



Maldives Telecommunications Regulation 2003

4th September 2003

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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تَمْرِي تَمْرِي تَمْرِي 2003/188

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الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ ، وَ لِصَلَاةٍ وَالسَّلَامُ عَلَي سَيِّدِنَا
مُحَمَّدٍ خَاتَمِ الْأَنْبِيَاءِ وَالْمُرْسَلِينَ ، وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ .

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"تعمیر و توسیعی کاروں کے لیے 2003ء کی بجٹ میں 42 کروڑ روپے کی رقم مختص کی گئی ہے۔"۔
 وزیر تعلیم، سندھ

وَصَلَّى اللّٰهُ وَسَلَّم عَلٰى سَيِّدِنَا مُحَمَّدٍ ، وَعَلَىٰ آلِهِ وَصَحْبِهِ
 أَجْمَعِينَ ، وَالْحَمْدُ لِلّٰهِ رَبِّ الْعَالَمِينَ .

ذرا توجہ سے دیکھیں کہ 2003ء کی بجٹ میں کتنی رقم
 تعلیم کے لیے مختص کی گئی ہے۔ اس رقم سے کتنی کاموں کو
 انجام دیا گیا ہے۔ اس رقم سے کتنی اسکولوں کو
 تعمیر کیا گیا ہے۔ اس رقم سے کتنی اسکولوں کو
 توسیعی کاموں سے نوازا گیا ہے۔

وزیر تعلیم، سندھ
 محکمہ تعلیم، سندھ



Maldives Telecommunications Regulation 2003

4th September 2003

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PART 1 – INTRODUCTION

This is the “Maldives Telecommunications Regulation 2003” for regulating telecommunications in the Republic of Maldives, and for related purposes.

1. Short title

1.1 This Regulation may be cited as the “Maldives Telecommunications Regulation 2003”.

2. Commencement

2.1 This Regulation shall enter into force on 7th day of Rajab 1424 of the Hijree Calendar corresponding to the 4th day of September 2003.

3. Objects

3.1 The objects of this Regulation are:-

- (a) to promote the best interests of the citizens of the Maldives, and to create an environment conducive to investment, by:-
 - (i) ensuring that telecommunications services are accessible to all people in the Maldives, and are supplied as efficiently and economically as practicable and at performance standards that reasonably meet the social and commercial needs of the Maldives; and
 - (ii) encouraging, promoting and facilitating the development and expansion of a telecommunications industry that is efficient, internationally competitive and responsive to the needs of the community;
- (b) to promote a competitive environment for the provision of domestic and international telecommunication services;
- (c) to promote national policy objectives for the telecommunications industry; and
- (d) to establish a licensing and regulatory framework that supports and facilitates the achievement of the objects of this Regulation.

3.2 The national policy objectives for the telecommunications industry include:-

- (a) to make all telecommunications services more affordable, equitable and competitive;
- (b) to develop telecommunications infrastructure and services to reduce the disparity between Malé and the rest of the Maldives;
- (c) to introduce, encourage and maintain competition in telecommunications services;
- (d) to provide the Authority with the necessary means and powers to regulate the telecommunications industry in accordance with the national policy objectives; and
- (e) to develop and promote information and communication technologies.

4. **Definitions and Interpretation**

4.1 In this Regulation, unless a contrary intention appears:-

“**apparatus assignment**” means an assignment issued under Section 95.1.

“**assignment**” means an assignment by the Authority of rights to use specified spectrum and includes a class assignment.

“**Authority**” means the body responsible for regulating telecommunications in the Republic of Maldives as stated in Section 5.

“**class assignment**” means an assignment issued under Section 96.1.

“**class licence**” means a licence for any or all persons to conduct a specified activity and may include conditions to which the conduct of that activity is subject.

“**carrier**” means the holder of a carrier licence.

“**carrier licence**” means the licence issued to own or operate any network facilities that are used to provide any telecommunications service as described in Section 18.2(a) and issued under Section 21.2.

“**communications**” includes any communications:-

- (a) whether between persons and persons, things and things or persons and things; and
- (b) whether in the form of speech, music or other sounds; and
- (c) whether in the form of text; and
- (d) whether in the form of visual images (animated or otherwise); and
- (e) whether in the form of signals; and
- (f) whether in any other form; and
- (g) whether in any combination of forms.

“**customer equipment**” means any device or equipment, whether hardware or software that:-

- (a) is used, installed or intended for use in connection with a telecommunications service; and
- (b) is on the customer side of the network boundary,

or that under the subordinate regulations is treated as customer equipment.

“**essential service**” is a service or facility declared by the Minister under Section 63.

“**exclusive licence**” means any carrier licence or service provider licence issued on an exclusive basis.

“**frequency band plan**” means a frequency band plan developed under Section 93.

“**fund**” means the Universal service fund established under Section 67.

“**Government**” means the government from time to time of the Republic of Maldives.

“**individual licence**” means a licence for a specified person to conduct a specified activity and may include conditions to which the conduct of that activity is subject and includes a carrier licence and a service provider licence (unless otherwise indicated).

“**interconnection agreement**” means an agreement of a type described in Section 58 whether made by agreement or pursuant to an interconnection determination under that Section.

“**interconnection determination**” means a determination by the Authority under Section 58.1.

“**ITU**” means the International Telecommunication Union.

“**licence**” means a licence granted or issued under this Regulation and includes, for the avoidance of doubt, a class licence.

“**licensee**” means a person who either holds an individual licence, or undertakes activities which are subject to a class licence, granted under this Regulation.

“**network facility activity**” has the meaning given by Section 75.3.

“**Minister**” means the Minister of Communications, Science and Technology, or such other person from time to time charged with responsibility for communications.

“**Ministry**” means the Ministry of Communications, Science and Technology, or such other Ministry from time to time charged with responsibility for communications.

“**network boundary**” means the network boundary determined by the Minister by written instrument for the purposes of the Regulation, but in the absence of such determination:-

- (a) the first equipment socket in a private residence;
- (b) the main distribution frame in a building; or
- (c) a point agreed to be the network boundary by the customer and the relevant licensee, unless the Authority, by written instrument, determines otherwise.

“**network facilities**” means any element or combination of elements of physical infrastructure used principally for, or in connection with, the provision of telecommunications services and includes a telecommunications network, but does not include customer equipment.

“**numbering plan**” means the numbering plan made under Section 85.2.

“**offence**” means a contravention or violation of this Regulation that, depending on the gravity and nature of the charge, is to be determined by the Authority pursuant to Section 104.2. For the sake of convenience, Schedule 3 provides a summary of the offences and their penalties under this Regulation.

“**President**” means the President from time to time of the Republic of Maldives.

“**radiocommunication**” means any radio emission, or reception of radio emission, for the purpose of communications.

“**radiocommunications equipment**” means:-

- (a) any radio transmitter, receiver, aerial, support structure, ancillary equipment or apparatus used for or intended for use in connection with radiocommunication; and
- (b) any apparatus of any kind that generates and emits radio emissions even though that apparatus is not intended for radiocommunication.

“**radio emission**” means any emission of electromagnetic energy of frequencies less than 420 terahertz without continuous artificial guide, or as defined by the ITU from time to time.

“**subordinate regulations**” means any regulation made by the Minister pursuant to Section 150 of this Regulation.

“**service provider**” means a holder of a service provider licence.

“**service provider licence**” means a licence issued to provide any telecommunications service as described in Section 18.2(b) and issued under Section 22 allowing the provision of a telecommunications service specified in the licence.

“**spectrum**” means the range of frequencies within which radiocommunications are capable of being carried out.

“**spectrum assignment**” means the assignment issued under Section 94.1.

“**spectrum plan**” means the spectrum plan developed under Section 92

“**telecommunication**” means any transmission, emission, or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

“**telecommunications equipment**” includes network facilities and customer equipment.

“**telecommunications industry**” means an industry that involves:-

- (a) carrying on business as a carrier;
- (b) carrying on business as a service provider;
- (c) supplying goods or services for use in connection with the provision of a telecommunications service;
- (d) manufacturing or importing customer equipment or other telecommunications equipment;
- (e) installing, maintaining, operating or providing access to
 - (i) a telecommunications network; or
 - (ii) telecommunications equipment;used to provide a telecommunications service.

“**telecommunications market**” means any market for the provision or acquisition of any telecommunications equipment or telecommunications services.

“**telecommunications network**” means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both, between fixed locations, between moving locations or between fixed locations and moving locations, within the Maldives or between the Maldives and places outside the Maldives, on a point-to-point or point-to-multipoint basis.

“**telecommunications officer**” means any person employed in connection with a telecommunications service, any member of the Regulatory Board, employee or contractor of the Authority or any other person who has official duties in connection with a telecommunications service.

“**telecommunications service**” means a service to the public for the carrying of communications by means of a telecommunications network. For the avoidance of doubt, a “service to the public” includes a service provided to guests in a tourist resort, hotel or any equivalent place of accommodation.

“**universal service obligation**” means the obligation described in Section 65.

4.2 For the avoidance of doubt (and without limiting any other law relating to interpretation), in this Regulation:-

- (a) a reference to a person includes an individual and any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity and includes a partnership;
- (b) a singular word includes the plural, and vice versa;
- (c) if a word is defined, another part of speech has a corresponding meaning;
- (d) if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing;
- (e) a reference to “this Regulation”, includes a reference to other subordinate regulations under this Regulation; and
- (f) a reference to a “law”, is a reference to a written law of the Republic of Maldives.

PART 2 – THE AUTHORITY, FUNCTIONS AND POWERS

Chapter 1 – the Authority

5. The Authority

- 5.1 For the purposes of this Regulation, the Authority means the Telecommunications Authority of Maldives or any other body or office that may be established by the President of the Republic of Maldives for the purposes of regulating the telecommunications in the Republic of Maldives.

Chapter 2 – Administration of the Regulation

6. Regulatory Board

- 6.1 The Regulatory Board of the Authority is responsible for the administration and enforcement of this Regulation. The Regulatory Board may, by writing, delegate the powers and functions of the Authority to a department, section or person working for the Authority.

Chapter 3 – Functions and Powers of the Authority

7. Functions of the Authority

- 7.1 The Authority has the following functions:-

- (a) the telecommunications functions set out in Section 8;
- (b) the spectrum management functions set out in Section 9;
- (c) such other functions as are conferred on the Authority by this Regulation or any other law; and
- (d) the doing of anything incidental to or conducive to the performance of any of the above functions.

8. The Authority's telecommunications functions

- 8.1 The Authority's telecommunications functions are as follows:-

- (a) to regulate telecommunications and radiocommunications in accordance with this Regulation;
- (b) to advise and assist the telecommunications industry;
- (c) to encourage and promote the development of the Maldives telecommunications sector;
- (d) to report to and advise the Minister in relation to the telecommunications industry or matters affecting consumers, or proposed consumers, of telecommunications services;
- (e) to promote the development of a fair and competitive operating environment for the telecommunications industry in the Maldives;
- (f) to regulate anti-competitive practices;
- (g) to issue and administer licences for the provision of telecommunications services;

- (h) to administer tariff approval, price control and financial regulation of licensees;
- (i) to encourage and promote responsible self regulation in the telecommunications industry;
- (j) to administer the telecommunications numbering plan and any plan for the management of electronic addressing;
- (k) to resolve interconnection disputes;
- (l) to approve and certify telecommunications equipment;
- (m) to set standards for the provision of telecommunications services;
- (n) to regulate and co-ordinate satellite activities with the ITU;
- (o) to encourage the telecommunications industry to take appropriate environmental protection measures with telecommunication installations and facilities
- (p) to inform and advise the public about matters relating to the telecommunications industry; and
- (q) to manage the Maldives' input into the setting of international standards for telecommunications and to represent the Maldives at international telecommunications fora.

9. The Authority's spectrum management functions

9.1 The Authority's spectrum management functions are as follows:-

- (a) to manage the radiofrequency spectrum in accordance with this Regulation;
- (b) to issue and administer licences relating to use of spectrum and radiocommunications equipment; and
- (c) to regulate interference and investigation of interference complaints.

10. General powers of the Authority

10.1 The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Chapter 4 – Monitoring and Reporting

11. Authority to report to the Minister

11.1 The Authority must furnish to the Minister, and any public authority or government department as may be specified by the Minister, information relating to the Authority's activities, proceedings, finances or any other matter as the Minister may, from time to time, require or direct.

12. Monitoring of performance – annual report

12.1 Without limiting Section 11.1, the Authority must monitor, and at the end of each financial year report to the Minister regarding, all significant matters relating to the performance of licensees and other participants in the telecommunications industry, with particular reference to:-

- (a) consumer satisfaction;
- (b) consumer benefits; and
- (c) quality of service.

12.2 In performing its functions under Section 12.1, the Authority may have regard to such industry performance indicators as the Authority considers appropriate.

12.3 Matters upon which the Authority must monitor and report include:-

- (a) the operation and administration of this Regulation;
- (b) the efficiency in which licensees provide facilities and services;
- (c) customer satisfaction and customer complaints,
- (d) the charges paid by consumers for services;
- (e) the development of industry self-regulation;
- (f) the quality and availability of services in all parts of the Maldives;
- (g) the state of competition and the effectiveness of competitive safeguards;
- (h) any deficiencies in the scope or operation of this Regulation; and
- (i) other matters that the Authority considers relevant.

13. **Regulatory review**

13.1 The Authority must conduct a review of this Regulation:

- (a) every three years; or
- (b) as and when the Minister directs.

13.2 After conducting a review of this Regulation, the Authority must provide a written recommendation to the Minister as to whether, in the Authority's opinion, it is necessary or desirable to modify or vary, or to repeal, any provisions of this Regulation, or any rules or subordinate regulations made under this Regulation:

- (a) in the national interest;
- (b) to achieve the objects of this Regulation; or
- (c) for any other reason that the Authority thinks is relevant (which must be specified in its recommendation).

14. **Minister may give directions to the Authority**

14.1 The Minister may issue written directions consistent with the objects and provisions of this Regulation to the Authority in relation to the performance of the Authority's functions and the exercise of its powers under this Regulation, whether of a general character or otherwise.

- 14.2 The Authority must perform its functions and exercise its powers in a manner consistent with any directions given by the Minister under Section 14.1.
- 14.3 A direction issued under Section 14.1 may include a direction not to issue, before a date specified in the direction, any new licence of a type which may be issued under this Regulation.
- 14.4 A direction commences operation on the date of issue by the Minister or such later date as the Minister may specify in the direction. A direction expires on such date as the Minister may specify in the direction, or if no date is specified, the direction operates until the direction is revoked.
- 14.5 The Authority must maintain a register of all directions issued by the Minister.
15. **Minister may issue general policy directions**
- 15.1 The Ministry is responsible for formulating communications policy in the Maldives.
- 15.2 The Minister may from time to time notify the Authority in writing of general policies of the Government that are to apply to the Authority.
- 15.3 The Authority must ensure that the policies are carried out, unless the Minister otherwise directs.

