

**The Bangladesh Telegraph and Telephone
Board Ordinance, 1979
(Ordinance No.XII of 1979.)**

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NOTIFICATION**Dacca, the 27th February, 1979**

No. 128-Pub.— The following Ordinance made by the President of the People's Republic of Bangladesh, on the 24th February 1979, is hereby published for general information:-

**THE BANGLADESH TELEGRAPH AND TELEPHONE
BOARD****ORDINANCE, 1979****(Ordinance No.XII of 1979.)****AN
ORDINANCE.**

to provide for the constitution of a Board for the purpose of efficient management, operation and development of telegraphs and telephones.

Whereas it is expedient to provide for the constitution of a Board for the purpose of efficient management, operation and development of telegraphs and telephones;

Now, therefore, in pursuance of the Proclamations of the 20th August 1975 and the 8th November 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. Short title and commencement.— (1) This Ordinance may be called the Bangladesh Telegraph and Telephone Board Ordinance, 1979.

(2) It shall come into force on such date as the Government may by notification in the official Gazette, appoint.

2. Definitions.— In this Ordinance unless there is anything repugnant in the subject or context,

(a) "Board" means the Bangladesh Telegraph and Telephone Board constituted under section 3;

- (b) "Chairman" means the Chairman of the Board;
- (c) "Member" means a member of the Board;
- (d) "Prescribed" means prescribed by regulations made under this Ordinance.

3. Constitution of the Board.— (1) As soon as may be after the commencement of this Ordinance, the Government shall by notification in the official Gazette constitute for carrying out the purposes of this Ordinance, a Board to be called the Bangladesh Telegraph and Telephone Board.

(2) The Board shall consist of—

- (a) a Chairman;
- (b) four whole-time members, including a finance member who shall be an officer having experience in public finance administration; and
- (c) two part-time members.

(3) The Chairman and other members shall be appointed by the Government from amongst persons who are in the service of the Republic and shall hold office for such period and on such terms and conditions as the Government may determine.

4. Powers and functions of the Chairman and members.— (1) The Chairman shall be the chief executive of the Board and shall be responsible for the efficient management, operation and development of the telegraphs and telephones.

(2) The Chairman and other members shall exercise such powers and perform such functions as may be prescribed or as may from time to time, be assigned to them by the Government or the Board.

5. Control, management and operation of the telegraphs and telephones.— (1) The general control and supervision of the affairs of the telegraphs and telephones in Bangladesh shall vest in the Board which may exercise all such powers and do all acts and things as may be necessary for the

efficient management, operation and development of the telegraphs and telephones.

(2) The Board shall in the discharge of its functions act on commercial considerations with due regard to the public interest and shall be guided on the questions of policy by such general and special instructions as may, from time to time, be given by the Government.

6. Special powers of the Chairman.— The affairs of the Board shall generally be conducted in accordance with the decision of the majority of its members but the Chairman may, where he considers it necessary in the interest of efficient management of the affairs of the telegraphs and telephones so to do, with the prior approval of the Government, over-rule such decision and, where he so overrules his decision shall be deemed to be the decision of the Board.

7. Meeting of the Board.— (1) The meetings of the Board shall be held at such times and places and shall be conducted in such manner as may be prescribed;

Provided that until regulations are made in this behalf, such meeting shall be held at such times and places and shall be conducted in such manner as may be determined by the Chairman.

(2) To constitute a quorum at a meeting of the Board, not less than four members, at least one of whom shall be a part-time member, shall be present.

(3) Subject to the provisions of section 6, all questions at a meeting of the Board shall be decided by a majority of the members present and voting, and in the case of equality of votes, the person presiding shall have a second or casting vote.

(4) The meetings of the Board shall be presided over by the Chairman or in his absence, by a member elected for the purpose by the members present from amongst themselves.

(5) All decisions of the Board shall forthwith be transmitted to the Government.

(6) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board.

8. Functions of the Board.— The functions of the Board shall be—

- (a) to establish, maintain and operate, telegraphs and telephones in any part of Bangladesh [* Inserted by Act No.16 of 1995.]
- (aa) to prepare and execute development plans;
- (b) to exercise all powers of the Government under the Telegraph Act, 1885 (XIII of 1885), other than those under sections [* 4, 7, 8, 15 and 19B.] of the said Act, and all powers of the telegraph authority under the said Act;
- (c) to associate with any international organisation engaged in any activity falling within the functions of the Board;
- (d) to establish and maintain institutes for the instruction and training of persons engaged or likely to be engaged in any activities connected with telegraphs and telephones;
- (e) to determine the structure and strength of its organisation, manage its affairs, plan its future investments and maintain its financial position in accordance with sound business and financial principles;
- (f) to operate and maintain, at all times, its facilities and properties and, from time to time, make all necessary renewal and repairs thereto in accordance with sound engineering, telegraph, telephone and business practices;
- (g) to carry out all technical and engineering projects and works;

- (h) to make all purchases of plant, machinery and stores either in the country or abroad in accordance with the procedure laid down by the Government and subject to the provisions of this Ordinance, also to dispose of stores and equipments;
- (i) to discharge with the prior approval of the Government the functions specified in the First Schedule to this Ordinance;
- (j) to do all other matters and things connected with or ancillary to any of the aforesaid functions.

9. Appointment of officers and other employees.— The Board may, for the efficient performance of its functions, appoint such officers and other employees as it considers necessary.

10. Telegraph and telephone finance.— (1) The telegraph and telephone finance shall be administered separately from the general revenues of the Government and, for this purpose, separate accounts shall be maintained for the Board and the Bangladesh Bank and drawals from the accounts shall be made by the officers authorised by the Board.

(2) For the purpose of separate administration of telegraph and telephone finance under sub-section (1), the provisions of the Second Schedule shall apply and the Government may, by notification in the official Gazette, amend, repeal any of the provisions of that Schedule.

(3) The Board shall provide for all administrative and operating expenses, depreciation of assets, interests on all loans and also build up a reserve fund by depositing a percentage of the surplus revenue after meeting the obligatory expenses.

11. Board to review and revalue assets.— The Board shall, as soon as possible, initiate a review and revaluation of the assets of the Government in respect of telegraphs and telephones in accordance with sound financial principles and reconstruct the capital structure and financial obligations of

the assets in accordance with the same principles and shall carry out such revaluation not often than every five years.

12. Borrowing power.— The Board may, with the approval of the Government, borrow funds from internal source or from an external agency.

13. Budget.— The Board shall, by such date in each year as may be directed by the Government, prepare the capital and revenue budgets of the Board and submit to the Government along with necessary statements and clarifications for further processing of the budget.

14. Accounts and audit.— (1) The Board shall maintain its accounts in such manner and form as may be directed by the Government in consultation with the Comptroller and Auditor-General of Bangladesh, hereinafter referred to as the Auditor-General.

(2) The accounts of the Board shall be audited by the Auditor-General in such manner as he deems fit.

(3) For the purpose of an audit under sub-section (2), the Auditor-General or any person authorised by him in that behalf, shall have access to all records, books, documents, cash, securities, stores and other property of the Government held and controlled by the Board and may examine the Chairman or any member, officer or other employee of the Board.

(4) The Auditor-General shall submit his annual audit report to the President and forward a copy thereof to the Board.

(5) The Government may, at any time, require the Auditor-General to report to it upon the adequacy of measures taken by the Board for the efficient management of its financial matters.

15. Submission of reports, etc.— (1) The Board shall, as soon as possible after the end of every financial year, submit to the Government a report on the conduct of its affairs for that year.

(2) The Board shall submit to the government at such times and intervals as the Government may specify—

- (a) such returns, accounts, statements, estimates and statistics as may be required by the Government;
- (b) information and comments asked for by the Government on any specific subject;
- (c) copies of documents required by the Government for examination or any other purpose.

16. Delegation of powers.— The Board may, by general or special order, delegate to the Chairman or any member or officer any of its functions subject to such conditions as may be specified in the order.

17. Power to make regulations.— (1) The Board may, with the prior approval of the Government, make regulations to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(2) All regulations made under this section shall be published in the official Gazette and shall come into force on such publication.

18. Repeal and savings.— (1) Upon the constitution of the Board under section 3, the Telegraph and Telephone Board Ordinance, 1975 (Ord. XLVII of 1975) hereinafter referred to as the said Ordinance, shall stand repealed.

(2) Upon the repeal under sub-section (1),—

- (a) the Telegraph and Telephone Board established under the said Ordinance, hereinafter referred to as the dissolved Board, shall stand dissolved;
- (b) all assets, rights, powers, authorities and privileges, and all properties, movable and immovable, including lands, buildings, works, workshops, machinery, leases, leaseholds, licences, cash and bank balances, funds and investments of the dissolved Board and all other rights and interests in, or arising out of such property shall stand transferred to and vested in, the Government for the purposes of the Board;

- (c) all debts, obligations and liabilities incurred, all contracts, entered into and all matters and things engaged to be done by, with or for the dissolved Board immediately before its dissolution shall be deemed to have been incurred, entered into or engaged to be done by, with or for Government for the purposes of the Board;
- (d) all rates, charges and fees levied by the dissolved Board shall, until they are varied by the Board, continue to be levied at the same rate at which they were levied immediately before the constitution of the Board;
- (e) all suits and other legal proceedings instituted by or against the dissolved Board immediately before its dissolution shall be deemed to be suits and proceedings by or against the Government and shall be proceeded or otherwise, dealt with accordingly;
- (f) (i) every person in the service of the Republic who were required to serve the dissolved Board under clause (e) of section 7 of the said Ordinance shall stand transferred to the Board on the same terms and conditions of service as were applicable to them immediately before their transfer to the dissolved Board;
- (ii) every person other than those mentioned in sub-clause (i) who were serving under the dissolved Board shall, notwithstanding anything contained in any contract or **agreement or in the terms** and conditions of service, **stand transferred to the Board and they shall be deemed to be officers or**, as the case may be, employees of the Government **appointed by it, on such terms and conditions as may be determined by the Government** or until so determined, on the same terms and conditions as were applicable to them in the dissolved Board;

Provided that any such person may, within such time as may be specified by the Government exercise his option not to continue in the service.

THE FIRST SCHEDULE

[See section 8(i)]

- (1) Capital and Revenue budget of the Board.
- (2) Re-appropriation of funds within the capital budget except from one minor head to another.
- (3) Incurring any new expenditure not provided for within the budget grants.
- (4) Exercise of powers of the Government under section 7 of the Telegraph Act, 1885 (XIII of 1885).
- (5) Sale of any item of Telegraph and Telephone assets valued over Taka 10 lacs which have not been declared surplus or worn-out by a duly constituted Survey Committee.
- (6) Changes in the general conditions of service and methods of recruitment of the officers and employees.'
- (7) General revision or change in the pay structure and allowances of the officers and employees in accordance with the national policy and adjustments of pay scales and allowances within the overall pay structure laid down by the Government from time to time.
- (8) Creation of posts with pay scale in the New National Scale IV and above and appointment of officers thereto.
- (9) Selection of officers for foreign training, attendance to Conferences, Seminars and Workshops.
- (10) Appointment of officers or consultants from outside the country.
- (11) Deputation of officers to other departments or outside the country on any assignment.

THE SECOND SCHEDULE**[See section 10(2).]**

(1) The Board shall pay to the General Revenue a fixed return of such percentum on Government investment in telegraph and telephone as may be determined from time to time by the Government at the close of the preceding financial year. The balance of their surpluses will be retained for credit to such funds and reserves as may be considered necessary.

(2) The Board will pay actual interest charges on all foreign loans including existing foreign loans obtained for its purposes. It will also be responsible for repayment of the foreign loans required for rehabilitation and replacement of the assets held, managed and controlled by it. Repayment of foreign loans raised for additions and developments of the telegraphs and telephones shall be made from the General Revenues. As and when on instalment toward repayment of a loan is paid from the General Revenues, the Board will cease to pay interest on the loan to that extent and the amount of the instalment will be added to the Government's investment in telegraphs and telephones and will qualify for a fixed return determined under paragraph(1).

(3) The surplus from the Revenue account of the Board budget shall be utilised or disposed of at the end of each financial year in consultation with, and with the approval of, the Government.

(4) **The practice, procedure and convention regarding maintenance of separate telegraph and telephone funds by the Bangladesh Bank followed immediately before the commencement of this Ordinance, shall continue to be so followed until modified by the Government.**

Dacca;

ZIAUR RAHMAN, BU,
The 24th February, 1979
MAJOR GENERAL
PRESIDENT

THE WIRELESS TELEGRAPHY ACT, 1933
(ACT NO.XVII OF 1933)

The wireless Telegraphy Act, 1933
(Act No.XVII of 1993)

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THE WIRELESS TELEGRAPHY ACT, 1933
ACT NO.XVII OF 1993
[11th September, 1933]

An Act to regulate the possession of wireless telegraphy apparatus

Whereas it is expedient to regulate the possession of wireless telegraphy apparatus in Bangladesh; it is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the Wireless Telegraphy Act, 1933.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification in the official gazette, appoint.

[This Act came into effect on 1st January 1934 vide Gazette of India, 1933 Pt.I page 1131]

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

(1) "wireless communication" means the making, transmitting or receiving of telegraphic, telephonic or other communications by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus;

(2) "wireless telegraphy apparatus" means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under section 10 to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 10 not to be wireless telegraphy apparatus; and

(3) "prescribed" means prescribed by rules made under section 10.

3. Prohibition of possession of wireless telegraphy apparatus without licence.— Save as provided by section 4, no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act.

