

Kingdom of Cambodia
Nation Religion Monarch

TELECOM ACT

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PART I GENERAL PROVISIONS

Article 1 DEFINITIONS

“Telecommunication” means the communication between man and man, between thing and thing, or between man and thing by using electromagnetic signal transmitted via cable of any type or via waveguide or in space. Examples : Telephone, facsimile, telex, telegramme, despatch of video image, internet, and email. etc.

“Regulator” means the person issuing and enforcing telecommunication regulations.

“Register of licences” means the register of licences and their associated conditions.

“Telecommunication network” means the network of cables or radio and electronic equipment used for serving telecommunication service.

“Public network” means telecommunication network used for serving the general public, that is, opposite of the private network.

“Operator” means the person that installs network and or provides telecommunication services.

“Authorised officer” means the official authorised by the Telecom Authority to carry out activities covered by this Act or a police officer or a military police that has been ordered to carry activities to serve this Act.

“Universal Service Obligation Fund” means the fund for use by the Telecom Authority for the construction, management and operation of telecommunication network to serve rural areas or any areas that no one is willing to provide the service in.

“Minister” means the minister charged with the responsibility for telecommunications.

“Government” means the government of Cambodia.

“Service Number” means the number used for addressing in the telecommunication network like telephone numbers, domain name system (DNS), email address etc.

“Certificate” means certification of characteristics of equipment.

“Telecom Authority” means the national Cambodian Telecom Authority established under this Telecom Act.

“individual licence” means a licence specific to a particular entity to conduct a specified activity and may include conditions to which the conduct of that activity shall be subject.

“class licence” means a licence applicable to a group of users or service providers, as opposed to an individual licence, which may include conditions to which the conduct of that activity shall be subject.

“Type approval certificate” means a certificate issued for equipment that it has the right characteristics for use in Cambodia.

“Electronic address” means electronic number or text used to identify one person or one computer.

Article 2 This Act is to :

- (a) to promote national policy objectives for the telecommunications sector;
- (b) to establish a regulatory framework in support of national policy objectives for the telecommunications sector;
- (c) to establish the powers, functions and responsibilities of the Telecom Authority;
- and
- (d) to establish powers and procedures for the administration of this Act.

Article 3 The national policies in the telecommunications sector are :

- (a) To encourage private investment as contained in the investment act ...
- (b) To encourage innovation and infrastructure development.
- (c) To promote public interest where market may not.

- (d) Promotion of high but fair competition consistent with the market size of each sector of telecommunication field.
- (e) To promote efficient use of scarce resources
- (e) To promote the development of capabilities and skills in telecommunication sector.
- (f) To promote availability of essential telecom services during disaster and national crises.
- (g) Ensuring of information security and network reliability and integrity.

- Article 4 (1) This Act and its subsidiary legislation apply both within and outside Cambodia.
- (2) Notwithstanding subsection (1), this Act and its subsidiary legislation shall apply to any person beyond the geographical limits of Cambodia and her territorial waters if such person :
- (a) is a licensee under this Act; or
 - (b) provides or will provide relevant facilities or services under this Act in a place within Cambodia.
- (3) For the purposes of this section, “a place” means a point of any nature or description whether on land, on an island, in the atmosphere, in outer space, underground, underwater or at sea.
- (4) For the purposes of this section, a place that is in the geographical limits and territorial waters of Cambodia is taken to be within the geographical limits of Cambodia.

PART II DIVISION OF RESPONSIBILITY AND THE CREATION OF TELECOM AUTHORITY

Article 5 The division of responsibilities in Telecommunication area shall be as follows :

- (a) The Minister is responsible for setting telecommunication policies in accordance with the policy objectives of the Government. The Minister shall not govern directly the Telecom Authority.
- (b) The Telecom Authority is responsible for setting the rules and regulations in accordance with the policies set by the Minister and ensure that they are adhered to, i.e. the Telecom Authority is the Regulator in the field of telecommunications and
- (c) The operators provide the telecommunication network and services to the people under the rules and regulations set by the Telecom Authority.

Article 6 Ownership of telecommunication networks shall be vested with either a government state enterprise or private companies (shareholders).

Article 7 The establishment of the Telecom Authority shall not be later than 1 January 2005.