PART 3 – REVIEW OF DECISIONS

16. Reasons for decisions

- 16.1 A person who is aggrieved, or who believes his or her interests are adversely affected, by any decision of the Authority made pursuant to the performance of its powers and functions under this Regulation may within 30 days of being notified of that decision request in writing to the Authority for a statement of the reasons for the decision.
- 16.2 The Authority must, upon such written request, provide a copy of a statement of reasons for the decision and any relevant information taken into account in making the decision within a period of not more than 30 days from the date of receipt of the request by the Authority.
- 16.3 The Authority is not required to publish, or to disclose to a person to whose affairs it relates, a statement of reasons or a part of a statement of reasons if the publication or disclosure would:-
- (a) disclose a matter of a confidential character;
 - (b) be likely to prejudice the fair trial of a person; or
 - (c) involve the unreasonable disclosure of personal information about any individual (including a deceased person).
- 16.4 In this Part, a “decision” of the Authority includes any action, direction, order, report or delegated authority.

17. Appeals to the Minister and to the President

- 17.1 A person ("**the aggrieved person**") who is aggrieved, or who believes his or her interests are adversely affected, by a decision of the Authority made pursuant to the performance of its powers and functions under this Regulation, may by way of written petition appeal to the Minister for a review of the decision of the Authority within 30 days of notification of the statement of reasons referred to in Section 16.1. Where a petition of appeal is presented to the Minister in such a manner within that 30 day period, the Minister must review the decision of the Authority and consider any oral and written representations or objections submitted in respect of the decision of the Authority. The Minister must summarise in written form in his or her decision any oral submissions made by the aggrieved person. The Minister must issue his or her adjudication in writing to the aggrieved person and the Authority within a period of 60 days of filing of the petition and, in doing so, the Minister may confirm, vary or annul the order, award or direction of the Authority, as the case may be. The Minister must publish a report of his or her adjudication to the public within 30 days thereafter.
- 17.2 The aggrieved person that remains dissatisfied with the adjudication of the Minister under Section 17.1 may by way of written petition appeal to the President for a review of the decision of the Minister within 60 days of issuance of the Minister’s written adjudication referred to in Section 17.1. Where a petition of appeal is presented to the President in such a manner within that 60 day period, the President must review the decision of the Authority and must consider any written representations or objections submitted in respect of the decision of the Minister. The President must issue his adjudication in writing to the Authority and the aggrieved person. The President must publish a report of his adjudication to the public. The decision of the President is final, binding and conclusive on the aggrieved person.

PART 4 – LICENSING

Chapter 1 – Requirement for a licence

18. Basic prohibitions

18.1 No person may in the Maldives:-

- (a) own or operate any network facilities;
- (b) provide any telecommunications services;
- (c) possess or use any radiocommunications equipment; or
- (d) offer for sale, sell, possess for sale, import into the Maldives or export from the Maldives any telecommunications equipment or radiocommunications equipment,

except under and in accordance with:-

- (e) a valid licence granted under this Regulation;
- (f) a temporary permit issued by the Authority under Section 19; or
- (g) an exemption granted by the Minister after consultation with the Authority.

18.2 Without limiting Section 18.1, no person may:-

- (a) own or operate any network facilities that are used to provide any telecommunications service without holding a carrier licence; or
- (b) provide any telecommunications service without holding a service provider licence.

18.3 A person who contravenes Section 18.1 or 18.2 commits an offence punishable by a fine not exceeding Rf 5,000,000 (Rufiyaa Five Million) and is also punishable by a further fine not exceeding Rf 100,000 (Rufiyaa Hundred Thousand) for every day or part of a day during which the contravention continues.

19. Temporary permit

19.1 The Authority may issue a permit to a person to carry out an activity specified in the permit (that would otherwise be prohibited under Section 18.1 or 18.2) for a period of time specified in the permit (but not exceeding 6 months).

19.2 The Authority may issue a permit subject to conditions necessary or desirable for the achievement of the objects of this Regulation.

Chapter 2 – Individual licences

20. Exclusive licences

20.1 The Minister may:-

- (a) by written instrument, determine the conditions of an exclusive licence including:-
 - (i) the period of validity; and

- (ii) payment of fees and royalty and the frequency of any payments.

20.2 The Authority, with the advice of the Minister, may:-

- (a) grant the exclusive licence;
- (b) publish notice of the grant of the exclusive licence; and
- (c) from time to time vary or revoke any conditions of an exclusive licence, or impose additional conditions, after having conducted appropriate consultation with the licensee and after having obtained the prior written consent of the Minister.

21. **Carrier licences**

21.1 The Minister may by subordinate regulations prescribe:-

- (a) the process for applying for a carrier licence and for determining an application for a carrier licence;
- (b) the form of and the general conditions, including the period of validity, for a carrier licence; and
- (c) the fees payable including for the grant and renewal of a carrier licence and by way of annual fees.

21.2 The Authority may issue a carrier licence in response to a written application.

22. **Service provider licences**

22.1 The Minister may by subordinate regulations prescribe:-

- (a) the process for applying for a service provider licence and for determining an application for a service provider licence;
- (b) the form of and the general conditions, including the period of validity, for a service provider licence; and
- (c) the fees payable including for the grant and renewal of a service provider licence and by way of annual fees.

22.2 The Authority may issue a service provider licence in response to a written application.

23. **Other individual licences**

23.1 The Authority may, in response to a written application, issue an individual licence.

23.2 For individual licences, the Authority may, subject to any applicable general conditions under Section 22, by written instrument, determine:-

- (a) the process for applying for licences and for determining licence applications;
- (b) the form of licences;
- (c) the types of licences to be issued;
- (d) the period for which a licence is valid; and

- (e) the fees payable including charges for licence applications, the grant and renewal of licences and any annual fees payable to the Authority.

23.3 The Authority may, by written instrument, determine the general conditions that apply to all individual licences or to all individual licences of a particular type or category.

23.4 The Authority may include special conditions consistent with this Regulation in an individual licence, although in the case of carrier licences and service provider licences, such conditions must not be inconsistent with the prescribed general conditions.

24. **Variation of special licence conditions**

24.1 The Authority may from time to time vary or revoke any special conditions included in an individual licence (other than an exclusive licence) or impose additional conditions after consulting with the licensee. However, in the case of carrier licences and service provider licences, such varied or additional conditions must not be inconsistent with the prescribed general conditions.

25. **Conditions of licences**

25.1 Without limiting the general nature of the conditions that may be attached to an individual licence, the conditions may relate to:-

- (a) the manner of service provision;
- (b) guaranteed minimum standards of service to customers;
- (c) interconnection;
- (d) sharing of facilities;
- (e) control of interference and obstruction;
- (f) adherence to technical standards and environmental obligations;
- (g) compliance with directions, guidelines, codes of practice, subordinate regulations, this Regulation, and international obligations;
- (h) universal service obligations;
- (i) inspection and testing of facilities;
- (j) accounting practices;
- (k) the provision of information to the Authority;
- (l) tariffs and price control (including a requirement that a licensee may not charge more than its published tariffs, subject to the tariff revision procedure in the licence or the subordinate regulations, which may require the licensee to submit details of any proposed revision to the Authority);
- (m) network coordination;
- (n) protecting customer information;
- (o) bundling of telecommunications services and products;

- (p) prohibiting anti-competitive conduct and unfair market practice;
- (q) the regulation of a licensee in a dominant position in a telecommunications market;
- (r) restrictions on transfer of the licence;
- (s) compliance with international conventions;
- (t) capitalisation and network rollout requirements; and
- (u) the provision of a performance bond.

26. Suspension or cancellation of individual licences

26.1 The Authority may suspend or cancel an individual licence by written notice to the licensee in any of the following circumstances:-

- (a) the licensee has failed to pay any amount required by this Regulation or the individual licence;
- (b) the licensee has failed to comply with the provisions of this Regulation or the conditions of the individual licence;
- (c) the licensee has contravened the provisions of any other law; or
- (d) the licensee has failed to comply with any direction given by the Authority or the Minister.

26.2 The suspension or cancellation of an individual licence takes effect on the expiry of fourteen days from the date on which the notice of suspension or cancellation is served on the licensee, unless otherwise specified by the Authority.

26.3 The suspension or cancellation of an individual licence under this Section 26 may, at the discretion of the Authority, relate to only part of the licence without affecting the validity of the remaining parts of the licence.

26.4 Where a licence is suspended or cancelled under this Section 26, no part of any fee or other sum paid in respect of the licence is to be refunded.

26.5 Where the suspension or cancellation of an individual licence under this Section 26 has taken effect, or where the individual licence has expired, the licensee must immediately cease any activity referred to in Section 18.1 or 18.2 which was authorised by the licence, unless the Authority otherwise directs.

26.6 A person who contravenes Section 26.5 commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

26.7 Notwithstanding the provisions of this Section 28, the Authority shall not cancel an individual licence except under exceptional circumstances where other sanctions, measures and penalties provided under this Regulation have been exhausted or are not appropriate and where the licensee has failed to take requisite corrective actions.

27. Surrender of individual licences

- 27.1 A licensee may, by written notice, surrender its individual licence to the issuing authority in accordance with the requirements set out in the licence, or if no requirements are specified, at any time.
- 27.2 The surrender takes effect on the date the Authority receives the notice referred to in Section 27.1, or where a later date is specified in the notice, on that date.

Chapter 3 – Class licences

28. Creation of class licences

28.1 The Authority may create class licences specifying :-

- (a) the telecommunications services or telecommunications equipment that eligible persons may provide or use under the licence;
- (b) the conditions of the class licence; and
- (c) the qualifications that a person is required to possess before being eligible to be licensed under the class licence,

except that the Authority must not create a class licence for a telecommunications service or telecommunications equipment:-

- (d) that is subject to an exclusive licence; or
- (e) for which an individual licence is required by this Regulation or subordinate regulations made under this Regulation.

29. Notification of class licences

29.1 The Authority must publish, in an appropriate manner, the creation and variation of class licences and the conditions included in class licences.

30. Conditions of class licences

30.1 The Authority may include conditions in a class licence, including, for example:-

- (a) the scope of a telecommunications service or telecommunications equipment so licensed;
- (b) technical, operational and safety standards for the provision of the telecommunications service or telecommunications equipment;
- (c) the manner and location in which an eligible person is to provide the telecommunications service or telecommunications equipment;
- (d) the rights of consumers in the provision of the telecommunications service or telecommunications equipment;
- (e) interconnection requirements for the telecommunications service or telecommunications equipment;

- (f) a requirement for the eligible person to supply information including technical, financial and accounting information relating to the telecommunications service or telecommunications equipment;
- (g) a requirement for the eligible person to publish tariffs for the telecommunications service provided under the class licence;
- (h) requirements to ensure the quality of the telecommunications services supplied;
- (i) a requirement for the person to register with the Authority before the provision or use of the telecommunications service or telecommunications equipment under the class licence;
- (j) a requirement to adhere to the numbering plan; and
- (k) a prohibition on the illegal use of the telecommunications service or telecommunications equipment;
- (l) safety requirements; and
- (m) any other condition that the Authority considers necessary for the control of activities under a class licence.

31. Varying class licences

31.1 The Authority may vary any of the conditions of a class licence. Any such variation must not be inconsistent with:-

- (a) this Regulation;
- (b) the rights of a holder of an exclusive licence or carrier licence; or
- (c) a direction of the Minister.

Chapter 4 – Other general provisions as to licences

32. Compliance

32.1 A licensee must not contravene a condition of the licence held by the licensee.

33. Qualifications for licences

33.1 The Minister may issue guidelines covering qualifications, competencies and other pre-requisites for licensees, including any persons or classes of persons who are not eligible to hold a licence.

34. Register of licences

34.1 The Authority must maintain a register of all licensees, licences and conditions of licences.

35. Delegation to Authority

35.1 The Minister may delegate any of his or her powers under this Part to the Authority.

PART 5 – CONTROL OF TELECOMMUNICATIONS

Chapter 1 – Pricing and Accounting

36. Tariffs

- 36.1 A licensee must publish its tariffs in accordance with the requirements of its licence, the subordinate regulations or directions by the Authority.
- 36.2 A licensee must include in its published tariffs the terms on which the telecommunications service is provided including:-
- (a) a description of the service;
 - (b) the retail price of the service;
 - (c) the supply of goods or other services related to the service; and
 - (d) any other relevant information that the Authority considers necessary as a part of the terms and conditions;
- 36.3 If a licensee proposes to introduce a new telecommunications service and charge which is not contained in its published tariffs, the licensee must seek the approval of the Authority in writing.

37. Bundling

- 37.1 A licensee must not, without the Authority's prior written consent, combine a number of telecommunications services into a single tariff without offering to its customers the services separately at individual tariffs.
- 37.2 The Authority may require a licensee to provide a telecommunications service, which the licensee includes in a tariff for a combination of a number of telecommunications services, separately at a specified single tariff.

38. Price control

- 38.1 The Authority may by licence condition or direction provide:-
- (a) for a licensee to be subject to the price control measures that the Authority determines by written instrument; and
 - (b) for a licensee for the purposes of tariff control not to charge more or less than its published tariffs.
- 38.2 A licensee may only revise its tariffs in accordance with the procedure or formula set out in its licence, the subordinate regulations or directions in writing by the Authority, unless the revision is otherwise approved in writing by the Authority. Such directions by the Authority for price control shall generally be based on the following broad principles:
- (a) Prices should be fair and not unreasonably discriminatory;
 - (b) Except for services included under the Universal Service Obligations, prices should be oriented towards cost and should minimise cross-subsidies;

- (c) Prices should not be predatory to prejudice the competitive opportunities of other service providers.
- 38.3 Without limiting Section 38.2, the Authority may by direction or licence condition require that any change in a licensee's level of a charge or tariff must conform to a particular formula.
- 39. Accounting practices**
- 39.1 A licensee must adopt the accounting practices specified by the Authority.
- 39.2 Such accounting practices are to be consistent with generally accepted accounting principles, where applicable, and may include accounting practices which allow for the identification of the costs and charges for different services or types or kinds of services.
- 39.3 The Authority may, by written instrument, make rules for and in relation to requiring one or more specified licensees to keep and retain records. Rules under this section are to be known as *record-keeping rules*.
- 39.4 Record-keeping rules may specify the manner and form in which records are to be kept.
- 39.5 A licensee must comply with any record-keeping rules that are applicable to the licensee.
- 39.6 The Authority may by direction or licence condition require a licensee in a dominant position in more than one telecommunications market to implement accounting separation between different parts of the licensee's business.

