmission.
- 1.4.40 **“Publicly accessible telephone service”**: service made available to the public to enable people to make and receive domestic and international calls and to access emergency services by dialing one or more numbers established for that purpose in national or international numbering plans. It may also include the provision of one or more of the following services, where applicable: operator assistance; telephone and/or directory

information; public payphones; other specialized services; special services for disabled persons or persons having specific social needs; and non-geographic services.

CHAPTER II – PRINCIPLES APPLICABLE TO ACCESS AND INTERCONNECTION IN RESPECT OF ICT SECTOR NETWORKS AND SERVICES

SECTION 2.1 General Regulatory Framework for Access and interconnection

The LTA shall ensure that the general regulatory framework for access and interconnection in Liberia shall incorporate the ECOWAS regulation principles foreseen for the establishment of the West African Common Market, including non-discrimination between companies established in different ECOWAS States.

SECTION 2.2 Interconnection and competitive ICT market

The LTA shall ensure that its regulations on interconnection and access respect the principles of free and fair competition and are intended to increase the choice and quality of services available to consumers while ensuring that the legal and contractual rules applicable to access and interconnection are applied effectively.

SECTION 2.3 Content of national regulations

The LTA shall offer solutions in the form of regulations to the difficulties encountered in implementing interconnection, including the following problems and challenges:

- a) compatibility of services and networks;
- b) publication of reference interconnection offer (RIO);
- c) existence of guidelines for the negotiation of interconnection contracts;
- d) contract transparency;
- e) absence of discrimination between operators in granting access to interconnection services;
- f) level, structure and basis for calculating interconnection charges;
- g) interconnection quality;
- h) unbundling of network elements;
- i) availability of rapid, independent procedures for resolving disputes, and the means for enforcing the rules;
- j) possibility of consulting market players in order to reach a decision on a given regulatory or supervisory problem.

SECTION 2.4 Access to Infrastructure

- 2.4.1 The operators of public telecommunication networks shall accede, in objective, transparent and non-discriminatory conditions, to the requests for interconnection from other duly authorized public network operators.
- 2.4.2 The request for interconnection shall not be refused if it is reasonable in terms of the requesting party's requirements on one hand and the operator's capacity to meet it on the other hand. Any refusal to interconnect shall be substantiated and notified to the requesting party and to the LTA.
- 2.4.3 Companies obtaining information from other companies prior to, during or following the access or interconnection agreement negotiation process shall use that information solely for the purposes foreseen when it was communicated and shall always respect the confidentiality of information transmitted or retained. Any information received shall not be communicated to other parties, in particular other services, subsidiaries or partners for which they could constitute a competitive advantage.

SECTION 2.5 Competitions

- 2.5.1 The LTA shall ensure that carrier selection is introduced in the call-by-call form, as a minimum, from the very beginning of competition in order to establish effective competition and allow consumers to choose their local-loop operator freely and have access to the services of an alternative operator. This selection possibility must be offered by all dominant operators. The dominant operator must be invited to undertake the technical changes that are necessary to adapt its automatic exchanges so as to be able to offer call-by-call selection in the initial phase; this service must be included in the reference interconnection offer.
- 2.5.2 The LTA shall assign prefixes to operators who fall within the category of carriers and is authorized to take decisions on:
- a) type of carrier selection;
 - b) operators eligible to act as carriers;
 - c) operators subject to the obligation to offer carrier selection;
 - d) types of calls carried;
 - e) problems involved in carrier selection such as invoicing and calling line identification;
 - f) unfair competition issues such as "slamming"

SECTION 2.6 Infrastructure sharing

The LTA shall encourage infrastructure sharing including alternative infrastructure and shall ensure that such sharing between the operators of public telecommunication networks, incumbents and new entrants takes place under conditions of fairness, non-discrimination and equality of access. The LTA shall, in consultation with operators, regulate the procedure for handling relations between

the operators of public networks in the matter of the conditions and the sharing of infrastructure, in particular lead-times and access to the information needed to put it in place.

SECTION 2.7 Number portability

- 2.7.1 The LTA shall conduct market studies to assess consumers' portability needs and identify what categories of consumers are likely to request such a service.
- 2.7.2 Where a need has been clearly identified, the LTA shall, through regulation, ensure that consumers are allowed to keep their telephone numbers when they change operators. Pursuant to this objective and considering the difficulties involved in implementing this goal, the LTA shall dialogue with the market players to implement number portability, particularly its technical and tariff aspects, and to also ensure that the numbering plan is revised to adapt to the requirements of number portability.

SECTION 2.8 National roaming

- 2.8.1 The LTA shall ensure that existing operators offer national roaming to requesting operators at an affordable price, wherever it is technically possible to do so. The LTA shall also ensure that national roaming does not replace the coverage obligations undertaken in the framework of mobile service licensing by new entrants.
- 2.8.2 The LTA shall ensure that the national roaming contract is freely negotiated between the operators on a bilateral basis and that the operators provide consumers with relevant information about national roaming tariffs.
- 2.8.3 The LTA shall also ensure that national roaming offers are fair and non-discriminatory.
- 2.8.4 The LTA shall publish specific national roaming guidelines to help establish tariff and technical conditions and provide information on national roaming contracts, in consultation with the market players.

SECTION 2.9 International roaming

- 2.9.1 The LTA shall do all to ensure that international roaming takes into consideration international best practices and ECOWAS regional policies.
- 2.9.2 The LTA shall undertake the following:

- a) ensure the widest possible compatibility between mobile systems in terms of roaming, and take this into consideration when awarding mobile licenses;
- b) study roaming prices charged within the ECOWAS region;
- c) consult with the players concerned with a view to arriving at reasonable tariffs to allow the greatest possible number of roaming users in the region to utilize the networks under the best price and equality conditions;
- d) identify operators engaged in applying prohibitive prices;
- e) consult with operators and other service providers concerning this matter;
- f) encourage prepaid subscribers to use roaming at reasonable tariffs;
- g) inform customers about roaming charges in a clear, detailed and transparent manner;
- h) draw the necessary conclusions from international best practice.

SECTION 2.10 Fixed-to-Mobile Call Termination

The LTA shall undertake all studies necessary for the effective establishment of fixed-to-mobile call termination.

SECTION 2.11 Evolution of the regulatory framework to promote the development of the internet

The LTA shall ensure that:

- a) through unbundling, alternative operators are able to offer [triple play] type services (high speed internet, voice and television);
- b) all the alternative operators [] equipment necessary for the implementation of local loop access can be co-located;
- c) encourage activities which will promote development of the wholesale market and hence rapid expansion of the internet throughout Liberia.

SECTION 2.12 Content of an interconnection agreement

Interconnection agreements shall specify, *inter alia*:

- a) the date of entry into force, duration and arrangements for the modification, termination and renewal of the agreement;
- b) arrangements for the establishment of interconnection and the planning of subsequent deployment, level of quality of service guaranteed by each network and coordination measures for monitoring quality of service and fault identification and clearance;

- c) a description of the services provided by each party;
- d) arrangements for measuring traffic and setting fees for services, billing and settlement procedures. In the absence of an RIO or for services not appearing in the RIO, the applicable tariffs shall appear in annex to the agreement.
- e) notification procedures and the contact details of the authorized representatives of each party for each field of competence.
- f) rules for compensation in the case of failure by one of the parties;
- g) dispute settlement procedures with mention, in the case of failure of negotiations between the parties, of mandatory recourse to the LTA.

SECTION 2.13 Verification by the LTA

The LTA shall ensure that:

- a) the agreement complies with the applicable regulatory and legal texts, in particular those provisions relating to interconnection and the terms of reference of operators;
- b) the provisions of the agreement contain no discriminatory measures likely to take advantage or disadvantage of one of the parties, vis-à-vis other operators or service providers. For this purpose, the agreement shall be compared with other agreements involving at least one of the parties.