Article 8 The Telecom Authority shall be composed of :

- (a) A Chairman and a Deputy Chairman of Telecom Authority whose appointment is recommended by the Minister and shall be approved by the king for a term of 4 years, renewable consecutively by at most one term.
- (b) The Minister may make recommendations for the replacement or removal of the Chairman and Deputy Chairman.

Article 9 The Telecom Authority has the duty to :

- (a) Formulate and publish regulations on telecommunications such as Declarations (Prakas), Circulations (Sarachars), in accordance with the policies set by the Minister,

- (b) Formulate and effect the establishment of telecommunication network to be available during emergency and national disaster.
- (c) Issue licences in a transparent manner consistent with this Act and in accordance with the policies set by the Minister,
- (d) Monitor and take necessary measures for the compliance by network and service providers and the public to the telecom regulations;
- (e) Furnish reports to the Minister the Government and the national Assembly in accordance with their requirements.

Article 10 The Telecom Authority has the powers as stated in the Articles in this Act.

Article 11 In the field of broadcasting the Telecom Authority has jurisdiction over the telecommunication network between one station and another or, if cable is used, between a station and the TV or radio sets. The broadcasting and the contents are under the jurisdiction of another authority or ministry.

Article 12 The Telecom Authority shall not own any share in any enterprise.

Article 13 The Telecom Authority shall be responsible to the Government.

PART III LICENCES

Article 14 No person or legal entity shall -

- (a) own any telecommunication network;
 - (b) provide any telecommunication services;
- without having
- (aa) an individual licence; or
 - (bb) a class licence,
- issued by the Telecom Authority

Article 15 (1) A person may apply, in writing, to the Telecom Authority for an individual licence or a class licence in respect of any matter requiring an individual licence under this Act.

- (2) License fees are payable to the Telecom Authority and in accordance with the amount set by the Telecom Authority.

Article 16 (1) The Telecom Authority may grant individual licences subject to some special conditions, if any.

- (2) The licence holders, individual or class type, shall abide by the rules and regulations of other organisations as the case may require.
- (3) If the Telecom Authority refuses to grant a licence to an applicant, the Telecom Authority shall give the applicant a written notice informing him the reasons for the refusal.
- (4) *The Telecom Authority shall issue licenses in a transparent manner.*

Article 17 The Telecom Authority may grant a special right to the state enterprise, Cambodia Telecom, to be a main telecommunication carrier in Cambodia.

Article 18 The Telecom Authority may, at any time modify or revoke or add the special or additional conditions of an existing licences;

Article 19 The holder of an individual or class licensee may not transfer to any other party unless the prior written approval of the Telecom Authority has been granted.

Article 20 The Telecom Authority may :

- (1) suspend or cancel an individual licence
- (2) suspend or halt the activity of a class licence holder in the following circumstances:
 - (a) the licensee has failed to pay any amount required by this Act or as stated in the licence held;
 - (b) the licensee has failed to comply with the provisions of this Act or the terms and conditions of the licence;
 - (c) the licensee has contravened the provisions of any other written law relevant to the communications industry; or
 - (d) the suspension or cancellation is in the public interest.

Article 21 (1) Where the suspension or cancellation of an individual licence, or the surrender of an individual licence, has taken effect, or where the individual licence has expired, the licensee shall immediately cease to provide any facility or service in respect of which the individual licence was granted.

(2) The Telecom Authority may authorise the licensee in writing to carry on providing any facility or service for such duration as the Telecom Authority may specify in the authorisation for the purpose of winding up the licensee's affairs.

Article 22 The Telecom Authority shall create and maintain a register, which shall be made available to the public, of all individual licences and class licences.

Article 23 A licensee shall not engage in any conduct which has the purpose of substantially lessening competition in a communications market.

Article 24 Operators shall set and implement tariffs in accordance with the regulations set by the Telecom Authority.

PART IV STANDARDS AND TECHNICAL REGULATIONS

Article 25 The Telecom Authority may designate a working group to formulate standards either mandatory or not mandatory in the field covered by this Act. The working group may formulate standards either by its own initiatives or following the recommendation by the Telecom Authority.

Article 26 The Telecom Authority shall specify the mandatory standards.

Article 27 (a) The Telecom Authority may assign agents inside or outside Cambodia to issue certificates certifying the technical quality.