Chapter 2 – Inspection of facilities by the Authority

40. Inspection of facilities

- 40.1 The Authority may, on giving reasonable prior written notice to a licensee, enter and inspect the offices, premises and places in the Maldives where the licensee owns or operates a network facility or any other telecommunications equipment, or which are used for providing telecommunications services, to verify that the licensee is complying with the licence conditions.
- 40.2 A licensee must provide and maintain, up to the reasonable technical standards set by the Authority, facilities to enable the Authority to inspect, test, read or measure, as the case may require, any telecommunications equipment, premises or places used or to be used for the installation or operation of a network facility or the provision of a telecommunications service.
- 40.3 A licensee may, at its option, and must, on the prior written request of the Authority, and subject to the Authority giving reasonable prior written notice, provide a representative of the licensee to be present at any inspection, testing, reading or measurement by the Authority.
- 40.4 The Authority may, on giving reasonable prior written notice to a licensee, direct the licensee to demonstrate that any telecommunications equipment complies with the technical requirements imposed under this Regulation or any other directions or subordinate regulations made under this Regulation.
- 40.5 A licensee must provide adequate testing instruments and operating staff for the purposes of this Section 40 and otherwise comply with the directions of the Authority under this Section 40.
- 40.6 The Authority must not exercise its power under Section 40.1 in such a way as to disrupt any operations being carried on in the relevant office, premises or place by a licensee or any other person and any more than is necessary for the proper exercise of the powers of the Authority.

Chapter 3 – Fair Competition and Market Conduct

41. Anti-competitive practices

- 41.1 A licensee must not engage in any conduct which, in the reasonable opinion of the Authority, has the purpose, effect, or likely effect of preventing or substantially lessening competition in a telecommunications market.
- 41.2 The Authority, in considering whether conduct has the purpose or effect proscribed under Section 41.1, is to have regard to relevant matters including:-
- (a) economic principles relevant to market definition;
 - (b) global trends affecting the relevant market;
 - (c) the impact of the conduct on the number of competitors in the market and their market shares;
 - (d) the impact of the conduct on barriers to entry in the market;
 - (e) the impact of the conduct on the range of services in the market; and
 - (f) the impact of the conduct on the ability of competitors or potential competitors to compete in the market.
- 41.3 Without limiting the general nature of Section 41.1, the licensee engages in conduct proscribed under Section 41.1 if it:-
- (a) enters into an agreement, arrangement or understanding, whether legally enforceable or not, that has or would have the purpose, effect or likely effect of preventing or substantially lessening competition in a telecommunications market, including any agreement, arrangement or understanding which has the proscribed purpose, effect or likely effect and provides for:-
 - (i) the fixing of a price in a telecommunications market;
 - (ii) the sharing of any telecommunications market (or part of a market) between one or more other licensees (for example, on geographic or customer lines); or
 - (iii) the prevention or limitation of the supply of goods or services to or the acquisition of goods or services from any person (including a supplier, customer or competitor).
 - (b) makes the provision of a telecommunications service or telecommunications equipment (or a discount, rebate or credit in relation to that service or equipment) conditional upon the person acquiring the service or equipment also acquiring or not acquiring any other equipment or service, whether from the licensee or any other person; or
 - (c) gives an undue preference to, or receives an unfair advantage from, an associated person if, in the reasonable opinion of the Authority, competition would be prevented or substantially lessened.

42. Dominant licensees

- 42.1 Without limiting the power of the Authority under Section 41, the Authority may direct a licensee in a dominant position in a telecommunications market to cease any conduct in that market which has, or may have, the effect of preventing or substantially lessening competition in any telecommunications market, and to implement appropriate remedies.
- 42.2 The Authority may only issue a direction under Section 42.1 if it is satisfied that the direction is consistent with the objects of this Regulation.
- 42.3 For the purposes of Section 42.1 and any other Sections of this Regulation in which that expression is used, a licensee is in a dominant position when, in the reasonable opinion of the Authority, it is able to act without significant competitive restraint from its competitors, potential competitors and customers.
- 42.4 In considering whether a licensee is in a dominant position, the Authority must take into account relevant matters including:-
- (a) the market share of the licensee;
 - (b) the licensee's power to make pricing and other decisions unconstrained by competitive pressures; and
 - (c) any barriers to entry into the relevant telecommunications market, including the degree of product differentiation and brand loyalty.

43. Non-discrimination by dominant licensee

- 43.1 Subject to Section 43.3 and without prejudice to the operation of Section 41.1, a licensee who is in a dominant position in a telecommunications market must not discriminate between persons who acquire goods or services from the licensee in the market in respect of charges (except where the discrimination only makes reasonable allowance for differences in the cost of likely cost of supplying the goods or services) or other terms or conditions of supply.
- 43.2 Without limiting Section 43.1 and subject to Section 43.3, and without prejudice to the operation of Section 41.1, a licensee must not discriminate between a person who lawfully acquires and uses any goods or services in order to provide goods or services to the public and any other person who is not providing goods or services to the public.
- 43.3 The prohibitions in Sections 43.1 and 43.2 only apply where, in the reasonable opinion of the Authority, such discrimination has the purpose, effect, or likely effect of preventing or substantially lessening competition in a telecommunications market.

44. Mergers

- 44.1 A person must not directly or indirectly:-
- (a) acquire shares in the capital of a body corporate; or
 - (b) acquire any assets of a person,
- if the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in a telecommunications market.
- 44.2 Without limiting the matters that may be taken into account for the purposes of Section 44.1 in determining whether the acquisition would have the effect, or be likely to have the effect, of

substantially lessening competition in a telecommunications market, the following matters must be taken into account:-

- (a) the actual and potential level of import competition in the market;
- (b) the height of barriers to entry to the market;
- (c) the level of concentration in the market;
- (d) the degree of countervailing power in the market;
- (e) the likelihood that the acquisition would result in the acquirer being able to significantly and sustainably increase prices or profit margins;
- (f) the extent to which substitutes are available in the market or are likely to be available in the market;
- (g) the dynamic characteristics of the market, including growth, innovation and product differentiation;
- (h) the likelihood that the acquisition would result in the removal from the market of a vigorous and effective competitor; and
- (i) the nature and extent of vertical integration in the market.

45. **Authorisations**

- 45.1 A licensee may apply to the Minister, prior to engaging into any conduct which may be construed to be in breach of any provision in this Chapter have the purpose, effect or likely effect of substantially lessening competition in a telecommunications market, for authorisation of the conduct.
- 45.2 Notwithstanding the provisions of this Chapter, the Minister may authorise the conduct if the Minister is satisfied that the authorisation is in the national interest.
- 45.3 Before authorising the conduct, the Minister may require the licensee to submit an undertaking regarding its conduct in any matter relevant to the authorisation.
- 45.4 The Minister must maintain a register of current authorisations of conduct under this Section 45.

46. **Misleading or deceptive conduct**

- 46.1 A licensee must not engage in conduct which, in the reasonable opinion of the Authority, is misleading or deceptive in providing or acquiring any telecommunications equipment or telecommunications service, including in promoting, marketing or advertising that equipment or service.

47. **Remedies**

- 47.1 A person sustaining loss or damage from a breach of section 41, 43 or 46, or a breach of a licence condition, determination or direction relating to one of those sections, may bring an action for damages, an injunction or other appropriate remedy, order or relief against the person who is in breach.
- 47.2 No action may be brought under section 47.1 more than 3 years after:

- (a) the commission of the breach concerned referred to in that section; or
 - (b) the imposition of a fine in relation to the breach by the Authority,
- whichever is the later.

Chapter 4 – Directions and Guidelines by the Authority

48. Directions affecting licensees

48.1 The Authority may give directions to be observed by licensees:-

- (a) to ensure the reliability of the provision of any telecommunications service to the public;
- (b) to ensure the technical compatibility and safety of operation of any network facilities or any other telecommunications equipment;
- (c) to ensure fair and efficient market conduct by licensees (without prejudice to the operation of Section 42.1); or
- (d) where otherwise in the public interest or relevant to the performance of any of the Authority's functions or exercise any of the Authority's powers.

48.2 A direction under Section 48.1:-

- (a) must not be inconsistent with the provisions or objects of this Regulation;
- (b) may require the licensee concerned to do, or not to do, such things as are specified in the direction or are of a description as specified in the direction;
- (c) take effect at such time, being the earliest practicable time, as is determined by or under that direction; and
- (d) may be revoked at any time by the Authority.

48.3 Before giving a direction to any licensee under Section 48.1, the Authority must, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice:-

- (a) stating that the Authority proposes to make the direction and setting out its effect; and
- (b) specifying the time within which representations or objections to the proposed direction may be made, and consider any representations or objections which are duly made.

48.4 Every licensee must comply with every direction of the Authority given to the licensee under this Section.

49. Advisory guidelines

49.1 The Authority may, for the purpose of providing practical guidance in respect of any provisions of this Regulation, issue such written advisory guidelines as in its opinion are suitable for that purpose.

49.2 Advisory guidelines issued by the Authority must not be inconsistent with the provisions or objects of this Regulation.

49.3 Advisory guidelines may, for example, be made about:-

- (a) the manner in which the Authority proposes to perform its function of determining applications for licences which may be issued by the Authority, including the licensing criteria and other relevant matters it proposes to consider;
- (b) the operation of network facilities or any other kinds of telecommunications equipment;
- (c) the provision of telecommunications services;
- (d) the conduct of licensees in the operation of network facilities or provision of telecommunications services or both;
- (e) the use, construction, design or performance of anything;
- (f) interference with radiocommunications; or
- (g) frequency allocation and coordination.

49.4 The Authority must:-

- (a) provide a copy of each advisory guideline it makes to the Minister; and
- (b) publish each advisory guideline in the way it thinks fit.

Chapter 5 – Industry Codes and Industry Standards

50. Development of industry codes

50.1 Licensees and bodies or associations that represent the telecommunications industry or other sections of the economy may develop industry codes that are to apply to matters under this Regulation, provided that the codes do not contravene any provision of this Regulation or any other law and copies of such codes are submitted to the Authority.

50.2 If the Authority is satisfied that a body or association represents the telecommunications industry, the Authority may, by written notice given to the body or association, request or direct the body or association to:-

- (a) develop an industry code that applies to telecommunications activities; and
- (b) give the Authority a copy of the code within the period specified in the notice,

50.3 For the purposes of this Chapter, a telecommunications activity is an activity that consists of:-

- (a) carrying on business as a carrier, service provider or other licensee;
- (b) supplying goods or services for use in connection with the provision of a telecommunications service;
- (c) manufacturing or importing customer equipment or other telecommunications equipment; or
- (d) installing, maintaining, operating or providing access to a telecommunications network or other telecommunications equipment used to supply a telecommunications service.

51. Examples of matters that may be dealt with by industry codes

51.1 The following are examples of matters that may be dealt with by industry codes:-

- (a) call charging and billing accuracy;
- (b) management of customer complaints and network or service faults;
- (c) the advertising or representation of services;
- (d) collection and customer credit practices;
- (e) provision of information to customers on services, prices, terms and conditions;
- (f) end-to-end network performance;
- (g) local number portability;
- (h) pre-selection;
- (i) handling of life-threatening and unwelcome calls;
- (j) customer barring;
- (k) privacy and protection of personal information of customers of carriers and service providers; and
- (l) standards for safety of telecommunication networks.

52. Official registration and endorsement of industry codes by Authority

52.1 The Authority may officially register and endorse a code if:-

- (a) the Authority is satisfied that a body or association represents the telecommunications industry;
- (b) the body or association develops an industry code that applies to participants in the industry and deals with one or more matters relating to the telecommunications activities of those participants;
- (c) the body or association gives a copy of the code to the Authority; and
- (d) the Authority is satisfied that:-
 - (i) the code deals with matters covered by the code in a manner which is appropriate and consistent with the objects of this Regulation and law; and
 - (ii) the body or association published a draft of the code and provided the public and participants in the industry with a reasonable opportunity to review and make submissions about the code.

53. Compliance with officially registered and endorsed industry codes – warnings and directions

53.1 The Authority may issue a formal warning if a person who is a participant in the telecommunications industry contravenes an industry code that has been officially registered and endorsed by the Authority.

53.2 If:-

- (a) a person is a participant in the telecommunications industry; and
- (b) the Authority is satisfied that the person has contravened or is contravening an industry code that:-
 - (i) is officially registered and endorsed by the Authority under this Chapter; and
 - (ii) applies to participants in the industry;

the Authority may by written notice given to the person direct the person to comply with the industry code.

53.3 A person must comply with a direction under Section 53.1. A person who contravenes Section 54.1 commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

54. Authority may determine industry standards

54.1 If:-

- (a) a request or direction under Section 50.2 for an industry code has not been complied or the Authority subsequently refuses to officially register and endorse the code; or
- (b) the Authority is satisfied that a code officially registered with and endorsed by the Authority for at least 180 days is not operating to provide appropriate community safeguards or is otherwise not operating to regulate adequately participants in the industry in relation to the matters or matters which the code seeks to address; or
- (c) the Authority is satisfied that the telecommunications industry is not represented by a body or association, but that if it were, the Authority would be likely to give the body or association a notice under Section 50.2,

then the Authority may, by written instrument, determine that an industry standard that applies to participants in the telecommunications industry and deals with the relevant matter or matters relating to the telecommunications activities of the participants in the industry (including licensees).

54.2 The Authority may only determine an industry standard under Section 54.1 if it is satisfied that it is necessary or convenient for the Authority to determine a standard in order to:-

- (a) provide appropriate community safeguards in relation that matter or those matters; or
- (b) otherwise regulate adequately participants in that section of the industry in relation to the relevant matters or matters.

55. Variation and revocation of industry standards

55.1 The Authority may by written instrument revoke or vary an industry code if it is satisfied that it is necessary or convenient for the Authority to revoke or vary the standard (as the case may be) in order to:-

- (a) provide appropriate community safeguards in relation that matter or those matters; or
- (b) otherwise regulate adequately participants in that section of the industry in relation to the relevant matters or matters.

56. Compliance with industry standards

56.1 If an industry standard that applies to participants in a particular section of the telecommunications industry is registered and officially endorsed by the Authority under this Chapter, each participant in that section of the industry must comply with the standard.

56.2 The Authority may issue a formal warning if the person contravenes an industry standard determined under this Chapter.

PART 6 – INTERCONNECTION AND ACCESS

Chapter 1 – Interconnection

57. Requirements for interconnection

57.1 A carrier or service provider must where directed by the Authority interconnect the telecommunications services it provides and the telecommunications networks it owns or operates to telecommunications networks and telecommunications services of other licensees and persons with an exemption from licensing under this Regulation in respect of a network facility or telecommunications services or both.