SECTION 2.14 Identification of relevant markets and of significant market power on a relevant market

2.14.1 The LTA shall determine the relevant markets by:

- a) collecting information about each identified market so as to measure the extent of dominance;
- b) consulting the concerned telecommunication market players regarding market relevance for the purpose of analyzing those markets;
- c) defining the criteria to measure dominance;
- d) consulting with the concerned telecommunication market players about obligations to be imposed on dominant operators for each market.

2.14.2 The LTA shall furnish such information to the ECOWAS Commission for publication concerning the following:

- a) decisions adapted to individual cases handled by it;
- b) guidelines for market analysis and assessment of market power;
- c) a recommendation on relevant markets in products and services in the telecommunication sector that can be regulated *ex ante*.

2.14.3 The LTA shall analyze the markets in order to determine whether they are competitive or not and then draw the necessary conclusions in terms of regulatory obligations: if the analysis shows the market to be competitive, the LTA shall abolish any existing obligations: otherwise, it shall identify the dominant operator(s) as defined by competition law and impose appropriate regulatory obligations.

SECTION 2.15 Cost Accounting obligations

2.15.1 The LTA shall, as soon as practicable, require operators with significant market power, to set up cost accounting procedures for the purposes of regulation. The establishment of such accounting procedures must commence as of the enactment of this Supplementary Act within a time frame to be set by the LTA in order to adequately prepare for full liberalization. Cost accounting must show separate accounts, in accordance with international best practices where costs related to regulated and non-regulated activities will be kept separate.

2.15.2 . The LTA shall ensure that operators identify the cost accounting method adopted by them meets international best practice and that they publish a description of such cost accounting method, showing at least the main categories under which costs are grouped and the rules used for the allocation of cost.

2.15.3 The LTA shall appoint an independent body to audit the cost accounting system annually with the costs of said audits borne by the operator with significant market power in order to allow the LTA publish a cost nomenclature prior to the submission of the RIO for approval.

2.15.4 The LTA shall ensure that interconnection rates are to be calculated on the basis of any of the following procedures, pending the full implementation of the cost accounting deadline set by it:

- a) using a regional benchmark;
- b) using an existing cost calculation tool;
- c) ensuring that a top-down model of cost accounting which is based on forward-looking historical costs are used before implementing the long-run incremental cost (LRIC) model, which gives the dominant operator an incentive for greater efficiency;
- d) setting the appropriate rate of return based on the cost of capital, supported by market data;
- e) using the hybrid capital asset pricing model (CAPM), which incorporates the country risk and coefficient R in calculating the cost of equity.

SECTION 2.16 Reference interconnection Offer

- 2.16.1 The LTA shall publish a clear and transparent procedure governing approval of the reference interconnection offer (RIO) of operators possessing significant market power.
- 2.16.2 The LTA shall be entitled to request the operator with significant market power to add or modify the services set out in their offers, when such additions or modifications are justified for compliance with the principles of non-discrimination and cost-orientation of interconnection.
- 2.16.3 The offer must be as detailed as possible in order to facilitate smooth interconnection contract negotiations.
- 2.16.4 The operator with significant market power is required to publish annually an RIO, reflecting its price list and the technical services offered. The offer must contain at least the following services:
- a) services for the routing of switched traffic (call termination and origination);
 - b) leased lines;
 - c) interconnection links;
 - d) supplementary services and implementation arrangements therefore;
 - e) description of all points of interconnection and conditions of access thereto, for the purposes of physical co-location;
 - f) comprehensive description of proposed interconnection interfaces, including the signaling protocol and possibly the encryption methods used for the interfaces;
 - g) technical and tariff conditions governing the selection of carrier and portability.
- 2.16.5 The LTA may impose transparency obligations in line with international best practices.
- 2.16.6 The RIOs of operators with significant market power must also include the following services:
- a) third-party billing services;
 - b) the LTA may request an alternative co-location offer if physical co-location is proven to be technically unfeasible;
 - c) as needed, the technical and financial conditions governing access to the operator's resources, in particular those relating to unbundling of the local loop, with a view to offering telecommunication services.

SECTION 2.17 Publication of a reference interconnection offer

The reference interconnection offers approved by the LTA shall be made available on the dominant operators' websites and shall be accessible by a web link available on the LTA's website.

Section 2.18 Relevant cost orientation

2.18.1 Dominant operators shall respect the principle of relevant cost orientation, i.e. the costs of network components or the management structures of the operator effectively involved in the provision of interconnection.

2.18.2 The relevant costs shall include:

- a) general network costs, i.e. the costs of network components or the management structures of the operator effectively involved in the provision of interconnection.
- b) costs specific to interconnection services, i.e. costs directly incurred solely by those services.

2.18.3 The LTA shall ensure that non-relevant costs shall include costs specific to services other than interconnection.

2.18.4 Relevant costs must take account of long-term economic efficiency, in particular the investments required for network renewal and expansion with a view to sustained quality of service. These costs shall incorporate the cost of return on capital invested.

SECTION 2.19 Monitoring of interconnection tariffs

2.19.1 Dominant operators shall attach to the draft reference interconnection offer submitted to the LTA a detailed presentation justifying the main tariffs proposed. Once the harmonized method for calculating interconnection costs has been adopted, operators shall use it in order to provide the requested justification.

2.19.2 The LTA shall ensure that the methods and data used are valid. As required, it shall request the operator to adjust its calculations to rectify errors identified.

2.19.3 Should an operator fail to provide the justifications required, the LTA may in the operator's stead evaluate the costs based on information made available to the LTA.

2.19.4 The LTA shall ensure that tariff setting for access and interconnection in so far as the dominant operators are concerned is cost-oriented and, as appropriate, that the fees payable by consumers are not dissuasive.

Section 2.20 Communication of information to the LTA

2.20.1 Dominant operators are required to communicate to the LTA, at least once a year, the basic information required for checking the calculation of interconnection costs. The LTA shall prepare and communicate to operators a detailed list of that information. It shall update the list regularly, taking account *inter alia* of steps taken to harmonize the calculation methods.

2.20.2 Dominant operators shall allow the duly authorized staff or agents of the LTA to have access to their installations and information system in order to check the validity of the information received.

2.20.3 The LTA shall respect the confidentiality of non-public information to which it has access within the framework of auditing the interconnection costs.

SECTION 2.21 Local loop unbundling

The LTA shall ensure that, in the regulatory context:

- a) new entrants are authorized to access the local loop on the basis of a pre-established schedule;
- b) new entrants commit, in their respective proposals, to install some minimum infrastructure capacity, whereas dominant operators commit to provide access to copper pairs to the new entrant as well as the possibility of co-location on its premises in order to facilitate unbundling;
- c) the unbundling offer including the list of services offered at the request of the LTA shall be approved by the latter;
- d) the LTA shall be obliged to ensure, on the one hand, that the new entrant has access to the information needed for unbundling purposes and, on the other, that information related to unbundling is exchanged electronically between dominant operators and competitors; a schedule for unbundling shall be established with a view to liberalization of fixed communications, privileging unbundling with shared line access initially;
- e) recommendations shall be provided on use of the "scissors test" in order to compare retail prices and unbundling prices in order to eliminate any anticompetitive practices by the dominant operators.

Section 2.22 Co-location

2.22.1 The LTA shall ensure that there is an obligation for dominant operators to provide co-location and that a co-location offer, presenting no barrier to the entry of competitors, is included in the reference interconnection offer for network interconnection and in the unbundling offer for unbundling.

2.22.2 The LTA shall ensure that:

- a) where physical co-location is impossible for some valid reason such as lack of space, an alternative co-location offer must be made by the dominant operators;
- b) the LTA shall have a map of self-contained routing switches that are open to interconnection and are available for competitors' co-location; to this end, a working group composed of the LTA, the incumbent operator and alternative operators shall, in a fully transparent fashion, examine the problems of co-location and propose different solutions in order to solve problems that might arise. The industry could be involved in the work of this group so as to bring its technical expertise to bear.

2.22.3 The LTA shall work in advance on problems relating to access to premises, uninterrupted power, cooling and patch cables.