(b) Certificates issued by the Telecom Authority and the agents are of equal value.

Article 28 No person shall intentionally transmit electromagnetic signals in any part of the frequency spectrum unless -

- (a) the person holds a licence to use such frequencies, except those frequencies expressly exempted by the Telecom Authority.
- (b) the apparatus used has a type approval issued by the Telecom Authority.
- (c) the use of the spectrum complies with this Act and all subsidiary regulations under this Act.

Article 29 The Telecom Authority shall create, plan and administer the allocation of service numbers.

Article 30 (1) The Telecom Authority may appoint a specified person or institution to manage or maintain an integrated public number database or an integrated electronic address database.

(2) A person or institution specified under subsection (1) shall provide non-discriminatory commercial access to the database to every operator.

(3) The Telecom Authority shall guide the person or institution specified under subsection 1 on how to do the tasks specified in subsection 2.

PART V PROVISION OF SERVICE

Article 31 The Telecom Authority shall institute a mechanism to encourage construction of network in remote areas.

Article 32 (1) A Universal Service Obligation Fund (“USO Fund”) shall be established, controlled and managed by the Telecom Authority in a transparent manner.

(2) The USO fund shall be kept in a bank account independent from the account of the Telecom Authority.

(3) The Minister may make policies regarding contributions by licensees to the USO Fund.

Article 33 The Telecom Authority shall take measures to have the following services established :

- a Services during emergency situations
- b Directory services
- c Operator services

The Telecom Authority may specify a particular operator to provide the services mentioned above.

Article 34 (1) The Telecom Authority shall prepare regulations to protect the interest of customers including :

- (a) compliance with customer requirements;
- (b) the handling of customers’ dispute with the operators.
- (c) the protection of consumer information.
- (d) the provision of information to customers regarding services, rates and performance;
- (e) the provisioning and fault repair of services;
- (f) the advertising or representation of services;
- (g) customer charging, billing, collection and credit practices; and
- (h) any other matter of concern to consumers.

Article 35 The Telecom Authority shall establish procedures or guidelines for the making, receipt and handling of complaints of consumers regarding the conduct or operation of licensees.

Article 36 The reports furnished by the Telecom Authority to the Government shall include, among others, the following points :

- (a) the efficiency in which licensees provide facilities and services;
- (b) the quality of services;
- (c) the rates paid by consumers for services;
- (d) the adequacy of services and availability of services in all parts of Cambodia;
- (e) other matters that the Telecom Authority is satisfied are relevant.

PART VI USE OF LAND

Article 37 A network facilities provider, may for the purposes of determining whether any land is suitable for his purpose of installing, or obtaining access to, network facilities enter on, and inspect, the land and do anything on the land that is necessary or desirable for that purpose, including making surveys, taking levels, sinking bores, taking samples, digging pits and examining the soil.

Article 38 (1) A network facilities provider may for purposes connected with the provision of network services carry out the installation of network facilities if -

- (a) the provider is authorised to do so by a network facilities installation permit issued by the Telecom Authority;
- (b) the installation is carried out for the sole purpose of connecting a building or structure, or a line that forms part of a network facility.

(2) The installation of the network facilities authorised by this Article may require the approval of the local authority, or other relevant authority, if necessary.

Article 39 The Telecom Authority may issue, for the use of land, regulations to be complied with by Operators.

Article 40 An Operator may use a public place which has been permitted by the local land authority. The authorised operator shall share the use of such public facility with other operators in accordance with the request and a suitably payment arrangement is made.

PART VII PROHIBITED ACTIVITIES

Article 41 No person may use any equipment that renders a public network inoperative.

Article 42 No person may use any equipment that compromises the national security.

Article 43 No person may use install or alter any part of a telecommunication network that compromises the public safety.

Article 44 (1) No person may use or allow others to use communication facilities with intent to avoid payment or pay less than the amount required.

(2) No person may create or possess system or computer program to work with a network for the purpose to avoid payment or to pay less than what is required.

(3) No person may create or possess system or computer program to do activities prohibited by the Telecom Authority.

Article 45 (1) No person may by telecommunication means with or without disclosing his identity annoy, abuse, threaten or harass any person.