57.2 The licensee must use all reasonable endeavours to ensure that interconnection is done promptly, efficiently and at charges which are based on reasonable relevant costs incurred, so as to fairly compensate the licensee for those costs.

57.3 The licensee must provide facilities and services reasonably necessary for the prompt and efficient interconnection of the telecommunications services it provides and the telecommunications networks it owns or operates with the telecommunications networks and telecommunications services of the other entities referred to in Section 57.1. Such facilities and services which the licensee must provide include:-

- (a) telecommunications services for codes, messages or signals across and between the interconnected telecommunications networks;
- (b) those necessary to establish, operate and maintain points of interconnection between the licensee's telecommunications networks and the other telecommunications networks;
- (c) billing information reasonably required to enable the other entities to bill their customers;
- (d) any facilities specified by the Authority; and
- (e) ancillary facilities and services required to support the above types of interconnection facilities and services.

57.4 In this Chapter:-

“**element**” means any cable, component, unit, equipment, hardware or software used to provide a telecommunications service and includes the facilities referred to in Section 61;

“**interconnection**” means any connection between networks or services or elements of networks or services for the delivery of any communication, message or signal over the connection and includes interconnection to a network, to a service, between networks, between services and between a network and a service;

“**service**” includes elements of a service.

58. Authority may determine terms of interconnection

58.1 The Authority may (subject to Section 58.2) determine the terms and conditions of interconnection, including arrangements among 2 or more parties for:-

- (a) interconnection to and between telecommunications networks or telecommunications services licensed under Part 3 or subject to an exemption by the Minister under this Regulation;

- (b) access to, or interconnection with, any element of a telecommunications network, telecommunications equipment or telecommunications service on an unbundled basis at any point that is technically feasible;
 - (c) the supply of a telecommunications service in connection with Section 58.1(a) or Section 58.1(b).
- 58.2 The Authority may make an interconnection determination:-
- (a) on the request of a party to the interconnection where that party has been unable to reach agreement on the terms and conditions of interconnection with the other party, despite using reasonable endeavours to do so; or
 - (b) in the absence of a request, if the Authority considers it is in the interest of the public to do so (including, for the avoidance of doubt, where there is an already agreement in existence between the parties as to interconnection).
- 58.3 The terms and conditions in an interconnection determination may include any technical, commercial and financial terms and conditions that the Authority, after consultation with relevant licensees, considers fair and reasonable.
- 58.4 Without limiting the general nature of Section 58.3, the terms and conditions in an interconnection determination may include:-
- (a) the level of, and the method of calculating, the charges that any party will pay to another;
 - (b) the points at which interconnection is to be made;
 - (c) the technical standards for interconnection;
 - (d) the supply by any party to another of any element of a telecommunications network or other telecommunications equipment;
 - (e) the supply by any party to another of any telecommunications service or service ancillary to a telecommunications service;
 - (f) the supply by any party to another of any information necessary for the efficient planning and handling of services through the interconnection; and
 - (g) the sharing of facilities referred to in Section 61.
- 58.5 In making an interconnection determination the Authority must, among any other factors it considers relevant, give due regard to:-
- (a) the overall reasonableness of the stated requirements of each party;
 - (b) the preservation of network integrity and interoperability;
 - (c) the need to provide for reasonable lead times;
 - (d) the need to maintain commercial confidentiality;
 - (e) the Government's policy objectives for the telecommunications industry;
 - (f) consumer interests;

- (g) encouraging efficient investment in network facilities;
 - (h) the nature and extent of competition among the parties to the interconnection concerned; and
 - (i) the respective abilities of the parties to compete with each other fairly.
- 58.6 The charges in an interconnection determination must be based on the relevant reasonable costs attributable to interconnection and, in determining the level, or method of calculation, of the relevant reasonable costs attributable to interconnection, the Authority may select from among alternative costing methods what it considers to be a fair and reasonable costing method.
- 58.7 The terms and conditions in an interconnection determination:-
- (a) are deemed to be of the essence of any agreement for the interconnection to which the interconnection determination is made unless the Authority otherwise directs for any particular term or condition; and
 - (b) override a different intention arising from the provisions of the agreement.
- 58.8 No determination under Section 58.1 may be made unless the Authority is satisfied that the parties to any arrangement for interconnection have been afforded reasonable opportunity to make representations to the Authority as to why a determination should not be made and the Authority has considered representations made before it decides whether or not to make such a determination. However, an interconnection determination takes effect even though it is under review.
- 58.9 The amount of any costs or expenses incurred by the Authority (including staff costs and expenses) in respect of a determination or determination process under Section 58.8 is a debt due to the Authority, and is on service of a written notice, recoverable from a person on whom notice has been served.
- 59. Filing and publishing of interconnection agreements**
- 59.1 Parties to an interconnection agreement must ensure a copy of the agreement is filed with the Authority within 14 days of it being made.
- 59.2 The Authority may publish all or any part of an interconnection agreement if it:-
- (a) considers it is in the interest of the public to do so;
 - (b) has first given the parties an opportunity to make representations on which parts of the interconnection agreement should not be published; and
 - (c) has considered such representations received within the time specified by it.
- 60. Interconnection guidelines**
- 60.1 The Authority may, after consultation with the relevant licensees, issue guidelines relating to the efficient and reliable provision of interconnection.
- 60.2 Licensees must comply with guidelines issued under Section 60.1.

Chapter 2 – Sharing of Facilities

61. Obligations to share facilities

- 61.1 As a statement of general principle, in order to minimise environmental disruption and avoid wasteful and uneconomic duplication, carriers should cooperate with other carriers to share facilities and allow co-location on fair commercial and technical terms and conditions.
- 61.2 Where a licensee reasonably requests another licensee to share a network facility or other facility, the other licensee must use reasonable endeavours to come to an agreement with the requesting party on the conditions of that shared use, including to providing for fair compensation to the licensee for the provision, use or sharing of the facility.
- 61.3 A shared facility may include a building, place or premises that are occupied by a licensee.
- 61.4 If the parties do not reach an agreement within a reasonable time, then:-
- (a) the Authority may determine the terms and conditions for the shared use of the facility (in accordance with Section 62) or otherwise;
 - (b) the determination under paragraph (a) must include terms and conditions providing for fair and reasonable compensation payable in all the circumstances of the case for the shared use of the facility;
 - (c) the compensation referred to in paragraph (b) must include the relevant reasonable costs attributable to the provision, use or sharing of the facility; and
 - (d) to calculate the costs referred to in paragraph (c), the Authority may select from alternative costing methods which it considers to be fair and reasonable.
- 61.5 For the purposes of this Chapter “facility” includes:-
- (a) a cable, wire, telecommunications line, duct, pit, tunnel and manhole;
 - (b) a tower, mast, pole and antenna;
 - (c) land, buildings and ancillary equipment at sites on which radiocommunications facilities have been established;
 - (d) reasonable space within a carrier’s exchange buildings or other sites to locate equipment of another licensee required to establish interconnection between the licensee’s and that other licensee’s network facilities at the exchange or sites;
 - (e) other installations, including in-building risers, cable trays and cable entry points into buildings, reasonably necessary for the efficient provision of a telecommunications network; and
 - (f) services incidental to the building, place and premises in which the facility is situated that are reasonably necessary or incidental to the efficient operation by all parties to the sharing of the facility.

62. Directions by the Authority

- 62.1 The Authority may direct a licensee to coordinate and cooperate with another licensee to share the use of any facility owned or used by it (on terms determined by the Authority) where:-

- (a) requested by the other licensee after the other licensee has reasonably requested the first licensee to share a facility owned by the first licensee, but has been unable to come to an agreement with the first licensee on the conditions of such sharing, despite using its reasonable endeavours to do so (in the opinion of the Authority); or
 - (b) specified by the Authority in the public interest.
- 62.2 Prior to issuing a direction in the public interest under Section 62.1(b), the Authority must provide a reasonable opportunity for the licensee, and any other interested party, to make representations on the matter and must give consideration to all representations made before it decides whether or not to issue the direction.
- 62.3 In considering a direction in the public interest to share a facility under Section 62.1(b), the Authority must take into account relevant matters including:-
- (a) whether the facility is a bottleneck facility;
 - (b) whether the facility can be reasonably duplicated or substituted;
 - (c) the existence of technical alternatives;
 - (d) whether the facility is critical to the supply of service by the licensees;
 - (e) whether the facility has available capacity having regard to the current and reasonable future needs of the licensee or person to whom the facility belongs;
 - (f) whether joint use of the facility encourages the effective and efficient use of network facilities;
 - (g) the costs, time, penalties and inconvenience to the licensees and the public of the alternatives to shared provision and use of the facility.

63. Declaration of Services and Facilities

- 63.1 Without prejudice to the operation of Chapter 1 of this Part, the Authority may from time to time declare:-
- (a) a telecommunications service;
 - (b) a network facility; or
 - (c) any other facility or service or both which facilitates the provision of telecommunications services,
- to be an essential service.
- 63.2 Any provider of an essential service (“**the access provider**”) must comply with the standard access obligations under this Section which apply to that essential service and include (as a minimum) that the provider of the essential service must:-
- (a) provide on an equitable and non-discriminatory basis and on reasonable terms and conditions access to the essential service to any other licensee (“**the access seeker**”) who makes a written request for access to the provider;
 - (b) ensure that:-

- (i) the technical and operational quality of the essential service supplied to the access seeker is at least the same as or more favourable to that which the access provider provides to itself; and
- (ii) the access seeker receives fault detection, handling and rectification that is at least the same as or more favourable to that which the access provider provides itself;
- (c) permit interconnection of its facilities with those of service providers;
- (d) provide billing information in connection with the supply of the essential service; and
- (e) comply with any other standard access obligations determined by the Authority by written instrument from time to time.

PART 7 – UNIVERSAL SERVICE OBLIGATIONS

64. Universal service providers

64.1 The Authority may require that one or more carriers have a universal service obligation.

65. Universal service obligation

65.1 A universal service obligation requires a carrier to ensure that a good, efficient and continuous basic service is, in the Authority's opinion, reasonably available to all persons within the areas of the Maldives covered by that obligation on an equitable basis, as determined by the Authority by written instrument.

65.2 For the purposes of this Part, "**basic service**" means:-

- (a) a standard public switched telephone service (including service connection, continued provision of connectivity, provision of a dedicated telephone number, directory assistance service, directory listing (except where the customer otherwise directs), telephone handset and standard billing services);
- (b) a reasonable number of public payphones (including payphones located within publicly or privately owned facilities to which the public have access);
- (c) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired;
- (d) a reasonable number of public payphones, designed for access by the physically disabled, including to those persons using wheelchairs;
- (e) operator provided directory enquiries, fault reporting, service difficulty and connection services;
- (f) access to a number or numbers for emergency services; and
- (g) such other services as may be included by the Authority in accordance with subordinate regulations made by the Minister or as are directed by the Minister from time to time.

65.3 The Minister may, by written instrument, determine for the purpose of Section 65.1 what is, or is not, necessary to ensure that basic services are reasonably accessible as mentioned in that Section.

66. Universal service contributions

66.1 The Authority may establish a system prescribed by the Authority for licensees to make a reasonable monetary contribution to the cost of providing the universal service obligation and managing the fund established under Section 67.1.

66.2 The method for determining a licensee's contribution to the cost of providing the universal service obligation and managing the fund established under Section 67.1 will be as set out in the subordinate regulations.

67. Universal service fund

67.1 The Authority may establish and manage a fund for the purpose of holding the contributions under Section 66, prior to payment to the carrier (or carriers) with the universal service obligation.

67.2 The Authority may:-

- (a) recover the cost of the management of the fund established under Section 67.1; and
- (b) delegate the management of the fund to any person and prescribe the requirements for the management of the fund.

68. Review

The Authority must review and report to the Minister before the end of each financial year on the operation of this Part, including the composition of the basic service.

PART 8 – CUSTOMER SERVICE AND PROTECTION OF COMMUNICATIONS

Chapter 1 – Quality of service

69. Customer service

69.1 A licensee must:-

- (a) deal reasonably with customers; and
- (b) adequately address customer complaints.

69.2 A person who contravenes Section 69.1 commits an offence punishable by a fine not exceeding Rf 100,000 (Rufiyaa One Hundred Thousand).

69.3 The Authority may by licence condition or direction require a licensee to prepare a customer charter which:-

- (a) sets out the minimum standards of service to the licensee's customers;
- (b) provides guidance to the licensee's staff in their relations and dealings with customers; and
- (c) sets out procedures for the handling of customer complaints and disputes.

70. Performance standards

70.1 The Authority may, by written instrument, make standards to be complied with by licensees in relation to:-

- (a) the making of arrangements with customers about the period taken to comply with requests to connect customers to specified kinds of telecommunications services;
- (b) the periods that service providers may offer to customers when making those arrangements;
- (c) the compliance by service providers with the terms of those arrangements;
- (d) the period taken to comply with requests to rectify faults or service difficulties relating to specified kinds of telecommunications services, where the rectification follows the making of a customer report about a fault or service difficulty;
- (e) the keeping of appointments to meet customers, or representatives of customers, where the appointment relates to:-
 - (i) a connection of a kind covered by Section 70.1(a); or
 - (ii) a rectification of a kind covered by Section 70.1(d); and
 - (iii) any other matter concerning the supply, or proposed supply, of a telecommunications service to a customer.

70.2 The Authority may, by written instrument, determine a scheme or procedure for the compensation of customers in case of a contravention of a standard under this Chapter, including the amount of damages a licensee is liable to pay or credit the customer in the event of such a contravention.

70.3 A standard under this Chapter may be revoked or varied by the Authority at any time.

71. Resolution of customer disputes

71.1 The Authority may use any of its powers under this Regulation in the resolution of complaints received from customers in relation to matters of customer service and consumer protection including the failure by a licensee to comply with a customer charter or standard prepared under this Chapter.

71.2 The Authority may establish procedures or guidelines for the making, receiving and handling of complaints of customers regarding the conduct or operation of licensees.

Chapter 2 – Confidentiality and Protection of Communications

72. Obligations to protect communications

72.1 Any participant in the telecommunications industry (including any licensee) and its officers, employees, contractors, servants or agents must not disclose or use any information or document:-

(a) that relates to:-

(i) the contents or substance of any communication that has been or is being carried by any licensee (including a communication that has been collected or received by a licensee but has not yet been delivered by it);

(ii) telecommunications services provided, or intended to be provided, to another person by a licensee; or

(iii) the affairs or personal particulars of another person; and

(b) comes (or came) to the participant's knowledge, or into the participant's possession, in connection with its business as a participant in the telecommunications industry,

unless the use or disclosure is permitted by Section 73.

72.2 Without limiting Section 72.1, a licensee must:-

(a) not use any information or document provided by its customers or obtained in the course of providing services to its customers other than for and in relation to the provision by the licensee of the licensed service or network facility to the customer; and

(b) not disclose any information or document of a customer,

unless the use or disclosure is permitted by Section 73.