4. Power of Government to exempt persons from provision of the Act.— The Government may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus.

5. Licences.— (1) The Director-General, Bangladesh Post office, or an officer authorized by him in this behalf shall be the authority competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments as may be prescribed.

**[Proviso to section 5 has been omitted by Act. No.VIII of 1973]*

(2) Notwithstanding anything contained in section 4 of the Telegraph Act, 1885 (XIII of 1885), no licence under that Act shall be necessary for the possession of a television receiving apparatus for possessing which a licence issued under this Act is for the time being in force.

[Sub section (2) has been added by Ordinance No.X of 1970]

6. Offence and penalty.— (1) Whoever possesses any wireless telegraphy apparatus in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred taka and in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty taka.

(2) For the purposes of this section a Court may presume that a person possesses wireless telegraphy apparatus if such

apparatus is under his ostensible charge, or is located in any premises or place over which he has effective control.

(3) If in the trial of an offence under this section the accused is convicted the Court shall decide whether any apparatus in respect of which an offence has been committed shall be confiscated, and, if it so decides, may order confiscation accordingly.

7. Power of search.— (1) A Magistrate of the first class or a Magistrate of the second class specially empowered by the Government in this behalf, may issue a warrant for the search, at any time between sunrise and sunset, of any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed, is kept or concealed.

(2) The officer to whom a search warrant under sub-section (1) is addressed may enter into any building, vessel or place mentioned in the warrant and seize any wireless telegraphy apparatus in respect of which he had reason to believe an offence under section 6 has been committed.

8. Apparatus confiscated or having no owner to be property of Government.— All wireless telegraphy apparatus confiscated under the provision of sub-section (3) of section 6, and all wireless telegraphy apparatus having no ostensible owner shall be the property of the Government.

[9. *Power of Court to direct payment of fines to prescribed authority. Rep. by A.O. 1937.*]

15. Power of Government to make rules.— (1) The Government may, by notification in official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) determining that any article or class or article shall be or shall not be wireless telegraphy apparatus for the purpose of this Act;

- (ii) the exemption of persons or classes of persons under section 4 from the provisions of this Act;
- (iii) the manner of and the conditions governing the issue, renewal, suspension and cancellation of licenses, the form of licenses and the payments to be made for the issue and renewal of licenses;
- (iv) the maintenance of records containing details of the acquisition and disposal by sale or otherwise of wireless telegraphy apparatus possessed by dealers in wireless telegraphy apparatus;
- (v) the conditions governing the sale of wireless telegraphy apparatus by dealers in and manufacturers of such apparatus;

** [Clause (vi) was omitted by Act. No.XXXII of 1940!]*

(3) In making a rule under this section the Government may direct that a breach of it shall be punishable with fine which may extend to one hundred Taka.

11. Saving of Telegraph Act, 1885.— Nothing in this Act contained shall authorise the doing of anything prohibited under the Telegraph Act, 1885, and except as provided in sub-section (2) of section 5 no license issued under this Act shall authorise any person to do anything for the doing of which a license or permission under the Telegraph Act, 1885, is necessary.

THE TELEGRAPH ACT, 1885
(Act No.XIII of 1885)

THE TELEGRAPH ACT, 1885

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THE TELEGRAPH ACT, 1885

ACT NO.XIII OF 1885

[22ND JULY, 1885]

An Act to amend the law relating to Telegraphs in [Bangladesh].

Whereas it is expedient to amend the law relating to telegraphs in [Bangladesh]. It is hereby enacted as follows:-

PART I

PRELIMINARY

1. Short title, local extent and commencement.-

(1) This Act may be called the Telegraph Act, 1885.

(2) It extends to the whole of [Bangladesh] and it applies also to all citizens of [Bangladesh] and persons in the service of [Republic] wherever they may be]

(3) It shall come into force on the first day of October, 1885.

[2. [Repeal and savings.] Rep. by the Repealing Act, 1938 (I of 1938) s. 2 and Sch.]

3. Definitions.- In this Act, unless there is something repugnant in the subject or context,-

(1) "telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for [making, transmitting or receiving] telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism;

(2) "telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the [Government] or by a person licensed under this Act;

(3) "message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered;

(4) "telegraph line" means a wire of wires used for the purpose of a telegraph, with any casing, coating, tube or pipe

enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same;

(5) "post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line;

(6) "telegraph authority", means the [Director General (Bangladesh) Telegraph and Telephone Department], and includes any officer empowered by him to perform all or any of the functions of the telegraphs authority under this Act;

(7) "local authority" means any municipal committee, district board, body of port, commissioners or other authority legally entitled to, or entrusted by the [Government] with, the control or management of any municipal or local fund.

PART II

PRIVILEGES AND POWERS OF THE GOVERNMENT

4. Exclusive privilege in respect of telegraphs, and power to grant licenses.— (1) Within Bangladesh, the Government shall have the exclusive privilege of establishing, maintaining and working telegraphs;

Provided that the Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph **within any part** of Bangladesh:

Provided further that the Government may by rules made under this Act and publish in the official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working-

(a) of wireless telegraphs on ships within Bangladesh territorial waters and on aircraft within or above **Bangladesh** or Bangladesh territorial waters and

(b) of telegraphs other than wireless telegraphs **within any part** of Bangladesh.

(2) The Government may, by notification in the official Gazette delegate to the telegraph authority all or any of its powers under the first proviso to sub-section (1).

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Government may, by the notification, think fit to impose.

5. Power for Government to take possession of licensed telegraphs and to order interception of messages.— (1) On the occurrence of any public emergency, or in the interest of the public safety, the Government or any officer specially authorized in this behalf by the Government, may—

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or
- (b) order that any message or class of messages to or from any person or class of persons or relating to any particular subject brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate of the Government shall be conclusive proof on the point.

** [Section 6- was omitted by Act No. VIII of 1973]*

7. Power to make rules for the conduct of telegraphs.—

(1) The Government may, from time to time, by notification in the official Gazette, make rules consistent with the Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:-

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages;
- (c) the period for which and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of telegraph officers shall be preserved; and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Government may, by the rules, prescribe fines for any breach of the same;

Provided that the fines so prescribed shall not exceed the following limits, namely:-

- (i) when the person licensed under this Act is punishable for the breach, one thousand taka and in the case of a continuing breach a further fine of two hundred taka for everyday after the first during the whole or any part of which the breach continues;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause(i).

7A. Recovery of dues in respect of telegraph, etc.- [If any person does not pay any sum due from him under this Act in respect of any telegraph or message, the sum so due may, on application made by the telegraph authority in this behalf, be recovered from such person, as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident; and the telegraph authority may further direct that any message, or postal article as defined in clause (i) of section 2 of the Post Office Act, 1898 not being on Bangladesh State Service, addressed

to that person, shall be withheld from him until the sum so due is paid or recovered as aforesaid.]

** [Section 7A- has been omitted by Act No.XXV of 1957]*

8. Revocation of licenses.— The Government may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

9. Government not responsible for loss or damage.— The Government shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

PART III

POWERS TO PLACE TELEGRAPH LINES AND POSTS.

10. Power of telegraph authority to place and maintain telegraph lines and posts.— The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property;

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, **across**, in or upon which the telegraph authority places any telegraph line or **post**; and
- (c) except as hereinafter provided, the **telegraph authority** shall not exercise those powers in respect of any property vested in or **under** the control or management of any local authority, **without** the permission of that authority; and

- (d) in the exercise of the powers conferred by this section the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. Power to enter on property in order to repair or remove telegraph lines or posts.— The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

PROVISIONS APPLICABLE TO PROPERTY VESTED IN OR UNDER THE CONTROL OR MANAGEMENT OF LOCAL AUTHORITIES.

12. Power of local authority to give permission under section 10 clause (c) subject to conditions.— Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

13. Power for local authority to require removal or alteration of telegraph line or post.— When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient

that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. Power to alter position of gas or water pipes or drains.— The telegraph authority may, for the purpose of exercising the power conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder on any pipe (not being a main) for the supply of gas or water or of any drain (not being a main drain);

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. Disputes between telegraph authority and local authority.— (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Government; and the order of the Government shall be final.

PROVISIONS APPLICABLE TO OTHER PROPERTY**16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.**—

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of any order under sub-section (1), any person resists the exercise of those powers or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final;

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority from the person who has received the same.

17. Removal or alternation of telegraph line or post on property other than that of a local authority.— (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly;

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under subsection (2) may, in his discretion, reject the same or make an order absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level, or for the alteration of its form; and the order so made shall be final.

PROVISIONS APPLICABLE TO ALL PROPERTY

18. Removal of trees interrupting telegraphic communication.—

(1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under subsection (1) the Magistrate shall, in the case of any tree in existence before

the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Telegraph lines and posts placed before the passing of this Act.—

Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government shall be deemed to have been placed in exercise of the powers conferred by and after observance of all the requirements of this Act.

19A. Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice.—

(1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf.

(2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(3) A person dealing with any property in the manner referred to in sub-section (1) with the bona fide intention of

averting imminent danger of personal injury to himself or any other human being shall be deemed to have complied with provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.

19B. Power to confer upon licensee powers of telegraph authority under this Part.— The Government may, by notification in the official Gazette, confer upon any licensee under section 4, in respect of the extent of his license and subject to any conditions and restrictions which the Government may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained:

Provided that the notice prescribed in section 19A shall always be given to the telegraph authority or officer empowered to receive notice under section 19A(I).

PART IV PENALTIES

20. Establishing, maintaining or working unauthorized telegraph.— (1) If any person establishes, maintains or works a telegraph within Bangladesh in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years, or with fine, or with both, and, in any other case, with a fine which may extend to one thousand taka.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable.

(3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to Government.

20A. Breach of condition of license.— If the holder of a license granted under section 4 contravenes any condition contained in his license, he shall be punished with fine which may extend to one thousand taka and with a further fine which may extend to five hundred taka for every week during which the breach of the condition continues.

21. Using unauthorized telegraphs.— If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph, or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty taka.

** [Section 22- omitted by Act No.VIII of 1973.]*

23. Intrusion into signal room, trespass in telegraph office or obstruction.—

If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred taka.

24. Unlawfully attempting to learn contents of messages.— If any person does any of the acts mentioned in

section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punishable with imprisonment for a term which may extend to one year.

25. Intentionally damaging or tampering with telegraphs.— (1) If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any wire used for the purpose of a telegraph or a telegraph line is found in the possession of a person, other than a licensee under section 4, or a person who, in course of his duty, is in possession of such wire, he shall be deemed to have committed an offence punishable under section 411 of the Penal Code.

25A. Injury to or interference with a telegraph line or post.—

If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with a fine which may extend to one thousand taka:

Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person

dealing with any property in the legal exercise of a right if he has complied with the provisions of section 19A (1).

26. Telegraph officer or other official making away with or altering or unlawfully intercepting or disclosing messages, or divulging purport of signals.— If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or
- (b) wilfully and otherwise than in obedience to an order of the Government or of a Government or of an officer specially authorized by the Government to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same; or
- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same;

he shall be punished with imprisonment for a term which may extend to three years or with fine, or with both.

27. Telegraph officer fraudulently sending messages without payment.—

If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

28. Misconduct.— If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of

any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred taka or with both.

29. Sending fabricated or obscene messages.—

If any person transmits or causes to be transmitted by telegraph a message which he knows or has reason to believe to be false or fabricated, or a message which is indecent or obscene, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

29A. Penalty.— If any person, without due authority,—

- (a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the Director General, Bangladesh Telegraph and Telephone Department. or
- (b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any telegraph office under the Director General Bangladesh Telegraph and Telephone Department or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by or under the authority of, the Director General, Bangladesh Telegraph and Telephone Department.

he shall be punished with fine which may extend to fifty taka.

30. Retaining a message delivered by mistake.— If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years or with fine, or with both.

31. Bribery.— A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Penal Code; and in the definition of legal "remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

32. Attempts to commit offences.— Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V SUPPLEMENTAL PROVISIONS

33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.— (1) Whenever it appears to the Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police force in that place is thereby rendered necessary, the Government may send such additional police force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity for doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police force, and the District Magistrate shall, subject to the orders of the Government assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Government may by order in writing, define the limits of any place for the purposes of this section.

**[Section 34- omitted by Act No.VIII of 1973]*

**NATIONAL TELECOMMUNICATIONS
POLICY, 1998**

NATIONAL TELECOMMUNICATIONS POLICY, 1998

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NATIONAL TELECOMMUNICATIONS POLICY, 1998

1. PREFACE:

The telecommunications¹ sector in Bangladesh has been characterized by a very low level of penetration, limited capability to meet the growing demand, low level of investment and old outdated systems and technologies necessitating reactive remedial measures. In order to develop a national sound telecommunication infrastructure to support the economy and welfare of the country by providing telecommunication facilities on demand, assuring satisfactory quality of service and ensuring value to the customers, a sound National Telecommunication Policy is essential. This is also imperative to ensure the cost based pricing² of the present as well as the future services to satisfy the need of specialized groups in particular and the public in general. With this in view, this new policy will ensure the orderly development of the telecommunications sector through the provision of services in all the areas of the country, to satisfy the unserved demand³ for telecommunications and to provide equitable opportunity and competition amongst the service providers.

1, as recommended by ITU, it means any process that enables a correspondent to pass to one or more given correspondents (telegraphy or telephony) or possible correspondents (broadcasting) information of any nature delivered in any usable form (written or printed matter, fixed or moving pictures, words, music visible or audible signals, signals controlling the functioning of mechanism, etc.) by means of any electromagnetic system (electrical transmission by wire, radio transmission, optical transmission, etc. or a combination of such systems).