(2) No person may permit another person to do an activity described in paragraph (1), over which situation he may have control.

Article 46 (1) No person may

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

(b) disclose, or attempt to disclose, to any other person the contents of any communications;

without lawful authority from the higher authority.

Article 47 (1) No person may distribute any broadcast signal without paying an appropriate licence fee to the signal owner.

Article 48 No person may or order others to :

(a) Enter ID codes of others directly or through communication device to deactivate or to change the functioning of specific computers.

(b) Enter information or instruction directly or through communication device to lift the normally imposed control hence rendering such computer without control.

Article 49 (1) No person may :

(a) use any non-type approved equipment or device;

(c) has in his possession any non-type approved equipment or device and intend to install for use such equipment or device; or

(c) offer or sell or has in his possession with a view to supply any such non-type approved equipment or device,

Article 50 No person may -

(1) refuse to give to an authorised officer any information relating to an offence under this Act; or

(2) knowingly give false information,

PART VIII INFORMATION GATHERING AND DISPUTE RESOLUTION

Article 51 The Telecom Authority may hold a public inquiry -

(a) in response to a written request from a person; or

(b) on its own initiative,

if it is satisfied that the matter is of significant interest to either the public or to current or prospective licensees under this Act.

Article 52 If the Telecom Authority decides to hold a public inquiry the Telecom Authority shall publish notice informing the period during which the inquiry is to be held and the nature of the matter to which the inquiry relates.

Article 53 An inquiry or a part of an inquiry may be conducted in private if the Telecom Authority is satisfied that -

(a) the documents or information that may be given, or a matter that may arise during the inquiry is of a confidential nature; or

(b) the inquiry in public would violate this Act or any other acts.

Article 54 After an inquiry takes place in public and the Telecom Authority is of the opinion that the evidence or other material presented to the inquiry is of a confidential nature the Telecom Authority,

- (a) must not publish that material
- (b) must disclose only the part that may be disclosed.

Article 55 In the case that the Telecom Authority considers that action covered by this act is of civil or criminal offence the Telecom Authority shall investigate and take appropriate action.

Article 56 (1) The Telecom Authority may conduct an investigation on a matter upon a written complaint by a person.

- (2) If the Telecom Authority decides not to investigate, or not to investigate further, a matter to which a complaint relates, it shall inform the complainant and the respondent of the decision and the reasons for the decision.

Article 57 In the case that the Telecom Authority has reason to believe that a person has any information or any document that is relevant to matter under investigation the Telecom Authority may require in writing for that person to provide such evidence or data.

Article 58 (1) The Telecom Authority may take, and retain for as long as is necessary, possession of a document.

- (2) The Telecom Authority shall permit the person otherwise entitled to possession of the document to inspect and make copies of, or take extracts from, the document.

Article 59 Regarding any matter under this Act or its subsidiary legislation :

- (1) A dispute between two or more parties shall first be attempted to be resolved by negotiation between the parties.
- (2) If the parties to the dispute cannot or otherwise fail to reach an agreement the parties may seek resolution of the dispute by the Telecom Authority.

Article 60 (1) Upon receipt of the notification of the dispute, the Telecom Authority shall, as soon as practicable, convene to decide the dispute.

- (2) The Telecom Authority shall be bound under subsection (1) to convene to decide a dispute if it is satisfied that -
 - (a) an agreement will not be reached, or will not be reached within a reasonable time;
 - (b) the resolution of the dispute would promote the objects of this Act.

Article 61 (1) The terms and conditions of any resolution of a dispute by the Telecom Authority under this Chapter shall be accompanied with reasons and be in writing.

- (2) The Telecom Authority shall provide the parties to the dispute with a copy of its decision as soon as practicable.
- (3) The decision of the Telecom Authority shall be binding on the parties.

Article 62 A person who is aggrieved or whose interest is adversely affected by any decision of the Telecom Authority may bring the matter to the attention of the Telecom Authority for review.

Article 63 A person who does not agree with the decision or other action of the Telecom Authority may apply to the court for a judicial review of such decision or other action.

PART IX POWER TO SEARCH AND ARREST

Article 64 (1) The Telecom Authority may assign its own staff members or capable members of other institutions to take measures in order to make the public follow this Act.