72.3 A person who intentionally or recklessly contravenes Section 72.1 or Section 72.2 commits an offence punishable by a fine not exceeding Rf 10,000 (Rufiyaa Ten Thousand).

73. **Exceptions**

73.1 Section 72.1 and Section 72.2 does not prohibit a disclosure or use by a person of information or a document if:-

- (a) the person is an officer, employee or contractor of the participant in the telecommunications industry (including a licensee) and the disclosure or use is made in the performance of the person's duties as such an officer, employee or contractor;
- (b) the disclosure or use is reasonably necessary for the enforcement of a law or the protection of the public revenue, including the prevention or detection of crime or the apprehension or prosecution of offenders;
- (c) the disclosure or use is required or authorised by or under law;
- (d) the disclosure is made to the Authority and the information or document may assist the Authority to carry out its functions or powers and any use is made for the purposes of, or in connection with, such a disclosure;
- (e) another person (or persons) who provided the information or document, or to whom the information or document relates, has expressly consented to that specific disclosure or use;
- (f) the information or document relates to the contents or substance of a communication made by another person and, having regard to all the relevant circumstances, it might reasonably be expected that the sender and the recipient of the communication would have consented to the disclosure or use, if they had been aware of the disclosure or use;
or
- (g) in other circumstances specified in the subordinate regulations.

PART 9 – ACCESS TO LAND AND INSTALLATION OF NETWORK FACILITIES

74. Inspection of land

74.1 Subject to the prior written approval of the Authority, a carrier may, for the purposes of determining whether any land is suitable for its purpose of installing, or obtaining access to, network facilities:-

- (a) enter on, and inspect the land; and
- (b) do anything on the land that is reasonably necessary or desirable for that purpose, including making surveys, taking levels, sinking bores, taking samples and examining the soil.

75. Installation of network facilities

75.1 If a carrier wishes to engage in any network facility activity, the carrier must first submit to the Authority a written network plan which contains:-

- (a) a detailed description of the activity (including a diagram which shows relevant dimensions);
- (b) the proposed timeframe for the activity;
- (c) a discussion of any likely or possible effects of the activity on the environment; and
- (d) any other matters specified in the subordinate regulations or which are otherwise required by the Authority,

unless the activity is a low-impact network facility activity or relates to a temporary network facility referred to in Section 75.3(b).

75.2 The Authority must not approve a network plan submitted by a carrier in respect of a proposed network facility activity:-

- (a) unless the Authority is satisfied that the activity is in the public interest; and
- (b) except after taking into account:-
 - (i) whether an alternative location can be reasonably utilised for the activity;
 - (ii) whether or not there are technical alternatives to the activity;
 - (iii) whether or not the utilisation of the land to which the activity relates is critical for the supply of the service by the carrier or other carriers and service providers;
 - (iv) whether or not that land has available capacity to be so utilised having regard to the current and reasonable future needs of the occupants of that land;
 - (v) the costs, time, penalties and inconvenience to the carrier and the public of the alternatives, if any, referred to in Section 75.2(b)(ii); and
 - (vi) unless the Authority has given a reasonable opportunity to the persons having a lawful interest in the land concerned and to the carrier concerned to make

representations and has considered all representations made before it decides whether or not to approve the network plan.

75.3 A carrier may only enter on to land and install, replace or modify a network facility (and do anything reasonably necessary or desirable for those purposes) (“**network facility activity**”) if:-

- (a) the network facility activity is carried out in accordance with a network plan approved in writing by the Authority;
- (b) the network facility is a temporary network facility for use by, or on behalf of, the Ministry of Defence for defence purposes; or
- (c) the network facility activity is a low-impact network facility activity (if any such activities have been determined by the Minister).

75.4 For the purposes of Section 75.1, the Minister may, on the recommendation of the Authority, determine by written instrument that specified network facility activities are low-impact network facility activities.

76. Maintenance of network facilities

76.1 A carrier may enter on to land in, over or upon which it has installed a network facility and inspect, repair, maintain or remove the facility.

77. Notice to the Authority and occupiers

77.1 Without prejudice to the operation of Section 75.1, before engaging in an activity under this Part in relation to any land (including cutting down or lopping a tree or clearing or removing undergrowth or vegetation), a carrier must give written notice of its to do so:-

- (a) to the Authority; and
- (b) to the occupier (or occupiers) of the land.

77.2 The notice under Section 77.1 must:-

- (a) specify the purpose for which the carrier intends to engage in the activity;
- (b) contain a statement to the effect that if a person suffers loss or damage in relation to property because of anything done by the carrier in engaging in the activity, compensation may be payable under Section 78.
- (c) be given at least 14 days before the carrier commences to engage in the activity.

77.3 Section 77.1 does not apply if:-

- (a) the carrier has complied with any industry code or technical standard relevant to the activity; and
- (b) the activity needs to be carried out without delay in order to protect:-
 - (i) the integrity of network facilities;
 - (ii) the health or safety of persons;
 - (iii) the environment;

- (iv) property; or
- (v) the maintenance of an adequate level of service.

78. Compensation

78.1 If a person suffers loss or damage because of anything done by a carrier under this Part in relation to:-

- (a) any property owned or occupied by the person; or
- (b) any property in which the person has an interest,

there is payable to the person by the carrier such reasonable amounts of compensation:-

- (c) as is agreed between them; or
- (d) failing agreement – as is determined by the Authority.

79. Changing location of, or modifying, network facility where necessary by reason of use of land

79.1 Where any person wishes to use land in a way that makes it necessary to:-

- (a) remove to another part of the land a network facility or facility ancillary to a network facility, or other telecommunications equipment maintained by a carrier in, over or upon the land; or
- (b) to alter such facility in any way,

the person may by written notice served upon the licensee, as the case may be, require the removal or alteration of the facility and the licensee must not unreasonably refuse that requirement.

79.2 The written notice referred to in Section 79.1 must be given at least 14 days before the person requires the removal or alteration of the facility.

79.3 Any reasonable expenses incurred by the licensee in complying with a requirement under Section 79.1 may be recovered from the person who made the requirement.

80. Work affecting network facilities

80.1 Any person who proposes to carry out work on any land that may affect a network facility or facility ancillary to a network facility or other telecommunications equipment maintained by a carrier must:-

- (a) give the carrier notice in writing of its intention to carry out the work; and
- (b) must take all reasonable precautions in carrying out such work to prevent damage to any network facility or facility ancillary to a network facility or other telecommunications equipment in, over, upon or near the land.

80.2 The written notice referred to in Section 80.1(a) must be given at least 14 days before the person begins to carry out the work.

80.3 The carrier may recover from the person on whose behalf such work is carried out any expenses incurred in making good any damage to a network facility or facility ancillary to a network facility or other telecommunications equipment caused by a failure to take the precautions referred to in Section 80.1(b).

81. Subordinate Regulations

81.1 If a carrier engages, or proposes to engage in an activity covered by this Part, the carrier must comply with any conditions that are specified in the subordinate regulations, any relevant industry standards and any relevant industry codes registered with the Authority.

81.2 The Minister may, on the recommendation of the Authority, make subordinate regulations regarding the manner for the carrying out of the provisions of this Part.

82. Interpretation of land

82.1 A reference in this Part to “land” includes an area of seabed.

PART 10 – TECHNICAL REGULATION

Chapter 1 – Technical Standards and Certification

83. Technical Standards

83.1 The Authority may prescribe technical standards and specifications for:-

- (a) any telecommunications equipment (including requirements for qualified providers and installers);
- (b) any telecommunications service (including requirements for qualified providers);
- (c) non-telecommunications equipment that generates, deliberately or incidentally, radio frequency energy that may cause interference to any telecommunications equipment or telecommunications services; and
- (d) non-telecommunications equipment that may suffer interference from any telecommunications equipment or telecommunications services.

83.2 Any standard or specification prescribed by the Authority under Section 83.1 must be designed to achieve one or more of the following objectives:-

- (a) to prevent or reduce radio interference or the risk of interference to any telecommunications equipment or telecommunications services;
- (b) to facilitate correct, efficient or reliable operation of telecommunications networks;
- (c) to protect the integrity of a telecommunications network or other network facility;
- (d) to protect the health or safety of persons who:-
 - (i) operate;
 - (ii) work on;
 - (iii) use services supplied by means of;
 - (iv) are otherwise reasonably likely to be affected by the operation of, a telecommunications network or other network facility;
- (e) to ensure that telecommunications equipment complies with international or recognised industrial standards;
- (f) to ensure the availability of customer equipment that is designed to cater for any or all of the special needs of persons with disabilities;
- (g) to ensure the compatibility of the interfacing equipment between 2 or more interconnecting telecommunications networks, other network facilities, customer equipment or telecommunications services, including to ensure the provision of certain network capabilities such as calling line identification, pre-selection and access to emergency numbers;

- (h) to ensure the interoperability of customer equipment with the network facilities or telecommunications network to which it is, or is proposed to be, connected;
 - (i) to ensure an acceptable quality of reception of telecommunications services; or
 - (j) as a means to achieve the objectives of this Regulation.
- 83.3 Before prescribing a standards and specifications under Section 83.1, the Authority must carry out such consultation with the telecommunications industry as is reasonable in all the circumstances of the case.
- 83.4 Every licensee and other participants in the telecommunications industry must comply with relevant technical standards and specifications prescribed by the Authority under Section 83.1.
- 83.5 A person who uses any telecommunications equipment or other equipment or systems which hinders network interoperability commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million).
- 83.6 A person who uses any telecommunications equipment or other equipment or system which compromises public safety commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.
- 84. Certification requirements**
- 84.1 The Authority may:-
- (a) test or approve or require the testing or approval of equipment or facilities against prescribed specifications and standards before use;
 - (b) by written instrument, determine the measuring apparatus to be used, the method by which and the conditions under which tests or approvals are to be made;
 - (c) issue certificates to certify that the equipment or facility complies with prescribed specifications and standards if the Authority is satisfied that the equipment or facility complies with the specifications and standards;
 - (d) prescribe the labels to be affixed to the equipment or facility to show that the equipment or facility complies with the prescribed specifications and standards;
 - (e) impose requirements for information to be marked on, to be given in advertisements or to accompany specified telecommunications equipment;
 - (f) by written instrument, determine that equipment or a facility must not be imported or offered for sale unless the equipment or installation complies with the prescribed specifications and standards or bears the prescribed label;
 - (g) recover the actual costs incurred plus overhead from persons submitting equipment or facilities for testing against the prescribed specifications; and
 - (h) accredit other organisations or institutions (including organisations or institutions outside the Maldives) for the purpose of carrying out the responsibilities set out in Sections 84.1(a) and 84.1(c).

Chapter 2 – Numbering and electronic addressing

85. Numbering plan

85.1 The Authority is vested with the ownership, control, planning, administration, management, enforcement and allocation of the numbering and electronic addressing of telecommunications services in the Maldives, including the numbering plan. The Authority must promote the efficient and equitable allocation and use of numbers and codes in the numbering plan.

85.2 The Authority must make a plan (called the *numbering plan*) for:-

- (a) the numbering of telecommunications services in the Maldives; and
- (b) the use of numbers and codes in connection with the provision of such services.

85.3 The numbering plan must specify the numbers that are for use in connection with the provision of telecommunications services in the Maldives.

85.4 The Authority may include in the numbering plan rules about, for example:-

- (a) the allocation of numbers to service providers;
- (b) the transfer of allocated numbers between service providers;
- (c) the surrender or withdrawal of allocated numbers;
- (d) the portability of allocated numbers (including rules about the maintenance of, and access to, databases that facilitate portability);
- (e) the use of allocated numbers (including rules about the issue of allocated numbers by service providers to customers for use in connection with the provision of telecommunications services); and
- (f) the charges for the allocation and transfer of numbers which may be imposed by the Authority,

on such conditions as the Authority may impose.

85.5 The Authority may from time to time amend or replace the numbering plan.

86. Allocation of numbers and related powers

86.1 The Authority may, by written instrument, determine an allocation system for allocating specified numbers to service providers (which system may require payment of an application fee).

86.2 Without prejudice to the operation of Sections 85.4 and 86.1, the Authority may:-

- (a) allocate, issue, assign, lease or sell the right to use a number or a code, or a block or blocks of numbers or codes;
- (b) issue or approve codes of practice relating to the use of the numbers and codes in the numbering plan;

- (c) designate, or approve on request by any person, a number or a code, or a block or blocks of numbers or codes in the numbering plan to be the subject of special allocation, issue, lease or sale as provided for under subordinate regulations made by the Minister under Section 86.3; and
- (d) recover the cost of administering the numbering plan from the allocation, transfer, lease or sale of rights to use numbers and codes in the numbering plan.

86.3 The Minister may by subordinate regulation

- (a) provide for:-
 - (i) the allocation, issue, lease or sale, whether by auction, tender or for consideration, or otherwise of; and
 - (ii) the amount of fees to be levied for,

the right to use a number, a code, a block or blocks of numbers or a block or blocks of codes designated, or approved on request by any person, by the Authority under Section 86.2(c); and
- (b) require any proceeds arising out of any allocation, issue, lease or sale referred to in Section 86.3(a), less the administrative costs of carrying out the allocation, issue, lease or sale, to be distributed or applied in a particular manner.

87. **Compliance with the numbering plan**

87.1 Licensees must:-

- (a) comply with the numbering plan and any directions given by the Authority in respect of the numbering plan;
- (b) at the request of the Authority or otherwise, consult the Authority about the arrangements for the allocation and reallocation of numbers and codes within the numbering plan;
- (c) where requested by the Authority, prepare and furnish to the Authority proposals for developing, adding to or replacing the numbering plan relating to the services provided by the licensee; and
- (d) in such manner as the Authority may direct, facilitate the portability of numbers issued to any customer of any carrier or carriage service provider, so that any number so issued may used by that customer should it cease to be a customer of any such entity and become a customer of any other carrier or carriage service provider.

88. **Electronic Addressing**

88.1 The Authority may from to time to time make rules and give directions in relation to electronic addressing of telecommunications services and related services, including the allocation and use of electronic addresses.

88.2 The Authority may develop, administer and enforce a plan for electronic addressing.

89. **Integrated public number database**

89.1 The Authority may appoint a specified person (including a licensee) to manage or maintain an integrated public number database or an integrated electronic address database.

- 89.2 A person specified under Section 89.1 must provide non-discriminatory access to the database on the same terms and conditions which it offers to itself.
- 89.3 The Authority may direct a person specified under Section 89.1 regarding the manner in which he or she will discharge his or her obligations under this Section 89.