2. refers to system of pricing in which the actual cost of providing service establishes the basic charge to which a fixed mark-up is added to collect a standard charge to all users without discrimination.

3. refers to pending registered applications waiting for a long time to get connections due to paucity of capacity both in the switching or in the external line plant. It also includes the probable applications which will be forthcoming if it becomes possible to give connections not long after it is applied for.

2. VISION:

The Strategic Vision of the Government is to facilitate Universal Telephone Service throughout the country and where there is a demand. all those value-added services such as cellular mobile telephone paging, data services, access to Internet (including electronic mail), Voice mail and Video conferencing- all at an affordable cost without compromising performance.

To achieve the Vision , Government's role as a service provider will diminish as the private sector's role increases. The Government's objective will be to create a new policy environment to support this new scenario. Its ability to create policy, regulate and facilitate will be strengthened through a new Telecommunications Act which reflects the Government's new policies, objectives and strategies, and the establishment of new institutions including a Telecommunication Regulatory Commission (TRC) which will become the guardian of the Act and fulfill its regulatory functions.

The Government understands that this Universal Service-affordable and reliable- will be achievable only through reforming the sector to encourage a plurality of private and public operators conducting their business within a competitive environment. Within this environment interconnection and revenue sharing will be clear and fair to all service providers and their subscribers.

3. THE POLICY OBJECTIVES:

The policy document, upholding the commitment of Government to resolve the prevailing shortcomings, outlines the objectives, strategies and other related aspects of telecommunications. The policy is formulated to ensure the orderly and rapid growth of telecommunications services, both in quality and quantity, and the use of telecommunications technology in order to support the socio-

economic development, in line with the national aspirations. The objectives of the National Telecommunications Policy, inter alia, include,

3.1 Exchange of Information: The freedom for exchange of information is recognized as an important element of human rights, and efforts are to be made to provide people with greater access to all informations except the ones that are considered harmful to the society, prejudicial to national interest and security;

3.2 Promotion of National Integration: Telecommunications are to promote national integration and to safeguard the social and cultural fabric of the nation by directing the expected influence of the technology towards the greater benefit of the society.

3.3 Universal Access: Access to and delivery of the full range of modern, sophisticated, efficient and cost effective services of both basic¹ as well as value-added² telecommunications are to be provided to as many people as is economically and socially justifiable to ensure universal access³;

3.4 Digitalization: Replace of all analogue switching equipment by the year 2002 and analogue transmission equipment by 2005. This will improve existing and potential telecommunications service for both basic and value-added services. In addition to improving the quality and reliability of the telecommunications infrastructure.

1. refers to local exchange residence and business telephone service and telegraph service without additional features and any other services defined as such in future.

2. 5 refers generally to the services such as (i) Electronic Mail. (ii) Voice Mail (iii) Data services (iv) Audio Text Services (v) Video Text Services (vi) Video Conferencing (vii) Radio Paging (viii) Cellular Mobile Telephones (ix) Facsimile (x) Global system for mobile, GSM (xi) Global mobile personal Communications by Satellite (GMPCS) and any other future services to come.

3. refers to the availability of reliable and affordable telecommunications services in both urban and rural areas of the country.

full digitalization will facilitate a quicker and easier interface mechanism for all private and public operators.

3.5 Competitive Framework: Creation of an environment of competition in the field of telecommunications enhancing rapid development in volume, efficiency and accessibility, shall be ensured to make telecom services available within the affordable limit of the general users.

3.5.1 Market Oriented Regime: Telecommunications Services are to be efficiently and cost-effectively provided in particular fields, to be decided by the Government from time to time by establishing market oriented regime, appropriate sets of regulations, standards, procedures, conditions and investment climate & competition;

3.5.2 Users' Choice: Development of telecommunications facilities and services shall be user friendly. The users shall have multiple choices for access to networks & markets of different services, systems and carriers at a competitive and reasonable price.

3.6 Private Sector Development: The Government has opened the telecommunications market to the private sector. The Government acknowledges the private sector's increasing resolve and ability to meet the growth demands of the country, as well as the fact that the private sector will become a much stronger force in telecommunications development in the coming years. The Government will provide all assistance to make the private sector more vibrant and robust in keeping with their anticipated role in the coming years.

3.7 Resource Mobilization: Resources to the sector are to be maximized through participation of both public and private entrepreneurs in operating the services in areas

where it is economically and socially justified. Efforts shall be geared up and co-ordinated to create an Investment climate to help optimization of resources from both national and international sources.

3.7.1 Local: Local resources may be mobilized through ADP allocation, domestic private investment, issue of telecommunication Bonds, allocating a part of the revenue earning, Bank Loans etc.

3.7.2 Foreign: Investment from sources outside the country may be arranged through Suppliers Credit, Joint Ventures, BLT/BOT/BOO/BTO agreement etc., in addition to the usual loans and grants from international organizations as well as through bilateral agreements with other countries in conformity with the industrial policy of the Government.

3.8 Liberalized Tariff Policy: Tariff polices are to be liberalized, with regard to the area of the service, from time to time, in certain market segments and efforts are to be continued to encourage extension of maximum service at minimum cost with particular emphasis in supporting the industrialization efforts of the country.

3.9 Access to New Technology: Research and development activities to facilitate the absorption of new technology and to upgrade the facilities and services in telecommunications are to be encouraged and the regional cooperation in telecommunication sector is to be enhanced through common development and operational strategies and network standards. Continuous updating of information on new and latest technology and transfer of the same for the benefit of the users, shall be encouraged.

3.10 Private Sector investment: The Government will achieve a more vigorous development through intensified private sector participation, encouraged by the enabling

environment created by the Government, a more proactive telecommunications industry responsive to user's needs and creation of an environment with healthier competition & more significant multi-operator participation, all of which accelerate the reality of universal service.

By opening the telecommunications sector to competition and consolidating an independent regulatory board reporting directly to the Government, private sector investment, both domestic and foreign, is encouraged. This tenet will improve access to and quality of both basic and value-added services which historically, have been monopolistic. Investment is encouraged through BLT, BOO, BOT, BTO and other joint venture schemes which, by greatly increasing the capacity, quality and type of services, will create greatly improved efficiencies in other sectors such as transportation, energy and the textile industry.

3.11 Foreign Investment: Foreign investors are encouraged to demonstrate their commitment to Bangladesh by forming joint ventures with local companies and within the telecommunications sector. Government will consider equity participation of up to 100% of the overall share-holding of the telecommunications operating company.

The Government will make all endeavours to remove all procedural and other impediments for quick implementation of the projects including investment proposals from foreign investors in the telecom sector to meet the growing and unmet demands of telephones in the country. For quick implementation of the projects, the Government reserves the right to take decisions as appropriate.

3.12 Implementation Strategy: Government with the participation of the public and private sectors, intends to meet its goals and objectives through a combination of

policy-related technical and financial strategies. It will ensure that the present inadequate infrastructure is alleviated through the formulation of competition and performance standards. While supporting the private sector as the engine of growth it will continue to support BTTB in the short to medium term as the Government, assumes its just role as policy-maker, regulator and facilitator. The Government objective is to see an orderly transition from a monopolistic to a multi-operator environment.

3.13 Human Resource Development: Human resource development being in tandem with the need of the telecommunications sector, standards and qualifications for different categories of personnel of all operators are to be set based on their services.

3.14 Defense and Security: Defense and security interests of the country are to be protected;

3.15 Information Technology: The role of the technologies of telecommunications and computers which are becoming increasingly interdependent on and complementary to each other, leading to the age of information technology is to be acknowledged and encouraged for the benefit of the nation.

3.16 Local Manufacturing: Promotion of local manufacture of viable telecommunications equipment will be encouraged to meet the local and regional demand and a vision to compete in international markets in near future is to be inculcated;

3.17 Regulatory Framework: Assignment, monitoring and management of radio frequency spectrum¹ is to be conducted in an effective, fair, rational and equitable

1. the entire range of radio frequencies used for telecommunications.

manner. Telecommunication network standards & their management should be compatible with international standards.

3.18 Protection of user's interest and Service Standards: Protection of the user's interests shall be ensured regarding the services provided, facilities offered, technology used and prices charged.

4. STRATEGIES:

The National Telecommunication Policy will act as a catalyst towards the growth and development of telecommunications in the country with a view to producing a modern, balanced and dynamic society. The policy measures are designed to achieve a range of benefits which include but not necessarily limited to the tasks of increasing the number of telephones in a systematic and comprehensive manner.

4.1 TARGETS: A set of targets consisting of telephone density and accessibility of telecommunication facilities and services to the people is given below:

4.1.1 Telephone Penetration:

(a) Teledensity (Short Term): The present teledensity of the country is about 0.4 telephone for every 100 persons. The target of expansion of telephone penetration is fixed at 1,300,000¹ line units including associated inland and overseas transmission links and facilities by the year 2000 in order to substantially eliminate the unserved demand and increase the teledensity from 0.4 telephone to 1 telephone for every 100² persons.

1. present capacity is 4, 75, 036 line-units of which more than 55% are of digital technology. Some projects are in the implementation stage while plans of some are being finalised. It is expected that a large number of new digital switches will also be commissioned by the private sector operators.

2. this takes into account the increase of population during the period at a projected rate of growth.

(b) Accessibility upto Village Level: The aim will be to lay emphasis on the efforts to upgrade the semi-urban and rural telecommunication facilities and make the telecommunication services with the latest technology available in phases to all the Thanas, Unions, Growth Centers and ultimately to the Villages by the year 2005. The private sector operators who are licensed for the purpose will contribute all their efforts towards this end.

(c) Teledensity (Mid Term): Raising the penetration to 4 telephones for every 100 persons by the year 2010 is to be achieved through increase in basic telecommunication facilities, expansion of existing networks and provision of new ones.

(d) Teledensity (Long Term): Short and mid term targets are to be reviewed at regular intervals for realistic target setting. Teledensity is to be 10 telephones per 100 population within the first quarter of 21st century. However this will include value-added services and GMPCS (Global Mobile Personal Communication by Satellite) and other new services.

4.1.2 Future Telecom Services-Role of Public and Private Sector Operators: Telecom sector needs rapid expansion to meet the unmet demands for telecom services. Public and private operators are to work as partners to develop telecommunications in the country. The present status is that eight operators are in operation/licensed to develop and operate telecom services. Out of them, one is in public sector - BTTB, the largest one having basic telecom services, transmission and international network; others are private operators licensed to provide to basic telephone services in rural areas and value added services all over the country.

Through the co-operation of the operators under the guidelines set by the Government the telecom infrastructure of the country is to be built up. For that short, mid and long term services and service areas are defined.

(a) Short term: In the short term perspective the operators will continue to consolidate & develop up to the year 2000 in their respective fields for which they have licences. BTTB will upgrade its trunking and transmission network/links (both inland and overseas) to meet the increasing interconnection demands of its own & private operators. Besides, it will continue its expansion programmes in its areas to meet the growing and unmet demands for telephone lines. Furthermore, the Government reserves the right to license additional operators if appropriate, and if needed, take measure to open basic telecommunication services to the private sector operating entities.

(b) Mid-Term: On the basis of the performance of the private operators in the short term period, more service areas are to be opened up for private participation in basic telephone and long distance networks after the year 2000 or earlier.

(c) Long-Term: As a long term strategy, development of telecom infrastructure and services in all the fields are to be opened up for private participation after the year 2010 and if needed, this can be opened up earlier than the year 2010.

The above time frame and targets, however are to be reviewed by the Government at the end of year 2000.

4.1.3 Information Infrastructure: An integrated and reliable transmission network that covers the entire

country and is capable of providing voice, video, data and imaging services will be ensured. The network may include fiber optic, radio and also satellite systems. The aim is to create the National Information Infrastructure (NII) and integrate it through the Information Super Highway to the Global Information Infrastructure (GII) thereby creating the potential to enter the global market for information processing.

4.1.4 International Network: Continuous efforts will be made to expand the network for international traffic through terrestrial radio, submarine cables and satellite systems. Reliance on more than one network and system will be encouraged to ensure fall-back alternative facilities in times of need. More active and expanded participation in programmes/activities organized or sponsored by the regional and international telecommunications agencies and bodies is to be pursued to uphold the interest of the country in the international fora.

4.1.5 New Services: New services¹ that are already developed or will be developed in future, shall continue to be introduced in the country on the basis of market surveys and user's needs and satisfaction.

4.1.6 Master Plan: A Master Plan will be prepared for expansion and development of telecommunication services in the country so that Bangladesh can reap full benefits of information technology revolution.

4.2 THE REGULATORY FRAMEWORK:

4.2.1 Commission by Act: A separate autonomous Regulatory Commission under the Ministry of Post &

1. a number of value-added new services like GSM, Gmpcs, Video-Conferencing, GMDSS telecommuting are already in service or in the process of being introduced.

Telecommunications will be established by an Act of Parliament and it may consist of a Chairman and a number of Members¹ to be appointed by the Government. No members of the Commission will be from among the serving employees or directors of any telecommunication operator. Part-time members may also be appointed as and when deemed necessary.

4.2.2 Features of the Commission :

(a) Independence: The Regulatory Commission will be an autonomous commission which will retain its independence. The head of the Commission as well as the Members will be appointed for a fixed period of time.