(2) The assigned staff members shall show to the persons being arrested or searched the letter of authority given out by the Telecom Authority.

Article 65 The Telecom Authority may investigate on the holders of licences or any person on matters relating to this Act or regulations under this Act.

Article 66 Upon receipt of a request from the Telecom Authority or any person the state lawyer may issue a warrant authorising an officer to investigate and seize material relating to the violation of this Act.

Article 67 If the authorised officer considers that the delay in getting the warrant will lead to the damage of the evidence that authorised officer may enter and seize material without obtaining the warrant from the state lawyer.

Article 68 (1) The authorised officer that enters and seizes equipment shall write a list of all items taken and leave the list at the place of confiscation.

(2) If there is no one at the place the list must be hanged at the place.

Article 69 No person may use force or obstruct or interfere prohibit the authorised officer from entering and investigate his place.

Article 70 In performing his duty in accordance with this Act the authorised officer may :

(1) order the owner of the premises to create documents or computer data for him to see;

(2) order the owner of the premises to show his licence.

(3) ask any questions relating to the violation of this law or its subsidiary legislation.

Article 71 (1) In the course of investigation the Telecom Authority may order the person who the Telecom Authority thinks that may have evidence to come and provide the evidence.

(2) If that person dos not come the Telecom Authority may ask the state lawyer to summon the person.

Article 72 After the investigation the investigating officer shall provide all documents to the chief of police so that the person committing the offence may be arrested.

Article 73 (1) An order for the forfeiture of any thing may be made by the court despite the fact that no person may have been convicted of the offence or breach.

(2) If there is no prosecution with regard to any thing or matter seized the thing or matter shall be taken or deemed to be forfeited at the expiration of one calendar month.

(3) A person asserting that he is the owner of any thing or matter seized and that the thing or matter is not liable to forfeiture may write to the Telecom Authority informing his claim.

(4) On receipt of a notice under subsection (3), the Telecom Authority or any authorised officer may direct that the thing or matter be released or refer the case to a Court for decision.

(5) All things or matter forfeited or deemed to be forfeited shall be delivered to the Telecom Authority or an authorised officer who shall dispose of it in the manner as the Telecom Authority thinks fit.

Article 74 In accordance with the national interest during national crises the Telecom Authority may order for an instrument to be installed for the purpose of listening to the conversation and the Telecom Authority may order the owner of encryption software to disclose the encryption code to enable the Telecom Authority to monitor the communication.

PART X OFFENCES AND PENALTIES

Article 75 Any person that commits offence described in article 14 shall be liable to pay penalty fee between 50 and 1000 million Riel and or imprisonment between 6 months and 15 years.

Article 76 Any person that commits offence described in article 19, 21, 23, 42, 47 or 48 shall be liable to pay penalty fee between 30 and 300 million Riel and or imprisonment between 6 months and 10 years.

Article 77 Any person that commits offence described in article 24, 28, 41, 49 or 69 shall be liable to pay penalty fee between 20 and 100 million Riel and or imprisonment between 6 months and 5 years.

Article 78 Any person that commits offence described in article 40, 43, or 46 shall be liable to pay penalty fee between 10 and 50 million Riel and or imprisonment between 6 months and 2 years.

Article 79 Any person that commits offence described in article 45 or 50 shall be liable to pay penalty fee between 5 and 20 million Riel and or imprisonment between 3 months and 1 year.

Article 80 Any act contrary to this Act and which is not covered in any offence term shall be liable to pay penalty fee between 5 million and 20 million Riel and or imprisonment between 3 months and 1 year.

Article 81 All moneys of penalty payments that are managed by the Telecom Authority shall be used by the Telecom Authority and for payment to the government.

PART XI MISCELLANEOUS PROVISIONS

Article 82 All Declarations (Prakas), Circulars (Sarachars) or Instructions issued by the Telecom Authority for general implementation shall be published in the Royal Registry (Reach Kech) and shall be effective from the date issued or the date specified in those Declarations, Circulars or Instructions.

Article 83 The Telecom Authority or the authorised officer shall be immune from legal cases for any action performed by him for the purpose of this Act.

Article 84 The Telecom Authority shall review all regulations under this Act at least once every three years.

PART XII FINAL PROVISION

Article 85 All regulations containing statements contrary to this Act shall be void.