2.22.4 Following consultation with operators, the LTA shall establish a decision on the minimal set of conditions that must be fulfilled in any co-location offer. These conditions may lead to the specification, in every co-location offer, of the following:

- a) information on co-location sites;
- b) precise location of the operator's sites suitable for co-location;
- c) publication or notification of an updated list of sites;
- d) indications as to the availability of alternative solutions in the event that physical space for co-location is not available;
- e) information on what types of co-location are available, and on the availability of electric systems and cooling equipment on the sites, as well as the rules governing sublease of the co-location premises;
- f) indications on the time required to conduct feasibility studies for any co-location request;
- g) information on equipment characteristics and any restrictions on equipment that can be accepted for co-location;
- h) measures that operators offering co-location must take to ensure the security of their premises and to identify and resolve problems;
- i) conditions under which competing operator personnel may enter the premises;

- j) conditions under which competing operators and the LTA may inspect a site where physical co-location is impossible, or a site where co-location has been refused on grounds of lack of capacity.

Section 2.23 **Settlement of Disputes**

The LTA shall ensure the following:

- a) publish a referral procedure enabling market players to bring disputes before the LTA in accordance with a clear and transparent procedure;
- b) ensure that the committee responsible for taking decisions is impartial, and comprises people recognized for their competence and appointed *intuitu personae*;
- c) set a maximum time-frame for the settlement of disputes;
- d) provide for the possibility of the authority initiating a referral action itself, and the possibility of injunction against an operator in the event of serious problems requiring urgent solution;
- e) cooperate as widely as possible, and establish a group for exchanging experience via the internet and a database of past disputes and their solutions.

SECTION 2.24 **Dispute resolution procedures**

2.24.1 Disputes relating to refusal to interconnect, interconnection agreements and conditions of access shall be brought before the LTA;

2.24.2 The LTA shall render a decision within a period of three (3) months, after having invited the parties to present their statements/positions on the issue. However, the period may be extended to six (6) months when additional investigations and expert opinions are required. The decision shall be substantiated, and shall specify the equitable conditions, both technical and financial, under which the interconnection is to be effected. Matters remaining in dispute shall be brought before the competent jurisdictions.

2.24.3 In the case of serious and blatant breach of the rules governing the telecommunication sector, the LTA may, after inviting the parties to submit their statements/positions, order appropriate provisional measures to be taken to ensure the continued functioning of networks and services.

CHAPTER III - ESTABLISHMENT OF AN ICT POLICY AND REGULATORY FRAMEWORK CONDUCTIVE TO THE ECOWAS REGIONAL HARMONISATION POLICY

SECTION 3.1 Objectives of ICT policy

The Government of Liberia, through the LTA, shall ensure that the national ICT policy has the following objectives:

- (a) creation of an environment that is propitious to the sustainable dissemination and development of ICTs;
- (b) establishment of a strong, stable and competitive ICT industry in Liberia and the ECOWAS region, respectively;
- (c) growth in existing services and in the range of new services and installations that are available;
- (d) provision of affordable, broadly available, top-quality services;
- (e) access to ICTs, by application of the principle of technology neutrality throughout Liberia;
- (f) development and institution of appropriate policies and programs for universal access, with, for example, some of the key actions which can help furthering development of a national information infrastructure and the achievement of universal access objectives: provision of broadband capacity, availability of services at affordable costs, provision of standards to address reliability and redundancy issues, ensuring adequate capacity to provide service on demand, accessibility of services by the large majority of consumers, facilitating the delivery of a wide range of value-added services, facilitating the chance to access information;
- (g) attracting investment and promoting good governance in the ICT sector.
- (h) encouraging innovation, development and utilization of new technologies;
- (i) optimization of Liberia's limited resources, such as the radio spectrum and numbering space;
- (j) promoting information sharing, transparency and accountability, and reducing bureaucracy within and between organizations, and towards the public at large;

- (k) attaining a specified minimum level of information technology resources for educational institutions (beginning at primary school level) and government institutions;
- (l) development of expertise, in Liberia and within the region, in setting up and managing ICTs;
- (m) promotion and increase of ICT use by providing individuals and organizations in Government with a minimum level of ICT knowledge and high quality training;
- (n) assistance in understanding information technology, its development and its cross-disciplinary impact;
- (o) promotion of local content development;
- (p) provision of adequate funding for the supply of affordable ICT equipment to educational, health and other government institutions;
- (q) the reduction of tariffs on all ICT equipments.

SECTION 3.2 Institutional framework for the ICT sector

The Government of Liberia, through the LTA, shall ensure that sufficient attention is paid to the institutional framework governing ICT policies, by ensuring that cooperation is set up between the various bodies responsible for the sector, so as to make administration of sector activities efficient.

SECTION 3.3 Allocation of tasks

The Government of Liberia, through the LTA, shall ensure that the responsibilities and terms of reference of each member of the ICT institutional framework are clearly defined so as to avoid any uncertainty regarding the allocation of tasks. To this end, the allocation of tasks must be reflected in policies, laws and regulations that apply to the ICT sector, so that the relations between the different entities can be determined, along with the credibility of the members in the performance of their tasks.

SECTION 3.4 ICT policy function

The Government of Liberia, through the LTA, shall ensure that the national ICT policy covers the following functions, which fall within the authority of the Ministry of Post & Telecommunications:

- (a) develop and review ICT policies consistent with the purposes of this present Supplementary Act;
- (b) be responsible for matters of international telecommunications affecting the country;
- (c) propose a policy related to the provision of universal access and service;
- (d) follow up the implementation of this policy for the purpose of expanding the scope of coverage of ICT services, both horizontally and vertically, in such a way as to meet the requirements of economic and social development in the country, and draw up plans that encourage investment, on a competitive basis, in the ICT sectors.

SECTION 3.5 Regulatory guidelines

The LTA shall ensure that its regulatory functions for the sector are performed in an independent, proportionate, impartial and transparent manner with a view to achieving the following objectives:

- (a) adoption of the principle that regulation should be technology-neutral, and therefore a prohibition against granting unjustified advantage to any particular technology.
- (b) gradual creation of an open and competitive market for telecommunication networks and services, with:
 - full respect for the interests of users, as regards choice, price, quality and return;
 - prevention of any distortion and restriction of competition in the telecommunication sector, with due allowance for ongoing transitional regimes;
 - encouragement of rational investment in the infrastructure;
 - efficiency in the allocation and assignment of limited resources.
- (c) development of the interior market:
 - by watching over the transition of the ECOWAS Community towards the elimination of barriers;
 - by facilitating the installation and development of trans-national networks and interoperability of services within ECOWAS;

- by ensuring that, in similar circumstances, there is no discrimination in the treatment accorded to operators and providers of telecommunication services, with due allowance for ongoing transitional regimes;
 - by letting the information society develop within ECOWAS; with the growth of the telecommunication infrastructures, provide support for content services, including broadcasting content.
- (d) support the interests of the population and the struggle against poverty within ECOWAS:
- by supporting the construction of universal access to telecommunication services in accordance with the terms of the Supplementary Act on universal access/service;
 - ensuring a high level of protection of personal data and privacy;
 - requiring transparency of tariffs and conditions for using telecommunications services, addressing the needs of specific social groups, such as low-income groups, people living in isolated rural areas, and disabled persons.

Section 3.6 Status, independence & transparency of the LTA

3.6.1 The Government of Liberia shall ensure that the LTA exercises its powers in an impartial and transparent manner.

3.6.2 The Government of Liberia shall guarantee the independence of the LTA with respect to political authorities and all organizations providing telecommunications networks, equipment or services, or otherwise that are active in the sector, by ensuring that it is legally distinct and functionally independent.

3.6.3 The LTA shall ensure its complete independence in the exercise of its regulatory functions towards telecommunication networks or service providers.