(b) Transparency: The Commission will be transparent in all its activities to the operators, interested parties engaged in telecommunications, Government agencies and the people in general. It will ensure equity and fair play by providing a level playing field for all operators.

(c) Adaptability: Telecommunication technology is fast advancing and continuously changing. The Commission will have the ability and obligation to adapt to the changing environment in the sector.

(d) Objectivity: The activities of the Commission will be objective in nature. In the formulation of regulations, guidelines etc. the objective should be compatible to the role as a catalyst, making the country a member of the global telecommunication family.

4.2.3 Functions of Commission: The Primary functions of the Regulatory Commission are (i) issue of

1. the members of the Regulatory Commission may be appointed from amongst persons in and out side the Government service, including retired officers with the backgrounds of telecommunications, finance, law and management.

operator licenses. (ii) regulation of tariffs, (iii) setting of technical standards, (iv) monitoring of service quality and adherence to rules and regulations by the operators, (v) management of radio frequency spectrum, (vi) preparation of national numbering scheme. (vii) assistance in preparing routing, charging and transmission plans, (viii) guidance for interconnection between the operators and revenue sharing for inter-operator traffic, (ix) stimulation for investment to facilitate introduction of new services, (x) representation of the country in the international telecommunication bodies¹, (xi) setting standards and qualifications for different categories of personnel of all operators based on their services and (xii) any other functions and activities as may be considered necessary by the Government.

4.2.4 Spectrum Management and Monitoring: The frequency spectrum, considered to be a valuable resource, will be managed in an orderly and equitable manner and will be used as the basis for creation of complete radio communication network systems. The Commission will resolve the problem of over-lapping frequency at shared borders of the operators. It will ensure the assignment of frequency bands with the neighbouring countries according to the Table of Frequency given by ITU. It will also set up Frequency Monitoring Cell and will impose penalty in case of infringement upon assigned frequencies or unauthorized use of frequencies.

4.2.5 Licensing Procedures: A comprehensive licensing system will be developed to ensure its orderly,

1. these include among others the International Telecommunications Union (ITU), Asia Pacific Telecommunity (APT), Commonwealth Telecom, Bureau (CTB), Telecommunications Units of OIC and SAARC etc.

efficient and effective application. The issuing of licenses to respondents who are qualified according to the set criteria will be carried out through a bidding or an open tender or any other procedure set by the Government.

4.2.6 Budget: The budgetary resources for the Regulatory Commission itself will be generated from the license fees including the fees for use of the frequency spectrum, duties, royalties etc. Other sources like charges for specific services, fees contributions and parliamentary appropriations may supplement the financial resources.

4.2.7 Staff of Commission: The Regulatory Commission will be manned by qualified and competent personnel. It will have full freedom in matters of staff requirement and salaries, subject to the provisions in the budget.

4.2.8 Annual Report: The Commission will present its Annual Report to the Government as may be specified in the Act.

4.2.9 Inter-connection and Revenue Sharing: Understanding that revenue sharing agreements vary widely in different countries and are never easy to formulate, the Government takes the position that revenue sharing agreements should be negotiated between carriers and that they will generally be cost-based. However, in the event for a dispute between any parties which are unable to negotiate successfully, the Commission shall consider dispute through hearing and the decisions of the Commission shall be final though they may be appealed to Government,

4.2.10 Representing the Country: The Commission may attend the meetings of the regional and international telecommunications bodies, dealing with

the questions of general sectoral policy and participate in framing of international regulations in this field.

4.2.11 Protection of Users' Interest: The Commission will be responsible for the supervision of the telecommunications services to ensure that the interests of the users are protected and balanced. It will also ensure that the interests of the nation are given priority over other interests. The Commission will define the mechanism in which the views of the operators and the users of the telecommunications services could be periodically obtained. The Commission may hold public hearings on important issues of public interest.

4.2.12 Enforcement Mechanism: The Regulatory Commission will be vested with definite duties and powers to implement the policy decisions and ensure compliance of set rules and procedures. The Commission will have legal authority to ensure and enforce regulatory measures, keeping in view the national security, public order and defence of the country. It will monitor implementation of development programmes of and ensure operation of telecommunication services by the operators in accordance with the provisions of the concerned license. The Commission will have authority to take punitive actions ranging from imposing fine to closure of services against the defaulting operators.

4.2.13 Network Management: Under the Commission a network management cell will be created to overview the harmonization and optimization of the networks available and to be developed in future. It will set network standards, numbering/code plans and prepare network masterplan etc. This is imperative in an inter-operator environment.

4.2.14 Service Standard: The Commission will set standards for different services within the principles and standards set by various Regional and International telecommunication bodies. In this connection, the Commission will set standards, qualifications and number of personnel in each category for all operators based on their services. These standards will be binding on all operators. Failure to meet these standards will attract penal action by the Commission.

4.3 TARIFFS AND CHARGES:

4.3.1 Tariff Structure: The tariff structure will apply equally to public and private operators and will be set by the Telecommunication Regulatory Commission with prior approval of Government. It will take into account the interests of various parties, benefit to the users and reasonable returns to the operators based on the principle of equality and the market factors, and will set the maximum rates and tariffs for all the services on the principle of fair-play. Where data is available, the tariffs will, in principle, be cost-based, subject to revisions from time to time in relation to the changes in the cost of equipment, development in technology, increase in the use of services and socio-economic considerations such as affordability of users, consumer price index, extent of rural service requirement and any other requirements for all telecommunications services as may be notified by the Government or the Commission from time to time. The costs of the services are also to be reasonable and comparable with those charged in the neighbouring countries and international market. However, the operators may make submissions to the Commission who will notify the tariff revisions, if any, after obtaining approval of the Government. The Government may also

de-regulate tariffs for any service to allow the operators to set tariffs by themselves.

4.3.2 Re-sale of Services: In the case of re-sale¹ of services by individuals, permission will be given to add service charges which will be required to be displayed to the users at the point of service. The Commission² however, will retain the right to fix the maximum limits to any such service charges to protect the interest of the users.

4.3.3 Commission's Fees: The services rendered by the Commission shall be charged to the operators and other parties in accordance with the schedule published by the Commission.

4.3.4 Charges for Frequency Spectrum: The use of frequency spectrum by the operators may be put to charges on initial and recurring basis except for frequency band(s) which are open for general use.

4.4. COMPETITIVE FRAMEWORK;

4.4.1 Liberalization: In accordance with the overall national policy, the liberalization of the telecommunications sector will continue. The approach is to encourage a sound and orderly competition between the private and public sector as well as among the various private sector operators themselves to achieve efficient and quality service concentrating initially on the value-added services. However, the Government retains the sole authority to determine the number of competitors that are economically viable for certain services. The strategy is to provide equal and rational opportunities to all competitors.

1. this refers to the services provided by a person or a group of person forming very small enterprise to extend telecommunications services like overseas telephone calls, tele fax, services at a nominal additional service charges under license from the service provider.

2. this refers to the Regulatory Commission to set up by an Act of Parliament; details are explained in the previous paragraphs.

4.4.2 International Services: The international services will however, be operated exclusively by the Government through Bangladesh Telegraph and Telephone Board or its lawful successor unless otherwise decided by the Government.

4.4.3 Service Obligation: Universal service obligations for basic telephone service will be included in licenses of all network operators. Interconnections between networks, forming part of the public network, will be mandated in accordance with the guidelines to be issued by the Commission.

4.5 RESTRUCTURING OF BTTB:

4.5.1 Role of BTTB: Bangladesh Telegraph and Telephone Board (BTTB) has, until recently the only entity having the sole authority to operate and regulate the public telecommunications services, its regulatory functions have been taken over by the Ministry of Post & Telecommunications as an interim measure, and will ultimately be vested in the Telecommunications Regulatory Commission. BTTB will continue, for the time being, to remain a Government owned telecommunication service provider.

4.5.2. Adequate Authority: In order to make BTTB function effectively and commercially in competition with other private sector operators in the liberalized environment, the requisite administrative and adequate financial & commercial authorities shall be delegated to BTTB. In this regard the BTTB Ordinance of 1979 is to be amended and such other directives as may from time to time be necessary within the purview of maximum autonomy will be issued.

4.5.3. Non-core Functions: The non-core functions¹ within BTTB will be gradually divested and could be contracted out to qualified private parties as relevant know-how and expertise have developed in recent years.

4.5.4 Corporate Restructuring: The Government anticipates a two-phase restructuring of BTTB. Phase-1 would be a corporatization process in which it becomes a limited company (e.g. Bangladesh Telecommunication Company Ltd.) instead of being a Deptt. of the Government. In this mode it will have full responsibility for managing its assets and operations and being fully accountable for the own profitability. At this point Government will continue to own between 51% and 100% of the shares. Phase-2 would be the full privatization of BTTB at which point the Government will have sold all of its outstanding shares to the private sector. The possibility of engaging an internationally reputed foreign telephone company as strategic/ management partner of BTTB will also be explored.

4.5.5 Capital Mobilization: Throughout the corporate restructuring period, with the approval of the Government BTTB will be authorized to raise necessary capitals for the **expansion of the existing and introduction of new services** through bank loans, issue of telecommunication bonds, share flotation, suppliers credits and BOO/BLT/BOT² schemes etc. It will authorized to enter into joint venture contracts with any other entities with the approval of the Government.

1. traditionally, since the inception of Post, Telegraph and Telephone Department in the British-India period, a number of auxiliary functions like printing, building construction, under ground cable lying, billing, directory, subscriber premises, connection, manufacturing etc. related to telecommunications were performed by the BTTB itself as there were not much know-how or the required expertise on those functions outside.

2. BOO refers to Build, Operate & Own; BLT refers to Build, Lease and Transfer while BOT refers to Build, Operate and Transfer.

4.5.6 Staff Standard: BTTB will plan and prepare the staff standard, and administer its own staff structure. It will also adopt procedures and methods to run on full commercial terms and optimize the value for money.

4.5.7 Quality of Service: Maintenance and operation are to be such as to give adequate, efficient and satisfactory services in observance of the principles of economy and by maintaining standards set by the Commission.

4.6 PRIVATE SECTOR OPERATORS :

4.6.1 Privatization of Basic Services: The private operating entities will be allowed to provide basic telecommunications and long distance transmission facilities in accordance with section 4.1.2 and the value-added service where appropriate under license to be issued by the Regulatory Commission.

4.6.2 Maintenance and Operation: In order to provide efficient & satisfactory services, the private operators will manage and operate telecommunications services under their control in a **completely professional manner** in accordance with the methods and procedures in force in the sector and in observance of the principles of economy. They shall engage sufficiently qualified and adequate personnel for providing the services as per the standards set by the Commission.

4.6.3 Infrastructure: The private operators are required to keep abreast of trends in demand **establish** or expand the services, upgrade the infrastructures and introduce the new ones on the basis of the most advantageous technical and economic approach.

4.6.4 Investment and Tariff: The private operators will prepare annual and multi-annual investment plans and operating accounts, define and propose

tariff and service structures, define and initiate rates for new services & changes in rates for existing ones, for approval of the Government or the Commission.

4.6.5 Dispute Resolution: In the event of disputes and disagreement between operators, the Telecommunication Regulatory Commission shall consider dispute through hearing for resolution. The decisions of the Commission shall be final though they may be appealed to the Government.

4.6.6 Cancellation of Service: The private operators may suspend or cancel service to users who fail to meet their obligations as contracted.

4.6.7 Meeting and Conferences: The private operators may take part in national conferences, committees and working groups dealing with technical, administrative and operational matters in the field of telecommunications.

5. INSTITUTIONAL DEVELOPMENT :

The proper environment will be created within the country, as a national obligation, to promote research and development activities in the telecommunication technology and services, to develop telecommunications training courses in new systems and services, and to ensure appropriate human resources development for the efficient conduct of telecommunications activities. In order to fulfill this obligation following will remain priority.

5.1 Research and Development: A National Institute of Research and Development (NIRD) in telecommunications will be established. The operators, manufacturers and any other organisations and persons involved in telecommunications will be encouraged to carry out research and development activities to support local growth and transfer of technology. The requirement to carry out R&D will be a part of the conditions under which licenses are issued

and at least 1% of the annual expenditure should be allocated for the purpose.

5.2 Human Resource Development: The creation of trained and skilled manpower in all fields of telecommunications will be stressed. All telecommunications enterprises are encouraged to establish their own training programs. The need to create short, medium and long term plans for the training of manpower for all operators is imperative. Efforts must be made to establish a National Institute for Human Resource Development in Telecommunications (NIHRDT)¹ in the country by upgrading the existing Telecommunication Staff College of BTTB at Gazipur.

6. PROMOTION OF LOCAL MANUFACTURE :

The fact being recognized that telecommunications stand at the leading edge of technology and in order to strengthen the economic growth, spur technology transfer and adapt new technology, local manufacture and assembly of telecommunications equipments will be encouraged and geared up for local consumption and competition in the external market. The use of local products of acceptable standard and competitive price is to be made obligatory through regulations for all the service providers. Moreover, incentives will also be provided to encourage growth of the local telecommunications industry.

The already functioning two large factories namely Telephone Shilpa Sangstha (TSS), at Tongi and Bangladesh Cable Shilpa (BCS) Ltd. at Khulna will be vital launching pads to embark upon large scale involvement in the manufacturing field. However, appropriate plans for modernization and diversification of products in these two

1. the present Telecommunication Staff College of BTTB situated at Joydebpur will provide very good appropriate foundation for setting up of the proposed NIHRDT.

factories need to be implemented as soon as possible. In this regard, joint collaboration¹ with reputed manufacturer(s) as already exists (exist) or by induction of new ones will be taken into consideration. The Government will also consider the privatization of TSS and BCS.