PART 11 – MANAGEMENT OF RADIOFREQUENCY SPECTRUM

90. Guiding principle

90.1 The Authority must promote the efficient and competitive allocation and use of spectrum as a public resource of the Maldives.

91. Prohibition

91.1 No person may use a frequency in the spectrum unless:-

- (a) the person holds a spectrum assignment issued under this Part;
- (b) the person holds an apparatus assignment issued under this Part;
- (c) the use of the spectrum is subject to a class assignment issued under this Part;
- (d) the person holds a temporary permit issued by the Authority under Section 19; or
- (e) the person has an exemption granted by the Minister after consultation with the Authority.

91.2 A person who contravenes any prohibition in this Part commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

92. Spectrum plan

92.1 The Authority may develop and publish a spectrum plan in respect of any part or all of the spectrum.

92.2 A spectrum plan will define how spectrum is to be used and define the methodology for allocating and reallocating spectrum.

92.3 A spectrum plan may:-

- (a) divide into such number of frequency bands as the Authority thinks appropriate so much of the spectrum as the Authority thinks necessary for the purpose of regulating radiocommunications under this Regulation;
- (b) designate one or more bands to be used primarily for the general purposes of defence; and
- (c) specify the general purpose or purposes for which each other band may be used.

92.4 In developing a spectrum plan, the Authority must:-

- (a) take into account:-
 - (i) the objects of this Regulation;
 - (ii) the impact of the spectrum plan on existing users; and

- (iii) any applicable international standards, conventions and agreements including the ITU and its radio regulations as agreed to and adopted by the Maldives; and
 - (b) consult with the telecommunications industry and other persons who the Authority considers may be directly affected by the spectrum plan.
- 92.5 The spectrum plan may include procedures for the issue of spectrum assignments and apparatus assignments such as, for example:-
 - (a) procedures for the issue of spectrum assignments and apparatus assignments by auction;
 - (b) procedures for the issue of spectrum assignments and apparatus assignments by tender;
 - (c) procedures for the issue of spectrum assignments and apparatus assignments at a fixed price to be determined by the Minister or the Authority;
 - (d) a conversion plan for the conversion of designated apparatus assignments into spectrum assignments.
- 93. **Frequency band plans**
- 93.1 The Authority may also prepare and publish frequency band plans, each relating to one or more frequency bands, and which may be of general application or limited as provided in the relevant plan (including being limited as to a specified area or period).
- 93.2 A frequency band plan must not be inconsistent with the spectrum plan.
- 93.3 A frequency band plan:-
 - (a) must make provision in relation to the purpose or purposes for which the band or bands may be used; and
 - (b) without limiting Section 93.3(a), may provide for:-
 - (i) the one or more purposes for which any part of a band (including any particular frequency or frequency channel) may be used; and
 - (ii) parts of the spectrum to be reserved for provision of public or community services.
- 93.4 For the purposes of the other Sections in this Part (other than Sections 92 and 93), a reference to the spectrum plan includes any applicable frequency band plan.
- 94. **Spectrum assignments**
- 94.1 The Authority may issue a spectrum assignment which confers rights on a person to use one or more specified frequency bands for any purpose consistent with the conditions specified in the assignment.
- 94.2 A spectrum assignment may only be issued under Section 94.1 if:-
 - (a) the relevant frequency bands for spectrum assignment have been determined by the Minister; and
 - (b) the spectrum assignment is consistent with the spectrum plan.

94.3 A spectrum assignment issued under Section 94.1 may be subject to such conditions (including as to fees and charges payable to the Authority) as the Authority imposes.

94.4 Except if the Authority decides that it is in the national interest that a spectrum assignment be reissued to the existing assignment holder, the procedure for the reissue of a spectrum assignment will be in accordance with Sections 94.1, 94.2 and 94.3.

94.5 The Minister may make rules for the transfer of the rights of the holder of the spectrum assignment conferred by the spectrum assignment. The Authority may direct a holder of a spectrum assignment to comply with any rules made under this Section.

94.6 A holder of a spectrum assignment may only transfer to or otherwise deal with any or all of the rights under a spectrum assignment with a third party if it is in accordance with Section 94.5.

95. **Apparatus assignments**

95.1 The Authority may issue an apparatus assignment which confers rights on a person to use the spectrum to operate a network facility or radiocommunications equipment of a specified kind at a specified frequency or in any specified frequency band or bands.

95.2 The Authority must not issue an apparatus assignment unless it is consistent with the spectrum plan

95.3 The Authority must not issue an apparatus assignment for the use of a spectrum that has been determined for spectrum assignments.

95.4 An apparatus assignment issued under this Section may be subject to such conditions (including as to fees and charges payable to the Authority) as the Authority imposes.

95.5 An apparatus assignment will not be valid for a period of more than 5 years from its date of issue.

96. **Class assignments**

96.1 The Authority may issue a class assignment which confers rights on any person to use any frequency band or bands for a specified purpose.

96.2 A class assignment issued under Section 96.1 may be subject to such conditions (including as to fees and charges payable to the Authority) as the Authority imposes.

96.3 The Authority must not issue a class assignment unless it is consistent with the spectrum plan.

96.4 The Authority must not issue a class assignment that authorises the use of the spectrum that is determined for spectrum assignments.

97. **Eligibility of persons for spectrum and apparatus assignments**

97.1 The Minister may, by written instrument, determine that specified spectrum assignments or apparatus assignments or both may only be issued to particular persons or classes of persons who satisfy such conditions as are specified in the Minister's determination.

98. **Reallocation of spectrum**

98.1 The Minister may, by written instrument, after taking into account the recommendation of the Authority, determine that a certain spectrum is to be reallocated for spectrum assignments.

98.2 A determination made under Section 98.1 may include limits on the amount of spectrum available, either generally or to particular persons or classes of persons.

98.3 A determination made under Section 98.1 is deemed to include the term that the spectrum assignment must not exceed 20 years.

99. Compulsory acquisition of spectrum

99.1 The Minister may direct the Authority to develop procedures for the compulsory acquisition by the Authority of spectrum assignments or apparatus assignments in a determined spectrum.

99.2 The Authority may recommend to the Minister that spectrum assignments or apparatus assignments in a determined spectrum be compulsorily acquired by the Authority in accordance with a reassignment of spectrum consistent with the spectrum plan.

99.3 The Minister may, after taking into account the recommendation of the Authority under Section 99.2, direct that spectrum assignments or apparatus assignments in a determined spectrum be compulsorily acquired by the Authority.

99.4 The Authority may pay a reasonable amount of compensation to the holder of a spectrum assignment or an apparatus assignment which has been acquired prior to its expiry, by a direction made under this Section 99.

99.5 No compensation may be payable if a spectrum assignment or an apparatus assignment is not renewed.

100. Satellite positions

100.1 The Authority may assign, withdraw and vary satellite orbital positions and parameters for satellites registered or licensed in the Maldives.

101. Register

The Authority must maintain a register of:-

- (a) the spectrum plan and any frequency band plans;
- (b) spectrum assignments;
- (c) apparatus assignments;
- (d) class assignments; and
- (e) any satellite orbital positions and parameters assigned.

102. Interference

102.1 A person must not knowingly, and without lawful excuse, use an apparatus, whether or not it is telecommunications equipment, in a manner that causes direct or indirect harmful interference with any telecommunications service lawfully provided, or any telecommunications equipment lawfully operated, in or outside the Maldives.

102.2 The Authority may, by notice in writing, direct a person possessing an apparatus, whether or not it is telecommunications equipment, to take such measures as the Authority specifies and within the time directed to prevent the interference specified in the notice.

- 102.3 A person who contravenes Section 102.1 or fails to comply with a direction under Section 102.2 commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.
- 102.4 The Authority may by written instrument specify the limits of conducted or radiated interference from any apparatus which is not subject to the licensing requirement under Section 18, to prevent harmful interference with telecommunications network, other network facilities or telecommunications services.
- 102.5 The powers of the Authority under Chapter 1 of Part 10 extend to the apparatus mentioned in Section 102.4.
- 102.6 The Authority may require an apparatus mentioned in Section 102.4 to be submitted to the Authority for testing to verify whether the apparatus complies with the limits specified by the Authority under that Section.
103. **Examination, certification and authorisation of operating personnel**
- 103.1 The Authority may prepare and enforce a regime for the examination, certification and authorisation of persons:-
- (a) to operate a specified apparatus, or particular class of apparatus, for radiocommunication;
or
 - (b) to hold a particular position in a specified radiocommunications station or class of stations,
- as the Authority considers necessary or desirable to achieve any of the objectives set out in Section 83.2.

PART 12 – ADDITIONAL OFFENCES, JURISDICTION, PENALTIES AND ENFORCEMENT

Chapter 1 – Offences

104. Offences, jurisdiction, penalties and organisations

104.1 The offences and penalties specified in this Chapter apply in addition to any other offences and penalties created by any other Sections of this Regulation.

104.2 All offences under this Regulation are to be determined by the Authority, unless:

- (a) the offence is one that for which a penalty has not been prescribed under these Regulations; and
- (b) the Authority is of the opinion that there is *prima facie* evidence against the accused offender.

Under such circumstances, the Authority must prepare a written report of the complaint and charge against the accused offender and transmit that report to the Ministry for adjudication as to the appropriate penalty under the circumstances for the offence. For the avoidance of doubt, the Authority does not under any circumstances have the power to punish an offender under this Regulation by way of imposition of a custodial sentence.

104.3 Where:

- (a) a person by whom an offence under this Regulation is committed is a body corporate; and
- (b) it is proved that the offence was committed with the consent, support or participation of a director or other officer concerned in the management of the body corporate,

the director or other officer will be guilty of the like offence.

104.4 Every contravention or failure to comply with this Regulation, any direction or written instrument made under this Regulation or the conditions subject to which any licence has been granted, or assignment issued, is an offence against this Regulation. For every such offence, where the penalty is not otherwise specifically prescribed under these Regulations, the offender will, in addition to the forfeiture of anything seized, be liable to a fine not exceeding:-

- (a) Rf 100,000 (Rufiyaa One Hundred Thousand) for the first occasion on which a penalty is so imposed;
- (b) Rf 500,000 (Rufiyaa Five Hundred Thousand) for the second occasion on which a penalty is so imposed; and
- (c) Rf 1,000,000 (Rufiyaa One Million) for any subsequent occasion on which a penalty is so imposed;

and an additional fine not exceeding Rf 200 (Rufiyaa Two Hundred) for each day the offence continues.

104.5 A fine under this Regulation must not be imposed by the Authority or the Ministry unless:-

- (a) in all the circumstances of the case, the fine is proportionate and reasonable in relation to the failure or series of failures concerned giving rise to that fine;

- (b) the Authority is satisfied that the licensee or person, as the case may be, has been afforded a reasonable opportunity of complying with the relevant requirement of any licence condition, provision of this Regulation, or direction, in respect of which the fine is sought to be imposed; and
- (c) the Authority has afforded the licensee or person concerned, as the case may be, a reasonable opportunity to make representations and has considered all representations made before the Authority before making its decision whether or not to impose that fine.

105. Conduct by directors, employees or agents

105.1 If, in a proceeding under this Regulation in respect of conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a director (or other officer), employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director (or other officer), employee or agent had the state of mind.

105.2 Any conduct engaged in on behalf of a body corporate:

- (a) by a director (or other officer), employee or agent of the body corporate within the scope of the person's actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director (or other officer), employee or agent of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director (or other officer), employee or agent;

is taken for the purposes of this Regulation to have been engaged in also by the body corporate, unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

105.3 If, in a proceeding under this Regulation in respect of conduct engaged in by an individual, it is necessary to establish the state of mind of the individual, it is sufficient to show:

- (a) that the conduct was engaged in by an employee or agent of the individual within the scope of the actual or apparent authority of the employee or agent; and
- (b) that the employee or agent had the relevant state of mind.

105.4 Conduct engaged in on behalf of an individual:

- (a) by an employee or agent of the individual within the scope of the actual or apparent authority of the employee or agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an employee or agent of the individual, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee or agent,

is taken, for the purposes of this Regulation, to have been engaged in also by that individual, unless that individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

105.5 A reference in subsection 105.1 or 105.3 to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

106. Transmitting or receiving communications by unlicensed means of telecommunications

106.1 Any person who, knowing or having reason to believe that a means of a telecommunications service or telecommunications network is being maintained in contravention of this Regulation:-

- (a) transmits or receives any communication by such means of a telecommunications service or telecommunications network;
- (b) performs any service incidental to the transmission or reception of any such communication;
- (c) delivers any communication for transmission by such means of a telecommunications service or telecommunications network; or
- (d) takes delivery of any communication sent by such means of a telecommunications service or telecommunications network;

commits an offence punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

107. Unauthorised access to computer by telecommunications

107.1 Any person who, by a telecommunications service or telecommunications network, knowingly causes a computer to perform any function to obtain unauthorised access to any program or data held in a computer commits an offence punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

107.2 For the purposes of Section 107.1:-

- (a) the intent of the person need not be directed at:-
 - (i) any particular program or data;
 - (ii) a program or data of a particular kind; or
 - (iii) a program or data held in a particular computer;
- (b) access of any kind by a person to any program or data held in a computer is unauthorised if the person is not entitled to control access of the kind in question to the program or data held in the computer and the person:-
 - (i) has not been authorised to obtain access of the kind in question to the program or data held in the computer by any person who is so entitled;
 - (ii) does not believe that he or she has been so authorised; and
 - (iii) does not believe that he or she would have been so authorised if he or she had applied for the appropriate authority.

108. Unlawful interception of communications

108.1 A person who, without lawful authority under this Regulation or any other law:-

- (a) intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept, any communication;
- (b) uses an apparatus or device to obtain information regarding the contents, sender or addressee of any communication;
- (c) discloses, or attempts to disclose, to any other person the contents of any communication, knowing or having reason to believe that the information was obtained through the interception of any communication in contravention of this Section; or
- (d) uses, or attempts to use, the contents of any communication, knowing or having reason to believe that the information was obtained through the interception of any communication in contravention of this Section,

commits an offence.

108.2 A person who intentionally discloses, or attempts to disclose, to any other person the contents of any communication, intercepted by means authorised by this Regulation, where that disclosure or attempted disclosure was not authorised by this Regulation or any other law, commits an offence.

108.3 An offence under Section 108.1 or 108.2 is punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

108.4 A telecommunications officer will not be liable for an activity referred to in Section 108.1 or 108.2 where the relevant activity is carried out in performance of the person's lawful duties as such an officer.

109. Damaging telecommunications installation with intent

109.1 A person who by any wilful, dishonest or negligent act or omission damages, removes or interferes in any way whatsoever with any telecommunications equipment or any part of such equipment commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million).