3.6.4 The LTA shall take the necessary steps to guarantee the following:

(a) clear, precise terms of reference as a decision-making body within its statutory mandate;

(b) clear, transparent internal procedures, including:

- decision-making procedures,

- decision-sharing with other regulatory authorities within the ECOWAS region,
 - incompatibility of the functions of the LTA with that of any other activity in the sector,
 - prohibition on staff members of the LTA from taking on any other paid work or holding any direct or indirect interest in any company in the sector,
 - staff recruiting and nomination of leadership on the basis of a transparent procedure by which candidates are invited to apply on the strength of relevant experience in the ICT domain and demonstrated professional qualifications,
 - establishment of a fixed remuneration scheme for staff members of the LTA,
 - prohibition on Commissioners being re-appointed more than once,
 - protection of Commissioners against dismissal except in the case of demonstrated grave misconduct;
- (c) the creation of transparency mechanisms and the distribution of procedures for consultation with the sector players, giving interested parties an opportunity to bring forward their observations on proposed measures within a reasonable time-frame, as well as creation of a central information desk to give access to all of the ongoing consultation exercises and publish the results of public consultations, except in specifically described cases where confidentiality is an issue;
- (d) the publication of all decisions of the LTA, as a regulatory authority, in the official Gazette of the Republic of Liberia or in an official LTA publication including its website.

SECTION 3.7

The resources of the LTA

3.7.1 The Government of Liberia shall undertake to do what is necessary for the LTA to obtain the requisite financial and human resources it needs to perform its tasks in an impartial, autonomous and transparent manner.

3.7.2 The Government of Liberia shall mandate the LTA to give preference to self-financing schemes and to provide for all or a portion of the operator contributions, fees and other financial compensation paid by the operators to be allocated to its work in the sector. In any event, the funding systems for the LTA must not have the effect of restoring the influence and the interests of institutions that were supposed to be kept at arm's length through the separation of the regulatory and operating functions.

Section 3.8 Areas of activity of the LTA

The LTA shall perform the following regulatory tasks in consultation with Government Ministries and Institutions, consumers, operators or other stakeholders as the LTA may deem appropriate.

- (a) developing proposals to:
 - adapt the legal, economic and security framework in which ICT activities take place, such as draft laws, decrees and ministerial or policy directives relating to the regime of activities for the different operators active in the ICT sector, and
 - ensure effective competition, with technology-neutral regulation wherever possible;
- (b) processing license applications, preparing and carrying out licensing procedures by competitive bidding, and preparing and updating, in consultation with the other ministerial bodies involved, the texts for the licensing terms of reference that lay down the rights and obligations of public telecommunication network operators;
- (c) accepting the preliminary files for telecommunication activities requiring authorization. The LTA shall deliver authorization and prepare the associated documents, including the terms and conditions for authorization.
- (d) delivering registration and verification certificates, for all those activities of operators and service providers that are subject to a requirement for declaration;
- (e) delivering mandatory specifications and approval to terminal equipment and verifying conformity;
- (f) monitoring compliance with existing regulations and terms of license, authorizations and declarations granted in the ICT sector. To this end,

the LTA shall receive and study all information and documentation required from the operators of telecommunication networks and services under the terms of their licenses and terms of reference, and request any additional information that may be needed;

- (g) monitoring the ICT industry under economic and technical aspects, in accordance with normal practice and internationally recognized protocol, taking into account technology convergence in the ICT domain;
- (h) fostering and protecting effective competition and a fair and efficient market between the organizations involved in the ICT industry in Liberia, duly taking into account the public interest and preventing distortion and restriction of competition in the ICT sector;
- (i) establishing, for operators, performance standards relating to the provision of ICT services, and monitoring compliance with those standards;
- (j) conducting monitoring, and submitting reports to the responsible Minister, on information relating to the sector, such as the performance of the public operators, the quality of consumer services, and consumer satisfaction, measured according to existing international codes of practice;
- (k) dealing with all questions relating to the protection of the interests of consumers, which includes setting up a suitable system for receiving consumer complaints, the conduct of investigations, concerning ICT services, and submission of such complaints to the appropriate agency, where required;
- (l) the fulfillment, by the public operators, of their obligations as promulgated, so as to ensure that adequate, high-quality, affordable services meeting the various needs of the consumers are being delivered;
- (m) elaborating and, if necessary, revising the accounting requirements and tariff principles to be used by operators and service providers;
- (n) regulating the protection and security of data;
- (o) security and quality of every ICT service, and, to that end, determining the technical standards for those services and the connection of user equipment to communication networks;
- (p) managing and assigning spectrum, and monitoring usage conditions;
- (q) allocating numbering resources and managing the numbering plan;

- (r) examining and monitoring the implementation of interconnection and network access conditions, in accordance with the terms of this Supplementary Act;
- (s) implementing the policy for the development of universal access and service, in accordance with the terms of this Supplementary Act;
- (t) implementing the tariff policy applicable to telecommunication services;
- (u) authorizing or regulating the registration, administration and management of domain names, and providing a structured mechanism for their management;
- (v) monitoring the development of new information and communication technologies and developing measures to stimulate and facilitate investment in the ICT sector;
- (w) encouraging regional ICT connectivity and trade in services.

SECTION 3.9 Provision of information

- 3.9.1 LTA shall ensure that organizations providing telecommunication networks and services provide all the information, including financial information, necessary for LTA to ensure conformity with the provisions of, or decisions made in accordance with this Supplementary Act, or regional ECOWAS policies, directives or other supplementary acts.
- 3.9.2 The organizations referred to in Sub-section 3.9.1 above shall provide such information promptly on request, respecting the deadlines and providing the level of detail required by the LTA. The information requested by the LTA shall be proportionate to the performance of that task, and those authorities shall give the reasons justifying the request for information.
- 3.9.3 The principle of business secrecy is not applicable to the LTA. Nevertheless, the LTA must respect the confidentiality of all information received.

SECTION 3.10 Monitoring and sanctioning powers

- 3.10.1 The mandate of the LTA to apply sanctions and monitor the activities of the sector includes the following:
 - a) mandatory approvals and specifications, and the conditions for equipment usage;

- b) terms and conditions for scarce resources;
- c) compliance with the obligations incumbent on operators and providers of telecommunication services, in accordance with the applicable regime, in particular those of operators and service providers in a dominant position;
- d) instituting an obligation on operators to immediately notify the LTA of any technical problem or routine maintenance (exceeding one hour outage/service disruption) that affects any other operator or consumers such as network outages and impose penalties for failure by operators to report such technical problems within 24 hours.

3.10.2 The mandate of the LTA and its power to impose sanctions include:

- (a) the possibility of requiring the modification of unfair provisions in user agreements or conventions governing interconnection or access to the network of operators;
- (b) fining operators and service providers who infringe against telecommunication sector legislation to compel them to meet their obligations;
- (c) imposing penalties against operators and service providers who fail to comply with the obligations incumbent on them in the exercise of their activity;
- (d) revoking, suspending, or proposing the renovation or suspension of authorization in cases where the operator, or to telecommunication service provider is guilty of an infringement and fails to remedy the situation within a reasonable time after being duly notified by the LTA.
- (e) exercising the powers with which it has been endowed in a proportionate manner, respecting the principle of adversarial process, and in accordance with transparent, objective and non-discriminatory procedures.

SECTION 3.11 Settlement of disputes

3.11.1 LTA shall ensure that all telecommunication operators and service providers are able to have recourse to it in the event of any dispute relating to:

- a) any alleged violation by a telecommunication operator or service provider of any STATUTORY or regulatory provision(s) governing telecommunication or of any contractual terms;

- b) any alleged denial of interconnection or capacity or infrastructure leasing that is not in accordance with the conditions stipulated in this Supplementary Act to the Telecommunications Act of 2007 or any LTA Regulations and to any disagreement relating to the application or interpretation of reference interconnection offers or interconnection agreement;
- c) the conditions under which an operator is granted or denied occupancy rights within the public domain, or rights-of-way over private property for the purposes of setting up and operating a telecommunication network;
- d) the exercise of special or exclusive rights by an entity active in the sector.