7. CONSULTATIVE FORUM:

In order to ensure proper, efficient, effective and timely development of telecommunication infrastructure, consultative fora will be formed where all parties interested in the sector (service providers, users, public and private enterprises etc.) can have open discussion to develop telecommunication services as well as to improve the service standards in the country.

8. USERS' SERVICES :

8.1 Users Oriented Services: The telecommunications services shall be oriented towards meeting the user's demands/needs, not only for new services, but also in respect of performance of the services transparency of operations revisions of information and assistance in case of difficulties. Networks shall be planned to be user friendly and shall be equipped with modern technologies and shall be managed by the set procedures.

8.2 One Point Service: The establishment of one-point service centres² by all the operators will be encouraged for the convenience of the users. All the telecommunications service providers will be responsible for the preparation and publication of their own subscriber directories and updating of the same at regular interval (e.g. annually) for the information of the public.

1. Siemens AG of Germany is already a co-share-holder the two factories. Their equipments can be manufactured/assembled under license as per the Agreements already in existence.

2. for the convenience of the customers to re-dress any of their complaints at one particular point only is successfully introduced in Dhaka and is found to be highly popular. However, the number of such centres need to be increased substantially.

9. THE ACTS ON TELECOMMUNICATIONS:

There are, in the country, a number of Acts which govern and regulate various telecommunications activities like the telecommunications between two points, audio broadcasting of radio messages or programs for the specified group of people or the public in general and telecasting of simultaneous audio-visual programs. The Telegraph Act 1885, The Wireless Act, 1933, the Radio Broadcasting Act, 1975 and 1992, and the Television Broadcasting Act, 1965 which regulate these activities may be considered for a combined Telecommunication Act applicable for all the allied services of telecommunications. While acknowledging the freedom of information as an important element of the modern World, the new Act may include restrictions to communications and broadcasts which are regarded as incompatible to the national security and harmful to the society.

10. CONCLUSION:

The National Telecommunications Policy is a summary statement of the philosophy, objectives, strategies and the methodology to ensure equitable and judicious execution of the business of telecommunications in the country. However, the Government may from time to time make changes, modifications, additions to the policy and may review the policy at certain intervals for updating and satisfying the need of the time. The general guideline embodied in this policy document emphasizes faster development of telecommunications network coupled with improved quality of service in line with the national development, thereby fulfilling the vision and aspiration to take Bangladesh to a position of honour in the comity of nations in the 21st century.

The End

ADDENDA

বাংলাদেশ টেলিযোগাযোগ (সংশোধন) আইন, ২০০৬

[২০০৬ সনের ৭ নং আইন]

[১৬, ফেব্রুয়ারী, ২০০৬]

বাংলাদেশ টেলিযোগাযোগ আইন, ২০০১ (২০০১ সনের ১৮ নং আইন) এর
সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে বাংলাদেশ টেলিযোগাযোগ আইন, ২০০১
(২০০১ সনের ১৮ নং আইন) এর সংশোধন করা সমীচীন ও প্রয়োজনীয়;

সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইলঃ—

১। সংক্ষিপ্ত শিরোনাম ও প্রবর্তন।— (১) এই আইন বাংলাদেশ টেলিযোগাযোগ
(সংশোধন) আইন, ২০০৬ নামে অভিহিত হইবে।

(২) এই আইনের—

(ক) ধারা ১, ২, ৩, ধারা ৪ এ উল্লেখিত নতুন ধারা ৯৭ক এবং ধারা ৫ বিগত ১১ই
ডিসেম্বর, ২০০৫ তারিখে কার্যকর হইয়াছে বলিয়া গণ্য হইবে; এবং

(খ) ধারা ৪ এ উল্লেখিত নতুন ধারা ৯৭খ ও ৯৭গ অবিলম্বে কার্যকর হইবে।

২। ২০০১ সনের ১৮নং আইনের ধারা ৭১ এর সংশোধন।— বাংলাদেশ
টেলিযোগাযোগ আইন, ২০০১ (২০০১ সনের ১৮ নং আইন), অতঃপর উক্ত আইন বলিয়া
অভিহিত, এর ধারা ৭১ এর প্রাস্তস্থিত দাঁড়ির পরিবর্তে কোলন প্রতিস্থাপিত হইবে এবং
অতঃপর নিম্নরূপ শর্তাংশ সংযোজিত হইবে, যথাঃ—

“তবে শর্ত থাকে যে, ধারা ৯৭ক এর অধীন সরকার হইতে ক্ষমতাপ্রাপ্ত গোয়েন্দা
সংস্থা, জাতীয় নিরাপত্তা সংস্থা, তদন্তকারী সংস্থা বা আইন-শৃঙ্খলা নিয়ন্ত্রণের দায়িত্বে
নিয়োজিত সংস্থার কোন কর্মকর্তার ক্ষেত্রে এই ধারার বিধানাবলী প্রযোজ্য হইবে না।”

৩। ২০০১ সনের ১৮ নং আইনের ধারা ৯৭ এর সংশোধন।— উক্ত আইনের ধারা ৯৭
এর উপ-ধারা (২) এর পরিবর্তে নিম্নরূপ উপ-ধারা (২) প্রতিস্থাপিত হইবে, যথাঃ—

“(২) এই আইন বা আপাততঃ বলবৎ অন্য কোন আইনে ভিন্নতর যাহা কিছুই থাকুক
না কেন, রাষ্ট্রপতি জরুরী অবস্থা ঘোষণা করিলে অথবা সরকারের বিবেচনায় রাষ্ট্রের
নিরাপত্তা বা জনশৃঙ্খলার স্বার্থে সরকার এই আইনের অধীন প্রদত্ত বা ইস্যুকৃত সকল
বা যে কোন সনদ, আদেশ বা লাইসেন্সের কার্যকারিতা অথবা যে কোন পরিচালনাকারী
কর্তৃক প্রদত্ত টেলিযোগাযোগ সেবা প্রদান নির্ধারিত সময়ের জন্য স্থগিত বা সংশোধন
করিতে পারিবে।”

৪। ২০০১ সনের ১৮ নং আইনের ধারা ৯৭ এর পর নতুন ধারা ৯৭ক, ৯৭খ ও ৯৭গ
এর সন্নিবেশ।— উক্ত আইনের ধারা ৯৭ এর পর নিম্নরূপ নতুন ধারা ৯৭ক, ৯৭খ ও ৯৭গ
সন্নিবেশিত হইবে, যথাঃ—

“৯৭ক। রাষ্ট্রের নিরাপত্তা বা জনশৃঙ্খলার স্বার্থে বিশেষ বিধান।— (১) এই আইন বা
অন্য কোন আইনে ভিন্নতর যাহা কিছুই থাকুক না কেন, রাষ্ট্রের নিরাপত্তা বা
জনশৃঙ্খলার স্বার্থে যে কোন টেলিযোগাযোগ সেবা ব্যবহারকারীর প্রেরিত
বার্তা ও কথোপকথন প্রতিহত, রেকর্ড ধারণ বা তৎসম্পর্কিত তথ্যাদি
সংগ্রহের জন্য সরকার সময় সময় নির্ধারিত সময়ের জন্য গোয়েন্দা সংস্থা,

জাতীয় নিরাপত্তা সংস্থা, তদন্তকারী সংস্থা বা আইন-শৃঙ্খলা নিয়ন্ত্রণের দায়িত্বে নিয়োজিত সংস্থার কোন কর্মকর্তাকে ক্ষমতা প্রদান করিতে পারিবে এবং উক্ত কার্যক্রমে সার্বিক সহায়তা প্রদানের জন্য টেলিযোগাযোগ সেবা প্রদানকারীকে নির্দেশ দিতে পারিবে এবং পরিচালনাকারী উক্ত নির্দেশ পালন করিতে বাধ্য থাকিবে।

(২) এই ধারার উদ্দেশ্য পূরণকল্পে “সরকার” বলিতে স্বরাষ্ট্র মন্ত্রণালয়কে বুঝাইবে এবং স্বরাষ্ট্র মন্ত্রণালয়ের দায়িত্বপ্রাপ্ত মন্ত্রী বা প্রতিমন্ত্রীর অনুমোদনক্রমে এই ধারার বিধান প্রয়োগযোগ্য হইবে।

৯৭খ। সাক্ষ্যমূল্য।— সাক্ষ্য আইন, ১৮৭২ (১৮৭২ সনের ১নং আইন) বা অন্য কোন আইনে ভিন্নতর যাহা কিছুই থাকুক না কেন, ধারা ৯৭ক এর অধীন সংগৃহীত কোন তথ্য বিচার কার্যক্রমে সাক্ষ্য হিসাবে গ্রহণযোগ্য হইবে।

৯৭গ। ধারা ৯৭ক এর বিধান লঙ্ঘনের দণ্ড।— ধারা ৯৭ক মোতাবেক গোয়েন্দা সংস্থা, জাতীয় নিরাপত্তা সংস্থা, তদন্তকারী সংস্থা বা আইন-শৃঙ্খলা রক্ষার দায়িত্বে নিয়োজিত কোন কর্মকর্তা সরকার কর্তৃক ক্ষমতাপ্রাপ্ত হইয়া কোন আদেশ বা নির্দেশ প্রদান করিলে এবং উক্ত আদেশ যদি কোন ব্যক্তি লঙ্ঘন করেন তাহা হইলে তিনি—

(ক) প্রথমবার অপরাধ সংঘটনের ক্ষেত্রে অনধিক তিন মাসের কারাদণ্ড বা পাঁচ লক্ষ টাকা হইতে দশ লক্ষ টাকার যে কোন পরিমাণের অর্থদণ্ডে বা উভয় দণ্ডে দণ্ডিত হইবেন এবং উক্ত অর্থ দণ্ড অনাদায়ে এক মাসের কারাদণ্ডে দণ্ডিত হইবেন;

(খ) দ্বিতীয়বার অপরাধ সংঘটনের ক্ষেত্রে অনধিক এক বছরের কারাদণ্ড বা দশ লক্ষ টাকা হইতে বিশ লক্ষ টাকার যে কোন পরিমাণের অর্থদণ্ড বা উভয় দণ্ডে দণ্ডিত হইবেন এবং উক্ত অর্থদণ্ড অনাদায়ে ছয় মাসের কারাদণ্ডে দণ্ডিত হইবেন;

(গ) তৃতীয়বার এবং পরবর্তী প্রতিবার অপরাধ সংঘটনের ক্ষেত্রে তিন বছরের কারাদণ্ড বা পঁচিশ লক্ষ টাকা হইতে পঞ্চাশ লক্ষ টাকার যে কোন পরিমাণের অর্থদণ্ড বা উভয় দণ্ডে দণ্ডিত হইবেন এবং উক্ত অর্থদণ্ড অনাদায়ে এক বছরের কারাদণ্ডে দণ্ডিত হইবেন, এবং আদালত যথার্থ বিচেনা করিলে উক্ত ব্যক্তির নামীয় লাইসেন্স বাতিলের জন্য কমিশনকে পরামর্শ প্রদান করিতে পারিবে।”

৫। রহিতকরণ ও হেফাজত।— (১) বাংলাদেশ টেলিযোগাযোগ (সংশোধন) অধ্যাদেশ, ২০০৫ (অধ্যাদেশ নং ১, ২০০৫) এতদ্বারা রহিত করা হইল।

(২) উপ-ধারা (১) এর অধীন রহিতকরণ সত্ত্বেও রহিত অধ্যাদেশ দ্বারা সংশোধিত বাংলাদেশ টেলিযোগাযোগ আইন, ২০০১ (২০০১ সনের ১৮নং আইন), এর অধীন কৃত কাজকর্ম বা গৃহীত ব্যবস্থা এই আইন দ্বারা সংশোধিত উক্ত বাংলাদেশ টেলিযোগাযোগ আইন, ২০০১ এর অধীনকৃত বা গৃহীত হইয়াছে বলিয়া গণ্য হইবে।

মোহাম্মদ লুৎফর রহমান তালুকদার

সচিব।

[English version]

The Bangladesh Telecommunications (Amendment) Act, 2006

[Act No. 7 of 2006]

[16 February 2006.]

Whereas it is expedient and necessary to amend the Bangladesh Telecommunications Act, 2001 for the following purposes;

It is hereby enacted as follows:—

1. Short title and commencement.— (1) This Act shall be called the **Bangladesh Telecommunications (Amendment) Act, 2006.**

(2) In this Act—

(a) new section 97A mentioned in sections 1, 2, 3, and 4 and section 5 shall be deemed to have taken effect from the 11th December 2005 and section 97B and 97C as mentioned in section 4 shall come into force immediately.

2. Amendment of section 71 of the Act No. 18 of 2001.— In section 71 of the Bangladesh Telecommunications Act 2001 (Act No. 18 of 2001) hereinafter called the said Act, at the end "colon"; shall be substituted in place of the full stop and the following proviso shall be added:—

"Provided that the provisions of this section shall not apply to the members of Intelligence Agency, National Security agency, investigation agency or any officer engaged in maintaining law and order empowered by the government in this behalf."

3. Amendment of section 97 of the Act No. 18 of 2001.— In the said Act for the sub-section (2) of section 97 the following sub-section (2) shall be substituted—

"(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, when the President declares emergency or the Government considers necessary in the interest of the security of the state or public order the Government may suspend or amend any certificate, order or licence issued or granted under this Act or suspend particular services provided by an operator for a specified period."