110. False or deceptive distress messages

110.1 A person who transmits, or causes to be transmitted, by a telecommunications network a false distress, urgency, safety or identification signal:-

- (a) knowing or believing it to be false; or
- (b) with intent to deceive,

commits an offence punishable by a fine not exceeding Rf 10,000 (Rufiyaa Ten Thousand).

111. Entry on certain land without permission

111.1 Any person who, without lawful authority or excuse, enters or remains on any land in the occupation of a person who provides a telecommunications service commits an offence punishable by a fine of not exceeding Rf 10,000 (Rufiyaa Ten Thousand).

112. Obstruction of the Authority

112.1 Any person who wilfully obstructs the Authority in the exercise of any power conferred upon it by this Regulation commits an offence punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

113. Offences by telecommunications officers

113.1 A telecommunications officer who:-

- (a) wilfully destroys, diverts or alters any communications that he or she has received for transmission or delivery;
- (b) forges any communication or utters any communications that he or she knows to be forged or altered;
- (c) wilfully abstains from transmitting any communication or wilfully intercepts or detains or delays any communication; or
- (d) otherwise than in pursuance of his or her duty or as directed by a court, copies any communication or discloses any communication or the purport of any communication to any person other than the person to whom the communication is addressed,

commits an offence punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

113.2 A telecommunications officer who, with intent to defraud, transmits by a telecommunications service or telecommunications network a communication in respect of which the charge prescribed by or under this Regulation has not been paid commits an offence punishable by a fine not exceeding Rf 500,000 (Rufiyaa Five Hundred Thousand).

114. Use of non-standard equipment

114.1 A person who, knowingly or without reasonable excuse, causes a radio emission from any non-standard equipment or device commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

114.2 For the purposes of this Chapter, “non-standard equipment or device” means any telecommunications equipment or radiocommunications equipment that does not comply with the technical or procedural standards prepared or determined under this Regulation.

114.3 A person who:-

- (a) uses any non-standard equipment or device;
- (b) has in his or her possession any non-standard equipment or device that he or she knows or has reason to believe is a non-standard equipment or device for the purpose of installing, working, operating or using the equipment or device; or
- (c) offers for supply, supplies or has in his or her possession with a view to supply any such non-standard equipment or device,

commits an offence punishable by a fine not exceeding Rf 100,000 (Rufiyaa One Hundred Thousand).

114.4 In any proceedings under this Regulation, any document purporting to be a certificate given by the Authority (or by an organisation or institution accredited under Section 84.1(h)) certifying that any particular equipment or device is a non-standard equipment or device is admissible as a prima facie evidence of the facts stated in it until the contrary is proved.

115. Right of access to public telecommunications services

115.1 A term in a lease, deed or agreement that restricts the right of a resident or occupier of any land, or deprives a resident or occupier of any land of the right, to have access to the telecommunications services of his or her choice is void.

Chapter 2 – Enforcement

116. Authority may authorise officers

116.1 The Authority may in writing:-

- (a) authorise any public officer (including a police officer); or
- (b) appoint and authorise an officer of the Authority,

to exercise any of the Authority's powers under and in accordance with Chapters 3 and 4 of this Part and a reference to the Authority in those Chapters includes a reference to such an officer.

117. Searches and seizures relating to offences

117.1 The Authority (in collaboration with the Ministry of Defence and National Security) may:-

- (a) arrest any person whom it reasonably suspects of being guilty of an offence under this Regulation;
- (b) enter and search any land, premises, vessel, aircraft or vehicle in which the Authority reasonably suspects that there is anything liable to seizure under Section 117.1(e);
- (c) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in which the Authority reasonably suspects that there is anything liable to seizure under Section 117.1(e);
- (d) search any person who it reasonably suspects is carrying anything that is liable to seizure under Section 117.1(e);
- (e) examine, seize, remove and detain:-
 - (i) anything in respect of which it reasonably suspects that an offence under this Regulation has been committed;
 - (ii) anything that appears to it to be or to be likely to be, or to contain or afford, evidence of an offence under this Regulation;
 - (iii) anything that was used, or is intended to be used, for the purposes of committing the offence;

- (iv) anything that appears to it to be or to be likely to be, or to contain, a thing which is necessary to the conduct of an investigation into an offence under this Regulation; and
 - (f) enter and inspect the premises at or from which any person manufactures, sells or otherwise deals in any telecommunications equipment or radiocommunications equipment or apparatus that may be used for telecommunications and require the production to the Authority of any books or documents relating to such equipment.
- 117.2 The Authority conducting a search under Section 117.1 must be given access to computerised data whether stored in a computer or otherwise. For the purposes of this Section, “access” includes being provided with any necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerised data.
- 117.3 If a search under Section 117.1 indicates that there is any interference-causing equipment, including radiocommunications equipment, or radio-sensitive equipment, the authorised officer may direct that necessary steps be taken to ensure an interference-free environment.

118. **Forfeiture**

- 118.1 A court may, upon application by or on behalf of the Authority or any public officer, order that any apparatus or equipment in respect of which there has been a contravention or attempted contravention of this Regulation is to be forfeited to the Authority, whether or not proceedings have been taken against any person in respect of the contravention or attempted contravention.

Chapter 3 - Information gathering powers of the Authority

119. **The Authority may obtain information and documents**

- 119.1 This Section applies to any person (including a licensee) if the Authority has reason to believe that a person:-
- (a) has any information (including accounts and records) or any document that is relevant to the exercise of any of the Authority’s powers or performance of any of the Authority’s functions under this Regulation; or
 - (b) is capable of giving any evidence which the Authority has reason to believe is relevant to the exercise of any of the Authority’s powers or performance of any of the Authority’s functions under this Regulation.
- 119.2 Notwithstanding the provisions of any other law, the Authority may, by a written notice, direct any person:-
- (a) to give the Authority, within the period and in the manner and form specified in the notice, any such information;
 - (b) to produce to the Authority, within the period and in the manner specified in the notice, any such documents, whether in a physical form or in an electronic media;
 - (c) to make copies of any such documents and to produce those copies to the Authority within the period and in the manner specified in the notice;
 - (d) if the person is an individual, to appear before the Authority at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in an electronic media;

- (e) if the person is a body corporate or a public body, to cause a competent officer of the body to appear, at a private hearing, before the Authority at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in an electronic media; or
- (f) if the person is a partnership, to cause an individual who is a partner in the partnership or an employee of the partnership to appear before the Authority at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in an electronic media.

120. Compliance with the Authority's directions

120.1 A person must comply with a direction under Section 119.2.

120.2 A person who without reasonable excuse fails to comply with a direction of the Authority under this Chapter commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

120.3 A person who, intentionally or recklessly:-

- (a) fails to disclose or omits to give any relevant information or evidence or document; or
- (b) gives or produces information or evidence or a document, or a copy of a document, that is false or misleading in any respect,

in response to a direction under Section 119.2, commits an offence punishable by a fine not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

120.4 A person who produces a document, or a copy of the document, that, to the knowledge of the person is false or misleading does not commit an offence under Section 120.3 in respect of that document or copy, if the document or copy is accompanied by a written statement signed by the person or, in the case of a body corporate, by a competent officer of the body corporate:-

- (a) stating that the document or copy is, to the knowledge of the first of the first-mentioned person, false or misleading; and
- (b) setting out, or referring to, the material particular in which the document or copy is, to the knowledge of the first-mentioned person, false or misleading.

120.5 For the purposes of this Chapter, a document or information includes information recorded by electronic or other means and any obligation on a person under this Chapter to give or produce information or documents includes an obligation to provide the appropriate system for reading and reducing the information or document into a written form on paper, including any necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerised data.

121. Possession of documents and copies

121.1 The Authority may take, and retain for as long as is necessary, possession of a document produced or given under this Chapter.

121.2 The Authority may inspect a document or copy produced or given under this Chapter and may make and retain copies of, or take and retain extracts from, such a document.

121.3 The Authority must maintain a record, available to the public, of all information, evidence or documents received pursuant to the directions given under Section 119.2.

122. Disclosure

122.1 The Authority must not disclose any information or document produced or given under this Chapter unless:-

- (a) the Authority complies with Section 122.2; and
- (b) the Authority considers that it is in the public interest to disclose that document or account, as the case may be.

122.2 The Authority must:-

- (a) give a person giving or producing any information or document under this Section a reasonable opportunity to make representations on a proposed disclosure of the information or document, as the case may be; and
- (b) consider all representations made before the Authority makes a final decision to disclose the information or document, as the case may be.

122.3 For the avoidance of doubt, where a person gives or produces any information or document under this Chapter notwithstanding that the information or document is the subject of a confidentiality agreement with another person that prevents the first-mentioned person from releasing the information or document, the first-mentioned person will not be liable for any civil liability or claim whatever in respect of the giving or production of that information or document, as the case may be, contrary to that agreement.

123. Self-incrimination

123.1 An individual is not excused from giving information or evidence or producing a document or a copy of a document under this Chapter on the ground that the information or evidence or the production of the document or copy might tend to incriminate the individual or expose the individual to a penalty.

123.2 However:-

- (a) giving the information or evidence or producing the document or copy; or
- (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document or copy;

is not admissible in evidence against the individual in criminal proceedings other than proceedings under, or arising out of, Section 120.2 or Section 120.3.

Chapter 4 – Public inquiries by the Authority

124. When inquiry must be held

124.1 The Minister may give the Authority a written direction to hold an inquiry about any matter of a general or specific nature which relates to the administration of this Regulation which will serve the objects of this Regulation.

124.2 If the Minister gives a direction under Section 124.1 about a particular inquiry, the Minister may direct the Authority to:-

- (a) consult with one or more specified persons, bodies or agencies in connection with the conduct of the inquiry; and
- (b) have regard to one or more specified matters in connection with the conduct of the inquiry.

124.3 The Authority must comply with a direction under this Section.

125. When inquiry may be held

The Authority may hold an inquiry:-

- (a) in response to a written request from a person; or
- (b) on its own initiative,

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

126. Informing the public about an inquiry

126.1 If the Authority holds an inquiry, the Authority must publish, in whatever way it thinks appropriate, notice of:-

- (a) the fact that it is holding the inquiry;
- (b) the period during which the inquiry is to be held;
- (c) the nature of the matter to which the inquiry relates;
- (d) the period of at least 28 days within which, and the form in which, members of the public are invited to make submissions to the Authority about that matter;
- (e) the matters that the Authority would like the submissions to deal with; and
- (f) the address or addresses to which the submissions may be sent.

126.2 The Authority does not need to publish at the same time or in the same manner the notice of all matters referred to in Section 126.1.

126.3 The Authority must consider any submissions from members of the public which:-

- (a) are in the form and of the nature as specified in the notice; and
- (b) received by the Authority within the time limit as specified in the notice.

127. Procedure

127.1 A reference in this Chapter to an “inquiry” is a reference to an inquiry conducted under and in accordance with this Chapter.

127.2 An inquiry is to be conducted as and when the Authority thinks fit, subject to the other Sections of this Chapter.

127.3 The basic rule is that an inquiry (including any hearings and any other parts of an inquiry) must take place in, and be open to, the public.

127.4 The Authority may, for the purposes of an inquiry, exercise any or all of its investigation and information-gathering powers under Chapters 4 and 6 of this Part.

127.5 The Authority may hold hearings for the purposes of an inquiry.

128. Where inquiries are held in private

128.1 The Authority may only conduct an inquiry or a part of an inquiry in private if the Authority is satisfied that:-

- (a) the documents or information that may be given, or a matter that may arise during the inquiry or a part of the inquiry, is of a confidential nature; or
- (b) an inquiry or part of an inquiry of a matter, or part of a matter, in public would not be conducive to the due administration of this Regulation.

128.2 If an inquiry takes place in public and the Authority is of the opinion that:-

- (a) the evidence or other material presented to the inquiry; or
- (b) the material in written submissions lodged with the Authority,

is of a confidential nature, the Authority may direct that:-

- (c) the evidence or material should not be published; or
- (d) its disclosure be restricted.

128.3 If an inquiry or part of an inquiry takes place in private, the Authority:-

- (a) must give a direction as to the persons who may be present at the inquiry or part of the inquiry; and
- (b) may give a direction restricting the disclosure of evidence or other material presented at the inquiry or part of the inquiry.

128.4 A person must not without reasonable excuse fail to comply with a direction under Section 128.2 or Section 128.3.

128.5 A person who without reasonable excuse fails to comply with a direction given under Section 128.2 or Section 128.3 commits an offence punishable by a fine not exceeding not exceeding Rf 1,000,000 (Rufiyaa One Million) and is also punishable by a further fine not exceeding Rf 20,000 (Rufiyaa Twenty Thousand) for every day or part of a day during which the contravention continues.

129. Reports on inquiries

129.1 The Authority must publish a report setting out its findings as a result of any inquiry it conducts and provide a copy of the report to the Minister.

129.2 The Authority must publish the report within 30 days of the conclusion of the inquiry.

129.3 The Authority is not required to include in a report any material:-

- (a) that is of a confidential nature;

- (b) the disclosure of which is likely to prejudice the fair trial of a person;
- (c) which would involve the unreasonable disclosure of personal information about any individual (including a deceased individual); or
- (d) that is the subject of a direction under Section 128.2 or Section 128.3.

130. Protection from civil actions

130.1 Civil proceedings do not lie against a person in respect of any loss, damage or injury of any kind suffered by another person because of the making in good faith of a statement, or the giving in good faith of a document or information, to the Authority in connection with an inquiry.

Chapter 5 - Investigations by the Authority

131. Matters to which this Chapter Applies

131.1 This Chapter applies to the following matters:-

- (a) a contravention of this Regulation;
- (b) a contravention of a direction given by the Authority under this Regulation;
- (c) a contravention of a code registered with the Authority;
- (d) a matter relating to the supply of, or refusal or failure to supply, a telecommunications service;
- (e) a matter relating to the connection of, or a refusal or failure to connect, customer equipment;
- (f) a matter relating to the performance of the Authority's functions, or the exercise of the Authority's powers.

132. Complaints

132.1 A person ("**the complainant**") may complain to the Authority about a matter referred to in Section 131.

132.2 A complaint must:-

- (a) be in writing; and
- (b) specify the person against whom the complaint is made ("**the respondent**").

132.3 If it appears to the Authority that:-

- (a) a person wishes to make a complaint; and
 - (b) the person requires assistance to formulate the complaint or to reduce it into writing,
- the Authority must take reasonable steps to provide appropriate assistance to the person.

133. Investigations by the Authority

133.1 The Authority may investigate a matter of kind referred to in Section 131 if:-

- (a) in the case of a matter covered by Section 131.1(a) - the Authority has reason to suspect that a person may have contravened this Regulation;
- (b) in the case of a matter covered by Section 131.1(b) - the Authority has reason to suspect that a person may have contravened a direction given by the Authority under this Regulation;
- (c) in any case – a complaint is made under Section 132; or
- (d) in any case – the Authority thinks it is desirable to investigate the matter.