3.11.2 The LTA shall also ensure that every user has access to it in the event of any dispute relating to:

- a) an alleged violation, by a telecommunication operator or service provider, of its terms of reference or other such instrument containing the conditions of its authorization or declaration.
- b) the legal basis of any provision of a standard consumer subscription contract.

3.11.3 The LTA shall ensure that it puts in place transparent, non-discriminatory procedures for dispute settlement. In particular, it shall ensure the following procedural steps;

- a) make rulings within a reasonable period of time;
- b) respect the principle of adversarial process and the rights of the defense, by giving the parties an opportunity to present their observations;
- c) duly substantiate its decisions;
- d) make its decisions public in accordance with the conditions and within the limitations foreseen under the Telecommunications Act of 2007.

3.11.4 The LTA shall further take those measures that are needed to ensure that, in the event of an imminent serious violation of any regulation governing the telecommunications sector; it shall impose staying measures after the parties have been heard, particularly in order to protect the continuity of operation of networks and services.

3.11.5 The LTA shall ensure that the procedure established above is applicable even in the event of a dispute where one party is in Liberia and the other party is in another ECOWAS country.

3.11.6 Any party may refer a matter under dispute to the LTA and the LTA shall coordinate the efforts necessary to resolve the dispute in a manner

consistent with the guiding principles of Section 3.11 of this Supplementary Act. .

3.11.7 In the absence of a reaction from the LTA or lack of coordination between the LTA and the parties to a dispute, and in order to arrive at a solution in the interest of the sector, any party may refer the matter to the ECOWAS Commission for its advice and shall address a copy of the referral to each of the parties and the LTA.

3.11.8 In the event a party to a dispute handled by the LTA is not satisfied with the final decision, such party shall have the right to appeal to the Circuit Court having jurisdiction in accordance with the Civil Procedure Law of Liberia.

SECTION 3.12 Cooperation between national regulatory authorities

The LTA shall promulgate procedures for cooperation and consultation between it and other regulatory authorities responsible for regulating the ICT sector within the ECOWAS region, other national institutions responsible for applying competition law, and those responsible for applying the law relating to the protection of consumer rights, on subjects of common interest.

CHAPTER IV - LEGAL REGIME APPLICABLE TO NETWORK OPERATORS AND SERVICE PROVIDERS

SECTION 4.1 Opening up to Competition

4.1.1 In consideration of the fact that the ICT sector has been liberalized in accordance with the Telecommunications Act 2007, the LTA is required to promote, like in all ECOWAS Countries, free competition to further open the market to new entrants within the time frame stipulated by ECOWAS.

4.1.2 In order to allow all ECOWAS Countries to follow regional trends, the LTA shall in support of the Poverty Reduction Strategy (PRS) of infrastructure revitalization:

- a) promote infrastructure-based competition.
- b) in the initial stages of competition, ensure, by means of the licensing approach, that service-based competition does not dissuade new entrants from deploying their own infrastructure.

SECTION 4.2

Technology and Service neutrality

4.2.1 The LTA shall promote technology and service neutrality so as to be able to accommodate convergence and new technologies.

4.2.2 The LTA shall refrain from imposing limitations of the service offered over a given network except in the case of the protection of public order or moral standards.

4.2.3 In order to take account of technological developments, the licensing regime shall include provisions to facilitate the review of license conditions when technological advance has an impact on ongoing operation.

SECTION 4.3

Conditions for market entry

4.3.1 LTA shall ensure that its legal framework contains four levels of regulatory intervention allowing ICT market entry by way of:

- a) universal licenses for multiple services;
- b) individual license;
- c) general authorization or class license;
- d) open entry, which may in some cases require registration, notification or declaration with the LTA.

4.3.2 Different telecommunication networks and services shall be categorized according to the structure adopted:

- a) a universal license shall be required for the operation of a public network (irrespective of technology) that is capable of providing capacity service and offering voice, data and video services, which are made available to the general public for a fee.

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- b) an individual license shall be required for the operation of infrastructures that are incapable of providing infrastructure leasing service, but are capable of connecting to a public network to provide services. Application service providers who offer services using leased facilities will also be covered under this framework. Furthermore, all service providers that will require assignment of scarce resources will be in this category. Where the use of scarce resources would be required, the LTA shall

exercise its regulatory authority over the allocation of such resources in connection with the issuance of licenses.

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c) a general authorization is required in the following cases:

- the operation or provision of private networks;
- network installers;
- operation of non-facility based networks

d) entry is open subject to compliance with the applicable legislative and regulatory provisions, in the following cases:

- internal networks;
- radio installations exclusively composed of low power, low-range equipment categorized as decided by the LTA.

e) for the following activities where entry is open, a declaration is required:

- the provision of value-added services;
- the provisions of the internet services;
- resellers.

SECTION 4.4 Sector Development and Provisional Conditions

4.4.1 In order to promote the development of the ICT sector in Liberia and to allow more choice to consumers, the LTA may decide that certain activities, services or networks should be exempt from the obligation to hold a license and be subject to the authorization, declaration or even the open entry regime. The aim of such a provision is to give flexibility to the LTA in order to promote the establishment of networks and the provision of services in the country.

4.4.2 Without prejudice to Sub-section 4.4.1 above, where the provision of a telecommunication service is not yet covered by a license or general authorization and where that service and/or authorization cannot be provided without a license or authorization, the LTA shall, no later than

six weeks after having received a request, either adopt provisional conditions allowing the company to commence providing the service, or deny the request, providing the company concerned with the reasons for its decision. LTA shall then adopt, as soon as possible, definitive conditions governing the issue of a license for the service or network, or agree that the service or network be provided without authorization, or provide the reasons for its refusal to do either.

SECTION 4.5 Limitation of Barriers to market entry

4.5.1 The LTA shall ensure that it imposes no barriers that are not in conformity with regulations on the number of operators or service providers in the ICT market.

4.5.2 LTA shall refrain from granting licenses with exclusivity or special rights, except when dictated by the unavailability of necessary resources or other relevant reasons.

SECTION 4.6 Reasons for denial

The LTA shall ensure that procedures are introduced whereby all the reasons for the denial of any license or general authorization are made known to the applicant upon request.

SECTION 4.7 Limitation on the number of individual licenses

4.7.1 The LTA shall be able to limit the number of individual licenses, for any category of telecommunications service and for the establishment and/or operation of telecommunication infrastructure, only to the extent required to guarantee the efficient use of the radio-frequency spectrum or for the time required to allow sufficient numbers to be allocated.

4.7.2 The LTA shall grant individual licenses on the basis of objective, non-discriminatory, transparent, proportionate and detailed selection criteria. In any selection, it shall take due account of the necessity to facilitate the development of competition and maximize advantages for the users.

SECTION 4.8 Individual license charges and fees

4.8.1 The LTA shall ensure that charges and fees imposed on service providers and operators as part of the license and authorization procedures are for the sole purpose of covering the administrative costs incurred in the

authorization, management, control and implementation of scarce resources and costs of regulating the telecommunication sector. The charges applicable to an individual license shall be in proportion to the volume of work required and shall be published in an appropriate and sufficiently detailed form to make the information readily available.

- 4.8.2 Notwithstanding sub-section 4.8.1 above, in the case of scarce resources the LTA may charge fees in order to cater for the need to ensure optimum utilization of such resources. Such fees shall be non-discriminatory and shall take account in particular of the need to promote the development of innovative services and competition.

CHAPTER V – MANAGEMENT OF THE NUMBERING PLAN

SECTION 5.1 General principles for Managing the Numbering Plan

- 5.1.1 The LTA shall have sole control over the assignment of all the national numbering resources and the management of the National Numbering Plan.
- 5.1.2 The LTA may delegate the responsibility for administering the numbering plan to another entity. In that case, the LTA shall ensure that the rules for allocating, reserving and using numbers are strictly adhered to and that an annual audit of the body delegated the administrative responsibility for the management of the numbering plan is conducted as provided for in this Supplementary Act.
- 5.1.3 The LTA shall ensure that adequate numbers and numbering series are reserved in the numbering plans for all telecommunication services accessible to the public.
- 5.1.4 The principal elements defined in the preceding paragraph must be public, available from the LTA on the request and published in an official, transparent manner. In the interests of national security, the numbering capacity reserved for police and defense purposes need not be made public.
- 5.1.5 The procedure for allocating numbering capacity shall be followed in a transparent, non-discriminatory manner, in accordance with objective criteria and following the principles, respectively, of reservation, allocating and withdrawal.