4. Insertion of new sections 97A, 97B and 97C after section 97 of the Act No. 18 of 2001.— In the said Act after section 97 the following new sections 97A, 97B and 97C shall be inserted such as:—

"97A. Special provision for the security of state or public order.—

(1) Notwithstanding anything contrary contained in this Act or in other law in the interest of the security of the state or public order the Government may from time to time for specified period, empower the Intelligence agency, National Security Intelligence agency, Investigating agency or any officer of the law enforcing agency to intercept any message sent by any user of any telecom

service operator or conversation between the telephone users or record the same or collect information thereof and may direct the telecom service provider to extend all out co-operations in this regard and the operators shall be bound to comply with such direction.

(2) For the purpose of this section the term Government shall mean the Ministry of Home Affairs and the provisions of this section shall be enforceable with the approval of the Minister or Minister of State in charge of the Ministry of Home Affairs.

97B. Evidentiary value.— Notwithstanding anything contrary contained in the Evidence Act, 1872 (Act No 1 of 1872) or in any other law the materials or information collected under section 97A shall be admissible in evidence in judicial proceedings.

97C. Penalty for violation of the provision of section 97A.— If a person violates any order or direction given by any Intelligence agency, National Security Intelligence agency or any officer engaged in maintaining law and order empowered by the Government under section 97A he—

- (a) for the first offence shall be punishable with imprisonment for a term not exceeding three months or a fine of any amount from taka 5 lacs to 10 lacs or with both and in default of payment of fine shall be punishable with imprisonment for a further term of one month;
- (b) for the second offence he shall be punishable with imprisonment for a term not exceeding one year or a fine of any amount from taka 10 lacs to 20 lacs or with both and in default of payment of fine he shall be punishable with imprisonment for a further term of six months.
- (c) for the third or subsequent offence he shall be punishable in each case with imprisonment for a term of three years or a fine of any amount from taka 25 lacs to 50 lacs or with both and in default of payment of fine he shall be punishable with a further term of imprisonment for one year and if the court considers proper it may advise the commission to cancel the licence in the name of such person."

5. Repeal and savings.— (1) The Bangladesh Telecommunications (Amendment) Ordinance, 2005 (Ordinance No. 1 of 2005) is hereby repealed.

(2) Notwithstanding the repeal of the Ordinance under sub-section (1) all acts done or steps taken under the said provisions shall be deemed to have been done or taken under the Bangladesh Telecommunication Act, 2001 amended by this Act.

Mohd. Lutfor Rahman Talukdar

Secretary

**THE BANGLADESH TELECOMMUNICATION
REGULATORY COMMISSION (LICENCING
PROCEDURE) REGULATIONS, 2004**

[BTR.C Regulation No. 1 of 2004]

[1st January, 2004]

No. BTRC/Regulation/2004-115-In exercise of the powers conferred under section 99 of the Bangladesh Telecommunications Act, 2001 (Act No. 18 of 2001) the Bangladesh Telecommunications Regulatory Commission to ensure uniform, neutral and transparent licencing procedure, is pleased to make the following regulations:-

1. Shore title:- These regulations may be called **The Bangladesh Telecommunications Regulatory Commission (Licencing Procedure) Regulations, 2004.**

2. Definition:- In these regulations, unless there is anything repugnant in the subject or context:-

- (a) "Act" means The Bangladesh Telecommunications Act, 2001 (Act No. 18 of 2001).
- (b) "Applicant" means an individual, organisation or company (registered under the Companies Act, 1994 in Bangladesh) as defined in section 2 (24) of Act No. 18 of 2001 seeking licence to establish, maintain telecommunication system and provide telecom services.
- (c) "Commission" means the Bangladesh Telecommunications Regulatory Commission.
- (d) "Licence" means a legal authorisation and a document known, as licence containing terms and conditions issued or deemed to have been issued by the Commission for establishing telecommunication system for providing service as defined in section 2(29) of the Act No. 18 of 2001.
- (e) "Prescribed" means prescribed by regulations.
- (f) "Register" means register of licence to be maintained by the Commission.
- (g) "Schedule" means schedule appended to this regulations.

3. Objectives of the regulations:-

- (a) The objective includes among others to frame procedure of selecting applicants for issuance of licence to any intending operator having conformity of purpose and analogous to the expressed objectives contained in the Act, 2001 and also the licencing on non-exclusive basis

- with or without any restriction on the number of entrants in order to rationalize private participation and to encourage creation of environment of competition;
- (b) Documentation of the procedures and methodologies to be applied for selecting applicants intending to provide telecommunication services within the geographical confines of Bangladesh, space above the landmass constituting Bangladesh and its territorial water;
 - (c) Regulation of market structure, liberalization, control of market access to ensure the viability of new entrants, control on number of licensees to accommodate within the finite resources like radio spectrum, numbers, right of way and similar other resources required by the operators through equitable, pragmatic measures and in the public interest in order to balance the competing interests and priorities.

4 Classes of services for which licence is necessary:- (1)

Licences shall be required for providing the following services:

- (a) Public Switched Telephone Service (PSTN).
- (b) Cellular Mobile Phone Services.
- (c) Satellite Mobile Phone Services (GMPCS).
- (d) National Long Distance Service.
- (e) Overseas Telecommunication Service.
- (f) Internet Data Communication Service (ISP).
- (g) Data Communication Service.
- (h) VSAT Services.
- (i) Paging Services.
- (j) Radio Trunking Services.

In addition to the above services the Commission may bring any other services within the purview of licencing requirement as and when it considers necessary.

"(2) Pursuant to the provisions of section 36(6) of the Act the Commission having regard to the nature of services, classified those into-two categories to be licenced through open licencing system and competitive bidding procedure.

(3) In order to encourage the ICT sector to flourish throughout the country the licencing procedure for granting ISP licence and VSAT licence has been liberalized and simplified. Unless disqualified for the grounds mentioned in section 36(3) of the Act, any person having satisfactory technical and financial capabilities shall be eligible to get licence to provide the above mentioned service through an open licencing procedure. There shall be no limit of the number of licences of this category unless for sufficient reasons the Commission decides to suspend issuing such licence for certain period and for certain areas. It shall be within the discretion of the Commission to classify the ISP and

VSAT licence for capital city, divisional city, district town and upazila headquarters or nationwide basis.

(4) The Commission decides to grant licence for providing PSTN service through open licencing procedure on the division of the whole country into different zones to encourage new entrants by ensuring healthy competition in level playing field.

(5) The new licences for the Cellular Mobile Phone, Paging Service, Radio Trunking Service and Satellite Mobile Phone (GMPCS) shall be granted through competitive bidding procedure and the number of such licence shall be subject to the availability of the scarce spectrum resource.

(6) The service for which open licencing procedure and the service for which competitive bidding licencing procedure shall be applicable are shown in the schedule I.

5. Open Licencing- Procedure for services other than PSTN:- (1) The Commission shall give wide publicity in newspapers and, electronic media of its programme/intention of issuing licence of different categories specifying the time and manner of how the applications shall be made.

(2) The Commission may invite applications for the consideration of granting licence through the newspapers and/or internet to intending operators. The Commission may verify the information on location, space, installation, apparatus, finance, manpower etc. as furnished with the application.

(3) It shall specify the criteria and conditions the applicants have to fulfill in order to be eligible for getting licence for providing particular service.

(4) The Commission may frame guidelines and prescribed application forms which shall be available at the relevant time in its office with or without payment of price.

(5) The Commission may determine, fix and revise from time to time according to exigencies of the situation licence fee, application fee, evaluation fee and other charges as it deems appropriate.

(6) The Commission shall prepare licence forms as far as practicable of international standard for different telecom services keeping pace with the changing scenario.

(7) The Commission shall, determine the duration of different categories of licence, renewal and other conditions, rights and liabilities.

(8) The Commission shall by all reasonable means and subject to the provisions of the Act, 2001 undertake steps to regulate the activities of the licence operators and ensure healthy growth and consumer friendly environment in telecom sector.

6. Application how to be filed:- (1) In order to obtain a licence for operating telecommunication services in the country,

the intending operator shall submit to the Commission application in such form, in such manner and with payment of such fees as prescribed by the Commission. All relevant information, papers and documents required by the Commission for the purpose shall have to be attached along with the application.

(2) Subject to the provisions of sections 36 of the Act, 2001 a person who is eligible and who fulfills the conditions and set criteria having sufficient technical and financial capabilities may apply to the Commission for licence in prescribed form with all necessary documents within the time notified. Application not fulfilling the set criteria and/or not accompanied with necessary documents shall be rejected outright.

(3) The Commission shall maintain separate registers for each category of licence in prescribed form shown in schedule II. Soon after receipt, the applications shall be entered into the respective register, particulars thereof shall be noted and alongside separate file for each and individual case shall be opened and the day to day proceedings with regard to scrutiny and different stages of evaluation shall be recorded and signed by the concerned officers. After scrutiny and evaluation the summary thereof shall be placed in the meeting of the Commission which upon consideration of the relevant materials shall take final decision either to reject or grant licence. In the case of rejection of the application the Commission shall record its reason for so doing and forthwith communicate the same to the applicant.

(4) After the Commission approve the grant of licence, the applicant shall be granted the licence in the prescribed form containing seal of the Commission duly signed by its authorised representative.

(5) In the register, the date of filing the application, the decision of the Commission, date of issue of licence, duration/renewal date, amount of fees realised etc. shall be noted in the respective column of the register, The licence shall be delivered to the applicant or his duly authorised agent against proper receipt and signature in the appropriate column of the register. The register shall be maintained in printed form and in bound volume to be preserved at least for the whole period of duration of the licence.

(6) The copy of the licence in exact form with the full contents, seal and signature of the issuing authority shall be kept in the respective file.

(7) In the event of loss or damage the licensee shall be entitled to get duplicate licence from the copy of the licence kept in the file and record of the Commission upon payment of necessary fees.

7. Procedure of open licencing for PSTN Services:- (1)

Unless otherwise decided by the Commission, the PSTN services shall be subject to open licencing under the term and conditions setout in the regulatory licencing guidelines/framework and the model licence form adopted by the Commission.

(2) For the purpose of convenience the whole country may be divided into as many zones as may be practical. To attract the more suitable applicants Commission shall give wide publicity in leading national dailies and electronic media for issuing licences, mentioning the different zones and the period within which applications in prescribed form shall be received.

(3) The licencing for PSTN service involves many important aspects requiring much more attention and care of the Commission while dealing therewith. In order to ensure transparency and fair play the Commission should give sufficient time and opportunity for adequate response of the genuine operators.

(4) The Commission shall publicise the programme of granting licence to as many operators as may be reasonably viable for sustaining the market under a healthy competitive environment ensuring the consumer's interest and raising the tele density in the country.

(5) The applications received within the time limit notified shall be entered in the register and for each application individual file shall be opened and the proceedings of scrutiny and evaluation shall be recorded therein chronologically.

(6) At the first stage, those should be scrutinised to ascertain whether the applicant is disqualified or not as per section 36 of the Act, 2001 and the set criteria and general conditions are satisfied.

(7) When after preliminary scrutiny the applications are prima-facie found in order then the technical, financial and professional capabilities of the applicant shall be evaluated by expert/evaluation committee. The applicants in order to be eligible for getting licence must satisfy the standard as may be fixed by the Commission.

(8) The report and findings of the expert/evaluation committee shall be placed with all the records and materials in the Commission's meeting for consideration and decision. The Commission shall generally act on the report unless the opinion of the expert/evaluation committee is found tainted with bias or perversity. It may accept or reject the expert opinion or direct to clarify certain points or may refer for fresh evaluation by another expert Committee. But while rejecting the expert opinion it shall record the reason therefor.

(9) After the Commission approves the application having found the applicant eligible having fulfilled all the relevant terms and conditions, the applicant shall be granted the licence in the form and manner prescribed.

(10) The particulars of licence shall be entered into the register and copy of the licence shall be retained in the file for future reference.

8. Licencing procedure through competitive bidding:- (1) The grant of new licence for Cellular Mobile Phone shall be subject to the availability of frequency spectrum. The Commission shall carefully assess the spectrum position. In the event of disproportionate allocation of frequency in excess of the usual requirement of any existing operator, the Commission shall take appropriate steps for recovery of the excess frequency spectrum, if necessary by revising and reallocating the frequency as the case may be.

(2) The Commission may conduct study, if necessary on this issue and shall have an efficient management of frequency spectrum securing the best interest of the nation.

(3) The Commission may, subject to the availability of frequency spectrum take steps to grant licence to the new Cellular Mobile Phone operators strictly keeping in view regard to all the relevant factors conducive to the sound and healthy growth of the sector.

(4) The procedure of licencing shall be the competitive bidding process. The Commission shall notify in the widely circulated newspapers, electronic media and website inviting tender in the form of international standard giving sufficient time to submit their tenders both technical and financial offers as per the guidelines and tender documents to be available in the Commission's office.

(5) Both the technical and financial offers and other tender documents shall be examined and evaluated by expert/evaluation committee. The Commission for reasons to be recorded may not accept the opinion of the expert/evaluation committee. In that case the Commission shall refer for fresh evaluation by another expert/evaluation committee.

(6) The tender/bids submitted by applicants in compliance of requirements as may be specified shall basically be submitted in two envelopes system, namely the technical and financial whenever financial considerations are major factors for consideration and selection unless deemed otherwise by the Commission. The bid-offers submitted by the applicants shall be evaluated by an expert/evaluation committee, comprising of persons having thorough knowledge on the concerned service and other allied aspects.