133.2 The Authority must investigate:-

- (a) a matter of kind referred to in Section 131; or
- (b) any other matter concerning telecommunications services, radiocommunications, or the telecommunications industry,

if the Minister requests the Authority to investigate the matter.

134. **Preliminary inquiries**

134.1 If a complaint has been made to the Authority under Section 132, the Authority may make inquiries of the respondent for the purpose of deciding:-

- (a) whether the Authority has power to investigate the matter to which the complaint relates; or
- (b) whether the Authority should, in its discretion, investigate the matter.

134.2 If the Authority decides not to investigate, or not to investigate further, a matter to which a complaint relates, it must as soon as practicable and in such manner as it thinks fit, inform the complainant and the respondent of the decision and the reasons for the decision.

135. **Conduct of investigations**

135.1 Before beginning an investigation of a matter to which a complaint relates, the Authority must inform the respondent that the matter is to be investigated.

135.2 An investigation under this Part is to be conducted as the Authority thinks fit.

135.3 The Authority may, for the purposes of an investigation, obtain information from such persons, and make such inquiries, as it thinks fit.

135.4 Subject to Section 135.5, it is not necessary for a complainant or a respondent to be given an opportunity to appear before the Authority in connection with an investigation.

135.5 The Authority must not, as a result of an investigation, make a finding that is adverse to a complainant or a respondent unless it has given the complainant or respondent an opportunity to make submissions about a matter to which the investigation relates within a time period of not less than 30 days.

135.6 The Authority must consider the submissions made by the complainant or the respondent under Section 135.5 before making its decision.

136. Reports on investigations

136.1 After concluding an investigation under Section 133.1, the Authority may prepare and give to the Minister a report under this Section.

136.2 After concluding an investigation under Section 133.2, the Authority must prepare and give to the Minister a report under this Section.

136.3 The report under Section 136.1 or Section 136.2 must cover:-

- (a) the conduct of the investigation concerned;
- (b) any findings that the Authority has made as a result of the investigation;
- (c) the evidence and other material on which those findings were based; and
- (d) such other matters relating to, or arising out of, the investigation as the Authority thinks fit or as the Minister directs.

137. Publishing reports

137.1 The Minister may direct the Authority to publish a report of an investigation if the Minister is satisfied that the publication would be in the national interest.

137.2 The Authority is not required to publish, or to disclose to a person to whose affairs it relates, a report or a part of a report if the publication or disclosure would:-

- (a) disclose a matter of a confidential character; or
- (b) be likely to prejudice the fair trial of a person.

137.3 The Authority is not required to publish a report or part of a report if the publication would involve the unreasonable disclosure of personal information about any individual (including a deceased individual).

137.4 If the publication of a matter in a report or a part of a report would, or would be likely to, adversely affect the interests of a person, the Authority must not publish the report or the part of the report, as the case may be, until the Authority has given the person a reasonable period (not exceeding 30 days) to make representations, either orally or in writing, in relation to the matter.

PART 13 – MISCELLANEOUS

Chapter 1 – National interest matters

138. General duty of licensees

138.1 A licensee must use its best endeavours to prevent the telecommunications networks and other telecommunications equipment that it owns or operates or the telecommunications services it provides from being used in, or in relation to, the commission of any offence under any law.

138.2 A licensee must, upon written request by the Authority or any other authority, assist the Authority or any authority of the Government as far as reasonably necessary in:-

- (a) preventing the commission or attempted commission of an offence under any law and otherwise enforcing the laws of the Maldives;
- (b) protecting the public revenue; and
- (c) safeguarding national security.

138.3 A licensee or any of its officers, employees, contractors or agents are not liable in any criminal proceedings of any nature or to any other action or proceedings for damages for or in relation to an act or omission done in good faith in the performance of the duty imposed under Section 138.1 or 138.2.

139. General duty of the Authority

139.1 The Authority must, in performing its functions or exercising its powers, use its best endeavours to prevent telecommunications networks and other telecommunications equipment from being used in, or in relation to, the commission of any offence under any law.

139.2 The Authority must, in performing its functions or exercising its powers, assist officers and authorities of the Government as far as reasonably necessary in:-

- (a) preventing the commission or attempted commission of an offence under any law and otherwise enforcing the laws of the Maldives;
- (b) protecting the public revenue; and
- (c) safeguarding national security.

139.3 The Authority or any of its officers, employees, contractors or agents are not liable in any criminal proceedings of any nature or to any other action or proceedings for damages for or in relation to an act or omission done in good faith in the performance of the duty imposed under Section 139.1 or 139.2.

140. Interception capability

140.1 The Minister may determine that a licensee or class of licensees must implement the capability to allow authorised interception of communications.

140.2 A determination, under Section 140.1, may specify the technical requirements for the capability to allow authorised interception of communications.

141. Special powers in emergency

141.1 On the occurrence of any public emergency or in the interest of public safety, the President may:-

- (a) suspend the licence of any licensee;
- (b) take temporary control of network facilities, any other telecommunications equipment owned or operated by a licensee in any manner as he or she deems fit;
- (c) take temporary control of any telecommunications services provided by the licensee in any manner as he or she deems fit;
- (d) withdraw totally or partially the use of any network facilities, other telecommunications equipment or telecommunications service from any licensee, person or the general public;
- (e) order that any communication or class of communications to or from any licensee, person or the general public relating to any specified subject must not be communicated or must be intercepted or detained, or that any such communication or its records must be disclosed to an authorised officer mentioned in the order; or
- (f) order the taking of possession of any customer equipment.

141.2 If any doubt arises as to the existence of a public emergency or whether any act done under Section 141.1 was in the interest of public safety, a certificate signed by the President and exhibited at such places as the Minister deems fit is conclusive proof on the point.

141.3 Nothing in this Section prevents the use of any network facilities or telecommunications for the purpose of making a distress call.

142. Disaster Plan

142.1 The Authority may direct a licensee or class of licensees to develop, in consultation with the authorities specified by the Authority, a disaster plan for operational requirements, survivability and recovery of any telecommunications networks, other telecommunications equipment and telecommunications services in case of a disaster, crisis or civil emergency.

Chapter 2 - International aspects of activities of the telecommunications industry

143. INTELSAT and Inmarsat – directions to signatories

143.1 The Minister may give directions to any carrier or service provider which is a signatory designated by or on behalf of the Government to the INTELSAT Agreement, Convention on the International Maritime Satellite Organisation or any other international convention or consortium.

143.2 A carrier or service provider must comply with a direction under 143.1.

144. Compliance with conventions

144.1 The Minister may, by notice published in the appropriate manner, declare that, for the purposes of this Section a specified convention (or a specified part of a specified convention) is binding in relation to the members of a specified class of licensees.

144.2 A person who is a member of that class must, in connection with:-

(a) the operation by the person of telecommunications networks or other telecommunications equipment; or

(b) the provision by the person of telecommunications services,

act in an way consistent with the Maldives' obligations under that convention (or that part of the convention, as the case may be).

144.3 In this Section:-

convention means:-

(a) a convention to which the Maldives is a party; or

(b) an agreement or arrangement between the Maldives and a foreign country,

and includes, for example, an agreement, arrangement or understanding between the Minister (or other minister of the Government) and an official or authority of a foreign country.

Chapter 3 – Rules of conduct about dealings with international telecommunications operators

145. Rules of conduct

145.1 The Authority may, by written instrument, make rules of conduct prohibiting or regulating dealings by either or both of carriers or service providers with international telecommunications operators or other persons, with a view to preventing, mitigating or remedying unacceptable conduct engaged in by international telecommunications operators.

145.2 A carrier or service provider must comply with any rules of conduct in force under Section 145.1.

145.3 If a provision of an agreement made by a carrier or service provider is inconsistent with rules of conduct in force under Section 145.1, the provision is unenforceable.

146. International telecommunications operators

146.1 For the purposes of this Chapter, an international telecommunications operator is a person who carries on activities outside the Maldives that involve:-

(a) the provision of goods or services for use in connection with the provision of a telecommunications service between a point and one or more other points; or

(b) the installation of, maintenance of, operation of or provision of access to a telecommunications network or other telecommunications equipment where the network or facility is used to provide a telecommunications service between a point and one or more other points,

where, in relation to either paragraph (a) or (b):-

(c) the first-mentioned point is in the Maldives and at least one of the other points is outside the Maldives; or

(d) the first-mentioned point is outside the Maldives and at least one of the other points is in the Maldives.

146.2 For the purposes of this Section, a **point** includes a mobile or potentially mobile point, whether on land, underground, in the atmosphere, in outer space, underwater, at sea or anywhere else.

146.3 For the purposes of this Section, a point that is:-

- (a) in the atmosphere; and
- (b) in or below the stratosphere; and
- (c) above the Maldives;

is taken to be a point in the Maldives.

146.4 For the purposes of this Section, a point that is:-

- (a) on a satellite; and
- (b) above the stratosphere;

is taken to be a point outside the Maldives.

147. **Unacceptable conduct**

147.1 For the purposes of this Chapter, an international telecommunications operator engages in unacceptable conduct if:-

- (a) the operator uses, in a manner that is, or is likely to be, contrary to the national interest, the operator's power in a market for:-
 - (i) telecommunications services;
 - (ii) goods or services for use in connection with the provision of telecommunications services; or
 - (iii) the installation of, maintenance of, operation of, or provision of access to, telecommunications networks or other telecommunications equipment; or
- (b) the operator uses, in a manner that is, or is likely to be, contrary to the national interest, any legal rights or legal status that the operator has because of foreign laws that relate to:-
 - (i) telecommunications services;
 - (ii) goods or services for use in connection with the provision of telecommunications services; or
 - (iii) the installation of, maintenance of, operation of, or provision of access to, telecommunications networks or other telecommunications equipment; or
- (c) the operator engages in any other conduct that is, or is likely to be, contrary to the national interest.

Chapter 4 – Related Regulations and Exemptions

148. **Related Regulations**

148.1 The Minister may, on the recommendation of the Authority, make subordinate regulations prescribing matters:-

- (a) required or permitted by this Regulation to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Regulation.

148.2 Subordinate regulations made under this Section may provide that contravention of specified provisions of those subordinate regulations will be an offence and prescribe penalties for such contravention.

148.3 subordinate regulations may, for example, address the following issues:-

- (a) the control and conduct of telecommunications services and network facilities;
- (b) the operation and use of telecommunication equipment or radiocommunications equipment;
- (c) the prohibition and control of electrical or radiated interference with telecommunications equipment;
- (d) the conditions and restrictions subject to which communications may be transmitted or received;
- (e) any fees, charges or rates to be imposed;
- (f) the period for which, and the conditions subject to which, communications and other documents connected with a telecommunication service must be preserved;
- (g) the type and form of, and requirements for, exemptions, assignments and licences that may be granted or issued under this Regulation, including any fees or charges for grant or renewal of licences or assignments;
- (h) the control to be exercised over or the beneficial ownership or control of any of the voting shares in, a licensee or specified classes of licensees by any other person;
- (i) price control arrangements in relation to services offered by a licensee in a dominant position in a telecommunications market; and
- (j) procedures for the implementation and management of the universal service obligation and universal service fund and for determining and calculating universal service contributions.

149. **Exemption**

149.1 The Minister may, by order published in the appropriate manner, exempt or exclude any person or any class of persons or place, premises or geographical area of any description from any or all of the provisions of this Regulation as he or she thinks fit.

Chapter 5 – Transitional and consequential

150. **Transitional provisions**

150.1 Any network facility lawfully installed and maintained in, over or upon any land at the commencement of this Regulation is deemed to have been installed and maintained in, over or upon that land under and in accordance with this Regulation.

150.2 Any licence in respect of telecommunications services or network facilities granted by the Ministry or the Government that is in force at the commencement of this Regulation is deemed to have been granted under and in accordance with this Regulation and will continue to have effect under this Regulation to the extent that it is not in conflict with this Regulation.

SCHEDULE 1

Summary of offences and penalties under this Regulation

	Summary of Offences / breaches	Ref Section.	Penalties
	Operating without licence	18.3	A fine not exceeding Rf 5,000,000 and a further fine not exceeding Rf 100,000 for every day or part of a day during which the contravention continues.
	Operating after suspension, cancellation or expiration of the licence	26.6	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues.
	Failure to comply with direction to comply with officially registered and endorsed industry codes	53.3	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues.
	Not maintaining reasonable customer service	69.2	A fine not exceeding Rf 100,000
	Contravening obligation to maintain confidentiality and protect communications	72.3	A fine not exceeding Rf 10,000
	Installing equip hinders equipment interoperability	83.5	A fine not exceeding Rf 1,000,000
	Installing Equip compromise public safety	83.6	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues
	Using radio frequency without necessary permit	91.2	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues
	Causing harmful interference to telecom equipment or service	102.3	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues
	Otherwise contravening the Regulation	104.4	Every contravention or failure to comply with this Regulation, any direction or written instrument made under this Regulation or the conditions subject to which any licence has been granted, or assignment issued, is an offence against this Regulation. For every such offence, where the penalty is not otherwise specifically prescribed under these Regulations, the offender will, in addition to the forfeiture of anything seized, be liable to a fine not exceeding:-

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			<p>(a) Rf 100,000 for the first occasion on which a penalty is so imposed;</p> <p>(b) Rf 500,000 for the second occasion on which a penalty is so imposed; and</p> <p>(c) Rf 1,000,000 for any subsequent occasion on which a penalty is so imposed;</p> <p>and an additional fine not exceeding Rf 200 for each day the offence continues</p>
	Communication by unlicensed means	106.1	A fine not exceeding Rf 500,000
	Unauthorised access to computers by telecommunications	107.1	A fine not exceeding Rf 500,000
	Unlawful interception of communication	108.3	A fine not exceeding Rf 500,000
	Damaging telecoms installations	109.1	A fine not exceeding Rf 1,000,000
	False or deceptive distress messages	110.1	A fine not exceeding Rf 10,000
	Entry to land without permission	111.1	A fine of not exceeding Rf 10,000
	Obstruction of the Authority	112.1	A fine not exceeding Rf 500,000
	Offence by Telecommunications Officers	113.1, 113.2	A fine not exceeding Rf 500,000
	Use of non-standard equipment to cause radio emission	114.1	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues
	Use and possession of non-standard equipment	114.3	A fine not exceeding Rf 100,000
	Non-compliance with directives of the Authority	120.2, 128.5	A fine not exceeding not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day) during which the contravention continues
	Omits or gives false information in response to a directive by the Authority	120.3	A fine not exceeding Rf 1,000,000 and a further fine not exceeding Rf 20,000 for every day or part of a day during which the contravention continues