- 5.1.6 The LTA must ensure proper utilization of the prefixes, numbers, number blocks and codes that are allocated. These shall not be protected by industrial or intellectual property rights, nor shall they be transferred without the agreement of the LTA.
- 5.1.7 The LTA must ensure that the administration of the numbering plan allows for the publication of directories of numbers and access to directory inquiry services.
- 5.1.8 The LTA shall ensure that numbering plans and the associated procedures are implemented in a way that protects equality of treatment to all providers of telecommunication services available to the public. In particular, they shall ensure that companies to which a range of numbers is allocated do not engage in any discrimination against other telecommunication service providers as regards the sequences of numbers used to provide access to their services.

SECTION 5.2 Essential principles for managing the numbering plan

- 5.2.1 The LTA shall ensure that the management of the national numbering plan respects the following essential points.
- a) the plan is be long-term and balanced.
 - b) the plan takes into account the need for short numbers and reserved special numbers for emergency, directory, operator, and user assistance services, and ensure that prefixes and numbers or number blocks are allocated to public telecommunication operators, under objectives, transparent and non-discriminatory conditions.
 - c) the plan takes into account the opinion of operators, users and the LTA.
 - d) the plan includes a coherent, clear and published strategy.
 - e) the plan takes into account applicable international standards, in particular regarding access to international service, as well as the needs of neighbors, whether on the same continent or elsewhere in the world.
 - f) the plan is not anti-competitive against telecommunication operators and new entrants in the sector.
 - g) the plan is not anti-competitive against users.

- h) the plan is compatible with sound appropriate management practices.
- i) the plan allows sufficient margins to meet any unexpected needs.

5.2.2 The numbers and blocks of numbers may not become the property of the applicants, or of the end-users. They may not be protected by means of industrial or intellectual property rights. They are allocated following reservation by the LTA for a limited duration of time, corresponding to the operational lifetime of the service or application. When an applicant gives up operation of its telecommunication service, for which numbering capacity has been allocated, that capacity can be allocated to a new assignee on condition that the latter is authorized to operate the service and that a declaration to this effect has previously been submitted to the LTA.

5.2.3 Information about the reservation, allocating and withdrawal of numbering capacity is public, and must be provided by the LTA on demand.

Section 5.3 General methods for managing the numbering plan

The LTA shall put in place, in the long term, the following methods to harmonize the management of numbering plans at the regional level:

- a) use of common databases for the assignment of numbers.
- b) adoption of harmonized emergency codes for the region.
- c) promotion of appropriate number portability.
- d) assigning lower initial digits to fixed lines, and reserving the higher ones to mobile.
- e) allocation of number blocks against a fee.
- f) planning for direct allocation to end users.
- g) number assignment using geographical, network or service codes.
- h) allowing for migration to a closed plan.

SECTION 5.4 Cooperation and harmonization of numbering resources

- 5.4.1 The LTA shall support the harmonization of numbering resources within ECOWAS wherever necessary to foster the development of services within the ECOWAS zone.
- 5.4.2 The LTA shall ensure that the national numbering plan makes it possible, subject to technical and economic feasibility, for users located in other ECOWAS Countries to have access to non-geographical numbers that are accessible throughout the region.
- 5.4.3 In order to ensure overall interoperability of services, the LTA shall, where appropriate, coordinate its positions within the international organizations and authorities in which decisions concerning issues related to numbering, naming and addressing for communication networks and services are taken.

CHAPTER VI - MANAGEMENT OF THE RADIO-FREQUENCY SPECTRUM

SECTION 6.1 Objectives of radio-frequency spectrum management

The LTA shall ensure coordinated management of the radio frequency spectrum, on the basis of the following objectives:

- a) economic efficiency: ensuring that the allocation of frequencies to users, having regard to the uses, results, on the market, in higher value being derived from the resource; ensuring that there is a swift, flexible response to changing markets and technologies, with new services being accommodated as they become technically and commercially viable; and minimizing transaction costs, barriers to entry and any other constraints on efficient economic activity;
- b) technical efficiency: assuring intensive use of limited spectrum, and adherence to technical limitations based on interference considerations; and promoting the development and introduction of new spectrum-saving technologies where the cost of such technologies is justified by the value of the spectrum saved.
- c) general policy: ensuring that it is consistent with overall government policy; safeguarding certain areas of spectrum use for the efficient functioning of national defense, emergency services and other public services; and ensuring that any change in spectrum use always remains consistent with Liberia's international and regional obligations.

SECTION 6.2 Definition of a common framework for spectrum management in the ECOWAS Zone

LTA shall define a common framework for economically efficient spectrum management with a view to meeting the objective of liberalizing the ICT market within ECOWAS region.

SECTION 6.3 Principles of efficient spectrum Management

- 6.3.1 The LTA shall ensure that all users of spectrum are licensed by the LTA and that all classes of users make optimum use of the spectrum they occupy.
- 6.3.2 Such licenses shall include technical, operational and administrative conditions in accordance with this Supplementary Act and regulations of the LTA.
- 6.3.3 The LTA shall enforce all spectrum license conditions in order to ensure an interference free spectrum throughout Liberia.

SECTION 6.4 Spectrum pricing

- 6.4.1 LTA shall adopt a frequency pricing system in cases where demand is greater than supply and frequency auctioning or frequency trading is not used. Determination of the price calculation method, which is generally based on spectrum opportunity cost, may also take account of any objectives defined by the Government.
- 6.4.2 LTA shall ensure that in the majority of frequency bands where demand is greater than supply, they follow the principle of a positive price for spectrum access where there are other potential uses for a given block of spectrum, i.e. where the opportunity cost is greater than zero. Where demand does not exceed supply, the price may be equal to the administrative costs or to a value consistent with government policy.

SECTION 6.5 Auction

Where demand is greater than supply, LTA shall make preferential use of auctions as a means of assigning major spectrum licenses to competing applicants, in the interests of ensuring transparency, objectivity and impartiality in the transfer (or assignment) process.

SECTION 6.6 Service restrictions

The Government of Liberia shall ensure that the LTA makes every effort to keep license conditions to the minimum necessary for efficient spectrum use. To this end, existing licenses should be amended to remove restrictions not needed for reasons of international coordination or interference management, and new licenses should be issued with as few restrictions as possible.

SECTION 6.7 Generic licenses for spectrum use

In the interests of greater flexibility and as an aid to economic development, LTA may adopt a system of generic licenses for frequency usage within certain frequency ranges.

SECTION 6.8 Conformity with the global and regional regulatory framework

LTA shall manage spectrum in ways that promote flexibility while respecting the ITU international allocations.

SECTION 6.9 Coordinating spectrum management across civil and governmental

6.9.1 LTA shall establish a framework which permits the effective coordination of all spectrum use, at the national, regional and international levels.

6.9.2 The Government of Liberia shall ensure that the LTA is the sole regulatory body dealing with spectrum use in the broadcasting and telecommunication spheres.

6.9.3 Where government requirements for a particular frequency band are zero or negligible, such spectrum may be permanently reallocated to civil uses, following a definitive renunciation by the government.

SECTION 6.10 Role of LTA in spectrum management

In the interests of having a management regime that embraces the principle of technological neutrality, the Government of Liberia shall ensure that radio spectrum management powers are vested in the LTA as the sole national regulatory authority overseeing ICT/telecommunications since its mandate covers ICT in the broadest sense.

SECTION 6.11 Radio Spectrum Coordination Committee

6.11.1 The LTA shall ensure that an inter-agency committee is established to enable consultation on the radio spectrum according to the multi-jurisdictional model using the following rules of operations:

- a) the LTA shall prepare the terms of reference of the committee in consultation with the relevant stakeholder Government institutions.
- b) the committee shall adopt in the first instance a policy agenda and guidelines for regulations as prepared by the LTA.