(7) The applicant shall take permission from other competent and relevant government authorities by fulfilling their requirements. Intending operators willing to engage in the internet information service for news reporting, publishing, education, health care, medicine and any other internet enabled services, shall obtain approval from concerned authorities if so required before applying to the Commission for the required telecommunication services.

(8) When the use of any radio equipment or any apparatus causing radio interference or radio frequency is necessary for carrying on the activities allowed under the licence, the licensee shall obtain separate licence or permit incorporating the allocation of frequency. The licensee shall also obtain technical acceptance certificate for the radio equipment and apparatus used for providing the service.

(9) In granting licence for different categories of services as shown in the schedule I the Commission shall follow the respective procedure as above.

(10) The Commission shall prepare standard licence form and follow the best practice.

(11) The Commission in disposing of the applications for licence shall maintain as far as practicable the time frame as mentioned in section 36(8) of the Act.

(12) These regulations cover only the licencing procedure of the Commission and are supplementary to the provisions of the Bangladesh Telecommunications Act, 2001, other prevalent laws, sector policy framed by Government, rules regulations, guidelines and other documents of general application and shall be subject to amendments and modification as and when necessary.

Syed Marghub Murshed

Chairman

BTRC.

Schedule I

[Rule 4(6)]

Services for which competitive bidding licence procedure applicable

1. Cellular Mobile Phone Service.
2. Satellite Mobile Phone Service (GMPCS).
3. Overseas Telecom Service.
4. Paging Service, (for commercial purpose).
5. Radio Trunking Service (for commercial purpose). Services

for which open licencing procedure applicable

1. Public Switched Telephone Service (PSTN).
2. National Long Distance Service (NLD).
3. Internet Service (ISP).
4. VSAT Service.
5. Data Communication Service.

Schedule II*[Rule 8]***Bangladesh Telecommunication Regulatory Commission
Register of licences**

Category of licence.....

Sl. No.	Date of filing the application	Name of Applicant	Address	Fax/Tel. Number
1	2	3	4	5

Date of decision of Commission	Approval/rejection	Duration of licence & area of operation	Date of delivery of licence/signature of recipient
6	7	8	9

Amount received itemwise with date	Renewal		Description of Penal action taken	Remarks
	Period of renewal	Date of renewal		

**FIRST AMENDMENT TO THE BANGLADESH
TELECOMMUNICATION REGULATORY
COMMISSION (LICENCING PROCEDURE)
REGULATIONS, 2004**

(Regulation No. 1 of 2004)

[29 May, 2005]

Whereas it is expedient further to amend the BANGLADESH TELECOMMUNICATION REGULATORY COMMISSION (Licencing Procedure) Regulations, 2004 [BTRC Regulation No. 1 of 2004] for the purposes hereinafter appearing;

Now, therefore, in pursuance of the said Regulations and in exercise of powers under section 99 of the Bangladesh Telecommunication Act, 2001 (Act No. XVIII of 2001) the

Bangladesh Telecommunication Regulatory Commission (BTRC), do hereby makes the following amendments:-

1. Short title.- These amendments may be called the **BTRC Licencing Procedure Regulations (First Amendment), 2005 (Amendment No. 1 of 2005)**.

(1) The word "*Telecommunication*" shall be substituted by the word "*Telecommunications*" in the Regulation introduction, 1, 2(a) and 2(c).

(2.) The word "*for*" shall be substituted by the word "*of*" and the word "*the*" shall be inserted after word "*encourage*" and the word "*an*" shall be inserted before the word "*environment*" in Regulation 3(a).

(3) The words "*Satellite Mobile Phone Services*" before "(GMPCS)" in Regulation 4(l)(c) shall be substituted by the words "*Global Mobile Personal Communication by Satellite*".

(4) The signs and words "*(k) VOIP (Voice over Internet Protocol) Technology/Service and (l) Network Service*" shall be inserted after the signs and words "*(j) Radio Trunking Services*" in Regulation 4(1).

(5) Regulation 4(2) shall be substituted by "As per provisions of section 36(6) of the Act the Commission, keeping in mind the nature of services, classified the same into two categories, licence for which would be granted through open (and/or auction) licence system and competitive bidding (and/or auction) procedure as described in schedule 1 of these regulations".

(6) The word "*the*" shall be inserted before the words "Capital City, divisional city, district town and upazila" and the word "*on a*" shall be inserted before the word "*nationwide*" in Regulation 4(3).

(7) The word "*open*" after the word "*through*" shall be substituted by the words and sign "*competitive bidding and/or Auction*" and the word "*and a*" shall be substituted by the word "*in*" in Regulation 4(4).

(8) The word "*and*" after the words "*Radio Trunking Service*" shall be substituted by the sign "*,*" and the words "*Satellite Mobile Phone*" before "(GMPCS)" shall be substituted by "*Global Mobile Personal Communication by Satellite* and after the word (GMPCS) and *National Long Distance Service (NLD)*" and the words and sign "*and/or auction*" shall be inserted after the words "*through competitive bidding*" in Regulation 4(5).

(9) The words and sign "*and/or auction*" shall be inserted after the word "*open*" as well as after the words "*competitive, bidding*" and the word "*the*" shall be inserted after the word "*which*" and the words "*are shown*" shall be substituted for the words "*is*

given" after the word "applicable" and the word "the" before the word "schedule 1" shall be deleted in Regulation 4(6).

(10) The words "or *its website*" shall be inserted after the word "internet" and the word "*applicants*" shall be inserted before the word "information" in Regulation 5(2).

(11) The word "*the*" shall be inserted after the words "situation, licence fee, and application fee" and the word "*the*" after the words "exigencies of" shall be deleted in Regulation 5(5).

(12) The word "*the*" shall be inserted after the words "environment in" in Regulation 5(8).

(13) The word "*and*" shall be inserted after the word "criteria" and the word "the" inserted before the word "prescribed" in Regulation 6(2). The words "*alongside*" and "*and*" shall be deleted before the words "separate" and "individual" and the word "*files*" shall be substituted by the word "file" in Regulation 6(3).

(14) The word "the" shall be inserted after the word "containing" and the word "and" shall be inserted after the word "Commission" in Regulation 6(4).

(15) The words "*for services other than PSTN*" after the words "Open Licencing Procedure" in the headline of Regulation 5 shall be deleted.

(16) The headline of Regulation 6 shall be substituted by "*Procedure for Application*".

(17) In the headline of Regulation 7 the word "*open*" before the words "licencing for PSTN Services" shall be deleted.

(18) The word "*open*" after the words "shall be subject to" shall be substituted by the words "*competitive bidding and/or auction*" and the word "laid down" shall substitute for the word "setout" in Regulation 7(1).

(19) The word "*more*" shall be deleted and the word "," shall be inserted after the word "applicants" and the word "*the*" shall be inserted before the word "Commission" in Regulation 7(2).

(20) The words "*much more*", "*while dealing therewith*" and "*of the genuine operators*" shall be deleted and the words "to genuine operators" shall be inserted after the word "opportunity" in Regulation 7(3).

(21) The words "*and for each application individual file shall be opened and the proceedings of scrutiny and evaluation shall be recorded therein chronologically*" after the word "register" in Regulation 7(5) shall be deleted.

(22) The words "*At the first stage*" shall be deleted and the word "*applicants*" shall be inserted before the word "should" and the word "*first*" shall be inserted after the word "should" and the word "," shall be inserted after the word "and" and the words

"*whether the*" shall be inserted before the word "general" in Regulation 7(6).

(23) The word "*thereof*" shall be substituted in word "therefore" in Regulation 7(8).

(24) The word "*after*" shall be inserted after the word "application" and the word "*fulfilling*" substituted the word "fulfilled" and the word "*having*" shall be deleted in Regulation 7(9).

(25) The words and sign "*and/or auction*" shall be inserted after the words "*through competitive bidding*" in the headline of the Regulation 8.

(26) The words and signs "*and Public Switched Telephone Network (PSTN)*" shall be inserted after the words "*Cellular Mobile Phone*" in Regulation 8(1).

(27) The word "a" shall be inserted after the word "conduct" in Regulation 8(2).

(28) The words and signs "*and Public Switched Telephone Network (PSTN)*" shall be inserted after the words "*Cellular Mobile Phone*" in Regulation 8(3).

(29) The words and sign "*and/or auction*" shall be inserted after the words "*competitive bidding*" and the sign "/" shall substitute for the words "both technical and financial" before the word "offers" and the words "*for submission of*" shall be substituted by the words "to submit their" in Regulation 8(4).

(30) Regulation 8(5) shall be omitted.

(31) The first sentence "*The tender bids submitted by applicants in compliance of requirements as may be specified shall basically be submitted in two envelopes system, namely the technical and financial, whenever financial considerations are major factors for consideration and selection unless deemed otherwise by the Commission.*" shall be deleted and the word "of" shall substitute for "on" after the word "*knowledge*" in Regulation 8(6).

(32) The following additional Regulation "10A" shall be inserted after regulation 8 (10):

"(10A) The Commission may, from time to time, frame necessary guidelines for issue of licences. "

(33) The word "*the*" shall be inserted after the words "*framed by*" and the words "*and concerned*" shall be inserted after the word "*Government*" and the words "*of general application*" shall be deleted in regulation No. 8(12).

(34) The word "Regulation" shall substitute for "Rule" and the words and sign "*and/or auction*" shall be inserted after the words

"competitive, bidding" the words "Satellite Mobile Phone Service" before "(GMPCS)" shall be substituted by the words "Global Mobile Personal Communication by Satellite" and the numbers, words and signs "6. Public switched Telephone Network (PSTN) 7. National Long Distance Service (NLD)" shall be inserted after the number, words and signs "5. Radio Trunking Service (for commercial purpose)" and the words and sign "and/or auction" shall be inserted after the word "open" and the numbers, words and signs "1. Public switched Telephone Service (PSTN) 2. National Long Distance Service (NLD)" shall be substituted by the numbers, words and signs "1. VoIP (Voice over Internet Protocol) Technology/Service 2. Network Service" after the headline "Services for which open licencing procedure applicable" in schedule I.

(35) The word "Regulation" shall be substituted for "Rule" in schedule I and II.

MUHAMMAD OMAR FAROOQ

Chairman, BTRC.

**SECOND AMENDMENT TO THE BANGLADESH
TELECOMMUNICATION REGULATORY
COMMISSION (LICENCING PROCEDURE)
REGULATIONS, 2004
(Regulation No. 1 of 2004)**

[19 August, 2007]

In exercise of the powers conferred by section 99 of the Bangladesh Telecommunications Act, 2001 (Act No. XVIII of 2001) the Bangladesh Telecommunication Regulatory Commission is pleased to make the following amendments in the Bangladesh Telecommunication Regulatory Commission (Licensing Procedure) Regulations, 2004 (BTRC Regulations No. 1 of 2004), hereinafter referred to as the said Regulations, with effect on and from 19-08-2007:

1. Short title.— These amendments may be called the **BTRC Licensing Procedure Regulations (Second Amendment), 2007 (Amendment No. 1 of 2007)**.

In the said Regulations—

(1) In sub-regulation (1) of regulation 4 the following words, letters, commas and brackets shall be inserted after the words "Network Service", viz:

- "(m) International Gateway Services (IGW)
- (n) Interconnection Exchange Services (ICX)
- (o) Internet Exchange Services (IX)
- (p) IP Telephony Services"
- (q) 3G Services
- (r) WiMAX Services
- (s) Call Center Services
- (t) Telecom Value Added Services (VAS)"

(2) In sub-regulation (5) of regulation 4 the word "and" after the word and bracket "(GMPCS)" shall be substituted by the sign of comma (,) and the words "Public Switched Telephone Services (PSTN), International Gateway Services (IGW) and Interconnection Exchange Services (ICX)" shall be inserted after the word and bracket "(NLD)."

(3) In Schedule I under the caption "Services for which bidding and/or auction license procedure applicable" the following figures, dots, words, letters, and brackets shall be inserted after the figure, dot, words, letters, and brackets "7. National Long Distance Services (NLD)", viz :

- "8. International Gateway Services (IGW)
- 9. Interconnection Exchange Services (ICX)
- 10. Internet Exchange Services (IX)
- 11. 3G Services
- 12. WiMAX Services"

(4) In Schedule I under the caption "Services for which open licensing procedure applicable" the following figures, dots, words, letters, and brackets shall be inserted after the figure, dot, words, letters, and brackets "5. Data Communication Services", viz :

- "6. IP Telephony Services
- 7. Call Center Services
- 8. Telecom Value Added Services (VAS)"
- 9. Any other services authorized by BTRC.

MAJOR GENERAL MANZURUL ALAM, ndc, psc (rtd)

Chairman

Bangladesh Telecommunication
Regulatory Commission.

**THE BANGLADESH TELECOMMUNICATION
REGULATORY COMMISSION
(INTERCONNECTION) REGULATIONS, 2004
(Regulations No. 2 of 2004)**

[20 May, 2004]

No. BTRC/sec/regulation/2004-212—In exercise of the powers conferred under section 99 of the Bangladesh Telecommunication Act 2001 (Act No. XVIII of 2001), the Bangladesh Telecommunication Regulatory Commission is pleased to make the following Regulations to ensure uniform, neutral and transparent interconnection arrangements between the Telecommunication Networks of the Operators.

1. Short Title and Commencement.— These Regulations may be called the **Bangladesh Telecommunication Regulatory Commission (Interconnection) Regulations 2004**. These Regulations shall come into force on and from the date of its publication in the official Gazette.