- c) the committee shall be chaired by the LTA and shall comprise members of key Government institutions involved in spectrum management, as well as key non-governmental stakeholders as identified by the LTA.
- d) official records shall be kept of meetings of the committee and be made public, except where this may compromise national security interests.
- e) Government representatives on the committee shall be seconded to the committee for a period not exceeding five years, renewable only once.

6.11.2 The LTA shall ensure that it also includes at least one (1) member from the civil society.

6.11.3 The LTA shall ensure that the committee publishes an annual report, to communicate to the Government and publish on the LTA's website. The committee shall also publish all its work and all other relevant material, subject to a confidentiality clause, on the LTA's website. The website of each participating governmental committee member's department should contain a link to the committee's web page on the LTA's website.

6.11.4 Two members of the committee shall be nominated by the LTA to sit on the regional committee comprising members from all the ECOWAS countries. The regional committee shall meet once a year, in one of the countries of the region, to discuss matters of international relevance in the context of spectrum management and matters of mutual interest.

SECTION 6.12 Regional Spectrum Management Coordination Committee

6.12.1 The LTA shall become a member of the special ECOWAS committee comprising the spectrum management bodies with the task of defining a common approach to spectrum management.

6.12.2 The Committee shall examine the spectrum assignments and allocations of the ECOWAS countries and recommend a harmonized policy for promoting broadband wireless access service provision across the region.

SECTION 6.13 Common framework for documenting and monitoring spectrum use

The LTA shall establish, possibly under the auspices of ECOWAS, a common methodology for documenting and monitoring spectrum, sharing as necessary the costs of developing a software tool for that purpose. LTA shall likewise promote the establishment, under the auspices of ECOWAS, of a forum bringing together those responsible for spectrum management for the purpose of:

- a) exchanging information and experiences to foster the harmonization of spectrum management rules;
- b) preparing common positions to be presented to regional, then global bodies;
- c) pooling existing expertise.

CHAPTER VII - PRINCIPLES ON THE PROVISION OF UNIVERSAL ACCESS AND UNIVERSAL SERVICE IN ICT FACILITIES

SECTION 7.1 Creation of a regulatory and policy environment conducive to universal access/service

The Government of Liberia, through the LTA, shall take all necessary measures in order to:

- a) at the highest possible level, identify ICT as a tool for socio-economic development, designating to that end a national focal point such as a ministry, a governmental department, or well-known individual to champion the cause of ICT development;
- b) ensure that it is provided with the means necessary for it to play a key role in implementing universal access policies first, by addressing the market efficiency gap (letting the market deliver universal access/service), and then by tackling the true access gap;
- c) to make the LTA responsible for implementing policies geared towards the provision of services that are of the highest possible quality, reliable and affordable, and which satisfy the needs of users both present and in the future;
- d) to develop a communication framework through the telecommunication sector, institutional or legislative reform in line with international best practices but with due regard for local requirements;
- e) to ensure that all citizens and elements of the population, regardless of ethnic origin, socio-economic level or geographical location are included in the definition of universal access/service policies;

SECTION 7.2 Designing policies and determining regulatory reform measures

7.2.1 The Government of Liberia shall take all necessary measures in order to:

- a) formulate a national policy that identifies appropriate and realistic universal access/service objectives which takes into account the differences between universal access(public access to ICTs) and universal service (private or household access to ICTs);
- b) as frequently as possible, conduct public consultations with stakeholders to identify their needs and modify universal access/service policies, regulations and practices accordingly;
- c) design universal access/service policies, regulations and practices to create incentives to the private sector to extend universal access to communication services;
- d) to use a multi-pronged approach to address universal access/service challenges and opportunities, relying on complimentary strategies to meet the targets that have been set;
- e) to establish a fair and transparent telecommunication regulatory framework that promotes universal access to ICTs while allowing the market to address universal access/service to the greatest extent possible, intervening only where the market has failed or seems likely to do so. This entails:
 - i. promoting technologically neutral licensing practices enabling service providers to use the most cost-effective technology to provide services to end users;
 - ii. adopting a transparent and non-discriminatory interconnection framework in which interconnection rates are linked to cost;
 - iii. reducing the regulatory burdens to lower the cost of providing services to end users;
 - iv. promoting competition in the provision of a full range of ICT services to increase access, affordability, availability and use of ICTs.

7.2.2 Where it is necessary for the LTA and policy makers to intervene to facilitate the delivery of universal access/service:

- a) public access strategies should be explored in addition to private universal access strategies;
- b) both pay and play strategies should be employed, but where possible service providers should be encourage to invest in rural, remote and low- income populations and areas;
- c) using regulatory reform as the first step in achieving universal access and recognizing that further steps will be necessary to achieve ubiquitous access to ICTs, e.g. in rural areas or for users with special needs;
- d) setting up appropriate licensing schemes for rural service providers so as to meet the needs of unserved or underserved areas.

SECTION 7.3 Promoting innovative regulatory policies

The LTA shall:

- a) promote access to low-cost broadband interconnectivity from the local to the international level, involving government authorities, companies and non-governmental organizations;
- b) adopt regulatory framework that support applications like e-education and e-government;
- c) implement policies aimed at increasing access to internet and broadband services, based on their own market structure, such that the policies reflect diversity in culture, language and social interests;
- d) work with stakeholders to expand broadband coverage and use through multi-stakeholder partnerships, in parallel to government initiatives to promote financially sustainable programs, particularly with a view to bridging the market gap that may exist;
- e) adopt a regulatory regime that facilitate the use of all transport media, whether wire line, power line, cable, wireless or any other new technology;
- f) develop with Government Ministries, Departments and Institutions/Stakeholders initiatives for encouraging public access to broadband and internet services in schools, libraries and other community centers;
- g) ensure that the LTA implement harmonized spectrum allocations consistent with the ITU radio communication process according to the strategic national interest of the country.

SECTION 7.4 Access to information and communication infrastructures

The Government of Liberia, through the LTA, with a view to facilitating access to information and communication, shall:

- a) foster the introduction of innovative services using new technology at an affordable level of pricing within a competitive framework;
- b) promote affordable ICT equipment, which could include national manufacturing of ICT equipment, reduce customs tariffs and duties, end-user loans to make ICT equipment more affordable;
- c) develop a full range of public access options, including the creation of public telecenters and multi-purpose community centers;

- d) develop local projects and input, including content that is useful to local populations, thereby increasing their relevance and hence, their long-term financial sustainability;
- e) institute education and training programs to encourage the use of ICTs and their impact on local people, thereby increasing the long-term financial sustainability of ICT projects.

SECTION 7.5 Availability of universal access/service

The Government of Liberia shall commit itself to taking the necessary steps to ensure that, as a minimum, the entire population within the territory of Liberia has access to the services listed in this Supplementary Act, regardless of their geographical location and at affordable prices.

SECTION 7.6 Provision of Telecommunication service

The LTA shall ensure that requests for connection to a telecommunication network are satisfied by at least one operator, and may, if necessary, designate one or more operators to that effect, such that all parts of the national territory are covered. The connection provided must be such as to enable the user to make domestic and international calls, send and receive voice messages and fax and data transmissions, and connect to the internet with an adequate transfer rate.

SECTION 7.7 Directories and Telephone information services

7.7.1 The LTA shall ensure that:

- a) a directory, which may be printed or electronic or both, containing the credentials of all subscribers, including their fixed and mobile telephone numbers, is made available to users in a form approved by the LTA;
- b) at least one telephone information service covering all listed subscribers is available to all users, including users of public telephone booths;
- c) companies providing the above services apply the principles of non-discrimination to the processing and presentation of information provided to them by operators.

7.7.2 The LTA shall undertake to give effect to these provisions with all due respect for the applicable legal and regulatory provisions in force in regard to personal data and privacy protection. In particular, where subscribers expressly so request, their information shall not be included in any directory.

SECTION 7.8 Emergency services

The LTA shall ensure that emergency calls can be made free of charge from any fixed or mobile telephone, including phone booths.

SECTION 7.9 Public access and public payphones

7.9.1 The LTA shall ensure that public payphones are installed, under reasonable conditions, in terms of quantity and geographic distribution in order to enable users not subscribed to the telephone service to have access thereto.

7.9.2 The LTA shall, in the exercise of its mandate in accordance with the ICT Policy, impose schedules for the deployment of public payphones (solely or in multi-purpose centers), with the aim of having at least one public payphone in each locality numbering 500 or more inhabitants within a given timeframe.

SECTION 7.10 Specific measures in favor of certain social groups

The LTA shall take specific measures to ensure that users with disabilities or special social needs have equivalent and affordable access to publicly available telephone services, including emergency and directory services at an affordable price.

SECTION 7.11 Reviewing the scope of universal access/service

7.11.1 The LTA shall adopt measurable targets for improving connectivity and access to ICT use, which can be based on distance, population density or length of time needed to have access to ICTs, and on the other hand, hold periodic reviews of universal access/service policies, regulations and practices in order to adapt, to the evolving nature of ICT services and end-user needs.

7.11.2 The LTA shall periodically review the scope of the universal service, in particular with a view to making proposals for its modification or redefinition. The first such review shall take place within two years following the enactment of this Supplementary Act and thereafter, a review shall be held every three years.

7.11.3 The review shall take account of social, economic and technological developments, and shall have particular regard to data mobility and transfer rates for the technologies most widely used by the majority of subscribers. The LTA shall inform the ECOWAS Commission of any changes.

SECTION 7.12 Mandatory additional services

The Government of Liberia shall decide to make additional services accessible to the public within Liberia beyond those services that come under this Chapter.

SECTION 7.13 Cooperation and management of universal access/service

The Government of Liberia shall ensure that cooperation is explored at several levels:

- a) between the private sector and communities, so that where possible the market can deliver universal access/service;
- b) between communities, government and the private sector, to ensure that the access gap is dealt with in a manner that is relevant to communities;
- c) within government, to reap the full benefits of ICTs, beyond infrastructure and technology, and extending to health, education, agriculture and other sectors.

SECTION 7.14 Arrangements for implementation

7.14.1 The Universal Access/Service Governing Board and the Universal Access/Service Implementation Committee, through the LTA, shall determine the most effective and appropriate approach for ensuring the implementation of universal service, with due respect for the principles of objectivity, transparency, non-discrimination and proportionality. The LTA shall endeavor to keep market distortions to a minimum, particularly where they take the form of service provision at rates or under conditions which differ from those normally prevailing in a commercial operation, while protecting the public interest.

7.14.2 The LTA shall, where necessary, designate one or more companies to ensure the provision of the universal service as defined in this Act such that all parts of Liberia can be covered. The LTA may designate companies or different groups of companies to provide different components of universal access/service and/or to cover different parts of the country.

7.14.3 When the LTA designates companies to fulfill universal service obligations over all or part of the country, it shall do so through a mechanism that is effective, objective, transparent and non-discriminatory, which does not exclude any company *a priori*.

SECTION 7.15 Quality of the service provided by designated companies

7.15.1 The LTA shall ensure that the companies entrusted with the task of providing users with the services referred to for universal access/service in this Supplementary Act, provide it with a regular account of their activities and results achieved in that regard.

7.15.2 The LTA shall establish performance objectives for companies assuming universal service obligations pursuant to the relevant provisions of this Supplementary Act, in accordance with the procedures described.

- 7.15.3 Pursuant to the harmonization regimes applicable to telecommunication network operators and service providers, individual licenses may specify results to be achieved for the provision of universal access/service.
- 7.15.4 An entity's persistent failure to achieve the performance objectives and quality levels specified for the implementation of this Section of this Supplementary Act may entail the application of sanctions by the LTA.
- 7.15.5 The LTA may require independent verification of an operator's performance of the obligations incumbent upon it pursuant to Sections 63, 64, 65 and 66 of this Supplementary Act.

SECTION 7.16 Financing and management of the universal access policy

- 7.16.1 The Government of Liberia shall ensure that the universal service is provided to everyone at affordable rates. It may, at the request of the Ministry of Posts & Telecommunications, require companies designated pursuant to Section 81 to make available to low-income or special needs users prices, options or schemes that differ from those normally prevailing in a commercial operation, particularly with a view to ensuring universal service.
- 7.16.2 The conditions under which such facilities are granted must be proportional, transparent and non-discriminatory, and publicly promulgated.

SECTION 7.17 Calculating the cost of universal service

- 7.17.1 In determining whether provision of the universal service places an unjustified burden on the companies designated as providers, the LTA shall adopt a method for calculating the costs of the universal service, based on net costs.
- 7.17.2 The net cost corresponds to the difference between the investment and operational costs associated with the provision of the universal service and the relevant revenues. Relevant revenues are the direct and indirect revenues generated by the universal service.
- 7.17.3 The net cost of any special price-scheme offers made by an operator to certain categories of subscribers to ensure their access to the universal service shall be deducted from that operator's contribution to the universal service fund.
- 7.17.4 The calculation of the net cost of the universal service obligations shall be submitted for auditing by an entity that is unconnected with the body responsible for managing the fund. The result of the net cost calculation and the audit conclusions shall be made publicly available.

SECTION 7.18 Funding of universal access/service

7.18.1 The Government of Liberia shall seek funding and subsidies for the provision of universal access and service which shall be determined and delivered in a manner that is transparent, non-discriminatory, inexpensive and competitively neutral.

7.18.2 Subsidies referred to in sub-section 84.1 above may be provided using several means, including:

- a) a universal service fund, which should be developed as a mechanism within a broader market-oriented approach to achieving universal access;
- b) universal service funds can be financed by a broad range of market players, managed by neutral bodies such as regulators, and be used to kick-start public access projects that meet the needs of the local community;
- c) Government may also consider a full range of other financing mechanisms;
- d) competitive minimum subsidy auctions could be used, as an option, to reduce the amount of financing necessary for public access projects financed by a universal service fund;
- e) public access projects can be designed to achieve long-term, financial self-sustainability, especially where consideration is given to innovative low-cost technologies.

SECTION 7.19 LTA Regulations

The LTA shall issue regulations:

- a) as may be necessary for the effective implementation of this Act;
- b) on any omitted provisions of the ECOWAS Supplementary Acts which by nature are typical of regulations and are deemed necessary for the development of ICTs in both Liberia and the region;
- c) for any other act, policy or directive of ECOWAS as may be adopted for the development of ICTs in the ECOWAS region, including any such act, policy or directive on cyber crime, data protection or electronic transactions.

SECTION 7.20 Decisions impacting other ECOWAS Countries

7.20.1 When, based on this Supplementary Act, the LTA takes decisions that are liable to have an impact on exchanges between ECOWAS Countries and on the establishment of the ECOWAS single market; and

- a) concern the implementation of the tariff policy applicable to telecommunication services;
- b) concern the implementation of the universal service development policy;
- c) concern interconnection;
- d) relate to the arrangements for authorizing the establishment, operation and/or provision of telecommunication services open to the public;
- e) the LTA shall ensure that the measures and substantiating arguments are communicated to the ECOWAS Commission one month prior to their implementation.

7.20.2 The LTA shall take into consideration the remarks of the Commission.

7.20.3 The measures shall take effect one month after the date on which they were communicated, unless the Commission informs the LTA that they are incompatible with a regional policy, decision or act.

7.20.4 Under exceptional circumstances, where LTA considers it urgent to take action to safeguard competition and protect users' interests, it may adopt proportionate measures immediately, applicable for a limited period only. Those measures shall be communicated without delay to the Commission for comment.

SECTION 7.21 Entry into force

Immediately after the passage of this Act, it shall enter into force and take effect upon publication in handbill.

NOT WITHSTANDING ANY LAW TO THE CONTRARY