The Commission reserves the right to withdraw, vary, change or amend the Regulations from time to time without prior notice.

2. Purpose and Scope.— The purpose of these Regulations shall be to—

- (a) encourage orderly development of the Telecommunications systems;
- (b) prevent and abolish discrimination in the provision of services, ensuring fair competition.
- (c) encourage the introduction of new services.
- (d) promote and safeguard the interests of consumers by ensuring reliable and fairly priced modern services with reasonable accessibility.

The scope of these Regulations shall be to ensure effective telecommunication services in the territory of the People's Republic of Bangladesh, in accordance with section 47 of the Bangladesh Telecommunication Act 2001 through mutual agreements between the operators and/or interconnection access providers.

3. Interpretations.— In these Regulations, unless there is anything repugnant in the subject or to the context, the expressions shall have the following meaning:

“Access Provider” means an entity or a group of operators/persons forming a consortium/company to provide access for interconnection with the operators at the common Point of Interconnection.

“Act” means the Bangladesh Telecommunication Act, 2001.

“Commission” means the Bangladesh Telecommunication Regulatory Commission, established under section 6 of the

Bangladesh Telecommunication Act 2001, as defined in section 2(3) of the Act..

“Dominant Operator” means a telecommunications operator, which in the opinion of the Commission, has the ability to effectively influence and materially affect the relevant market with regard to price and supply due to its position of high market share in the telecommunication network, which are exclusively or predominantly provided by it.

“Interconnection” means the visible or invisible or logical linking of more than one telecommunication network in order to enable the users of one network to communicate among themselves or to communicate with the users of another network or to avail themselves of the service of the other network, as defined in section 2(2) of the Act.

“Interconnection Guidelines” means the guidelines issued by the Commission; prescribing the requirements and provisions for interconnection between the telecommunications operators from time to time.

“Interconnection Network” means any form of installation or group of installations as well as transmission links which ensure the transmission/reception and/or routing of telecommunications signals and exchange of operational information, between two or more network termination points.

“Interconnection Services” means the services which consist of wholly or partly the transmission/ reception and/or routing of signs, signals, texts, images, sounds, data or any other intellectual expression through the telecommunications networks.

“License means” a License issued or deemed to have been issued by the Commission under section 36 and section 90 of the Act respectively for establishing or operating a telecommunication system or for providing telecommunication service or for operating or maintaining such system or service or for using the radio apparatus, as defined in section 2(29) of the Act.

“Operator” means a person or entity, licensed for establishing or operating a telecommunication system or providing telecommunication service or operating a system which is the combination of more than one of those facilities, as defined in section 2(19) of the Act.

“POI” means the Point of Interconnection, which is the physical location at which two or more networks interconnect through switches, nodes or other facilities, offering access to the operators/service providers.

“Regulation” means the Bangladesh Telecommunication Regulatory Commission (Interconnection) Regulation (Regulation no 2 of 2004).

“Requested Party” means an operator or a group of operators and access providers, requested by another operator to provide

interconnection to the telecommunications network of the other operator.

“Requesting Party” means an operator who wishes to interconnect its telecommunications networks with the telecommunications network of another operator or a group of operators and access providers.

“RIO” means the Reference Interconnection Offer, which the dominant operators are to provide to the requesting parties for entering into interconnection agreements between them.

“Telecommunications” means any form of transmission and reception of signs, signals, writings, visual images, sounds, data or any other intellectual expression by way of using electricity or electro-magnetic or eletro-chemical or electro-mechanical or satellite communication system, as defined in section 2(11) of the Act.

“Telecommunications” Network means a combination of a set of nodes and links that establish telecommunications between two or more points, as defined in section 2 (14) of the Act.

“User” means a person or any entity (including an Operator, Reseller or value-added Service Provider) who has entered into a contract with an operator for the provision of telecommunication services on the operator's terms and conditions approved in accordance with relevant conditions of the operator's License.

4. Rights and Obligations of the Operators and Access Providers.- (1) It shall be mandatory on the part of all the operators to ensure any to any connectivity for the communication of the 'subscribers/consumers of one operator with the subscribers/consumers of the others, as and when required.

(2) All licensed operators shall make interconnection arrangement with all other operators to provide the telecommunications services and shall have the right to negotiate interconnection with other operators and access providers for the purpose of providing the services, in order to ensure interoperability of service.

(3) The Commission, in its discretion, may limit the obligation as required above,- in cases where-

- (a) the License issued to the other operator does not authorise the services for which interconnection is requested; or
- (b) the requested interconnection is rendered extremely difficult as a result of technical specifications; or
- (c) such interconnection is likely to endanger the life or safety or result in injury or harm to the licensed-operator's property or hinder the quality of services provided by the licensed operator.

- (4) The requested party, being an operator, shall—
- (a) meet all reasonable requests of the requesting party for access to its network at the network termination points other than the network termination points of the consumers.
 - (b) adhere to the principle of non-discrimination with regard to interconnection offered to other telecommunications operators in similar conditions in similar circumstance providing similar services, and provide interconnection facilities and services of the same quality as it provides for its own services or those of others.
 - (c) make available on request of the requesting party relating to interconnection, all information and specifications reasonably necessary in order to facilitate conclusion of an agreement for interconnection, including information on charges.

(5) The requested party, being an access provider, shall provide interconnection access at the POI, if approached by a requesting party at charges on equitable and non-discriminatory basis and on the same quality as it provides to the other operators and also provide all information and specifications necessary for conclusion of an agreement.

(6) The negotiating operators or the access providers shall ensure the use of information acquired during the process of negotiation on interconnection agreements solely for the purpose for which it was supplied and respect at all times the confidentiality of the information transmitted or stored. The information shall not be passed on to any other party, without the consent of the other. For this purpose, the interconnecting parties, prior to commencement of negotiations, may enter into a mutual non-disclosure agreement on confidential information and submit the same to the Commission for acceptance.

(7) The dominant operator shall provide to the requesting party and publish a Reference Interconnection Offer (RIO) as per direction and within the time specified by the Commission. It shall contain all the terms and conditions required for the other operators to interconnect, including a full list of interconnection circuits, facilities and the associated charges. Charges should be sufficiently unbundled so that the operators only pay for the services they request. Costs not directly related to the interconnection service, such as the costs arising from the retail activities of the interconnection provider, should be omitted from the overall costs of the business when calculating interconnection costs. It shall facilitate interconnection with existing & new entrants, help avoid disputes and assist in developing industry standards & best practices.

(8) Dominant operators shall not—

- (a) exploit their position in a market to their own benefit and to the detriment of others, by way of imposition of unfair clauses on interconnection charges or operating on anti competitive practices.
- (b) abuse their position by denying the requesting party to provide interconnection or pressing for inclusion in the agreement the unfair clauses and provisions that are technically or economically not feasible or contrary to the principles as laid down in the Act, Regulations or Guidelines.

(9) During operation of the service—

- (a) all operators shall abide by the terms and conditions of Interconnection agreements, ensure the speedy clearance of faults and smooth flow of interconnection traffic through their networks and shall not indulge in limiting or blocking of calls of other operators or any other anti competitive practices.
- (b) the Commission may form a Steering Committee of the operators to monitor the performance of the interconnection services and resolve disputes if any between them. If the disputes could not be resolved by the Steering Committee, the same may be placed to the Commission.

(10) All existing interconnection agreement or arrangement related to interconnection issues entered into between two or more operators will remain valid to the extent if it is not inconsistent with these Regulations. In case if there is any inconsistency, the concerned parties may re-negotiate and adjust the agreement to remove the inconsistencies.

(11) All operators and access providers may be subjected to imposition of penalty by the Commission within the provision of section 46 of the Act, if it fail to comply with the interconnection obligations, resort to call blocking or any anti competitive activities or do not follow the instructions/directives, issued by the Commission.

5. Powers and Responsibilities of the Commission.— (1) The Commission shall encourage and take action for adequate interconnection and interoperability of services, exercising its responsibility in a way that promotes efficiency, sustainable competition and gives the maximum benefit to the users.

(2) The Commission may take necessary measures to remove impediments, which prevent the operators from negotiating interconnection agreements between themselves and with the access providers.

(3) The Commission may intervene in negotiations on interconnection agreements, if no agreement is brought about between the negotiating operators or access providers within 3

(three) months of request by any party, giving directions particularly on the issues that are unresolved in the interconnection agreement.

(4) The Commission may, on its own initiative at any time in public interest intervene in negotiations, if it considers that the interconnection agreement is delayed and monopoly situation is prevailing. It may also set time limits within which negotiations on interconnection are to be completed. If agreement is not reached within the time set, the Commission may take steps to facilitate the conclusion of an interconnection agreement.

(5) Where the operators enter into an interconnection agreement with other operators and access providers, the Commission shall have the right to review such interconnection agreement in its entirety or part of it and direct them to incorporate changes in the interconnection agreement to ensure conformity with the Act, Regulation or Interconnection Guidelines.

(6) If an operator fails to interconnect its network as agreed upon within the specified time, the Commission may direct the operator concerned to interconnect its facilities in order to protect public interests and, where appropriate, may set the terms and conditions for providing interconnection.

(7) The Commission may impose conditions in interconnection agreements in order to ensure —

- (a) the interoperability of services, including the conditions designed to ensure satisfactory end-to-end quality, which may include implementation of specific technical standards, specifications or codes of conduct or directives issued by the Commission.
- (b) the protection of data, to the extent necessary for compliance with relevant legal and regulatory provisions on the protection of data/ personal data, the confidentiality of information processed, transmitted or stored and the protection of privacy.

(8) The Commission shall publish a directory of model Interconnection agreement and Guidelines for all operators.

(9) In order to prohibit all anti-competitive practices, non-compliance of the interconnection obligations or non-fulfillment of the instructions/directions, issued by the Commission during or after the interconnection negotiations or dispute resolution, the Commission may impose penalty.

6. Interconnection Principles and Requirements.— (1) The requested party shall take all necessary steps to finalise the interconnection agreement with the requesting party on mutually agreed terms and conditions within the specified time and implement the provisions of the interconnection agreement as expeditiously as possible.

- (2) The interconnecting parties shall-
- (a) maintain the highest level of service and meet any priority as laid down by the Commission, so that the service is available on regular basis in normal circumstances and as far as practicable in the event of catastrophic network breakdown or in exceptional situations, such as extreme weather, earthquake, flood, lightning or fire;
 - (b) take all necessary steps to ensure that the integrity and security of the network is maintained. The need to maintain network integrity and security shall not, however, constitute a valid reason for refusal to negotiate terms of interconnection.
- (3) Interconnection agreements-
- (a) shall be transparent, fair and reasonable, non-discriminatory in nature and debar any anti-competitive practice;
 - (b) shall promote and safeguard the customers' interest with reasonable accessibility;
 - (c) shall not deter any healthy competition and maintain a congenial atmosphere to encourage development and promotion of investment in the Telecommunication sector.
- (4) Collocation and facility sharing:
- (a) Where an operator has the right to install facilities on, over or under private land and/or where the facilities exist with other operators, the Commission may direct the parties for sharing of such facilities and/or property with other operators, in particular where the operator does not have access to viable alternatives.
 - (b) Terms and conditions for collocation or facility sharing shall be subject to commercial and technical agreement between the parties concerned, with permission from the Commission for such facility sharing. However no permission will be required for sharing of space (land and/or building), tower, mast, pole, duct, tunnels and manholes, power supply or any other ancillary facilities.
- (5) Technical standards and quality of service:
- (a) The operators shall provide technical interfaces for interconnection as per Act and Regulations and take full account of the directives issued from time to time by the Commission and follow the standards currently in force or adopted in Bangladesh on the basis of international (e.g. ITU, ETSI etc) standards.
 - (b) Interconnection facilities shall be provided to ensure smooth flow of traffic between the operators, with level of traffic congestion, call completion ratio etc in the network not below the accepted standard of the Licensee

operators. Fault clearance at the POI shall be done immediately but not later than 24 hours at the extreme circumstances.

- (c) Both parties to the interconnection agreements shall record and analyse traffic data periodically to measure the quality of service in their respective networks. The parties shall meet regularly and exchange traffic data to find ways to improve standards and where required shall provide and install new circuits and facilities within a time frame.
- (d) The operators shall supply to the Commission the quality of service information that are related to the performance of services and facilities on a quarterly basis.

(6) Availability and access to information:

- (a) All information on interconnection agreements except the confidential part, shall be made available for the public with easy access.
- (b) All operators shall from time to time provide to the Commission all such technical, operational and accounting information as the Commission may require.

7. Agreements on Interconnection.- (1) Terms and conditions of interconnection of telecommunications networks shall be set on the basis of agreements between the interconnecting operators and access providers. The interconnection agreements shall comply with the-

- (a) provisions of the Act, Regulations & Interconnection Guidelines; and
- (b) principles of neutrality, transparency, non-discrimination, fair competition, universal coverage, access to information and equal terms & conditions.

(2) On receipt of license, the new operator shall initiate negotiations with the incumbent operators and access providers. The requested party shall commence negotiations within 15 (fifteen) days of the receipt of the request and the negotiating parties shall finalise the interconnection agreements within 3 (three) months. If no agreement is reached within the stipulated period, the either party shall have the right to apply to the Commission to resolve the matter and seek for direction, specifying clearly the issues that are remaining unresolved. The Commission in such case may give instructions/directions, as it thinks fit to facilitate the conclusion of the interconnection agreement.

(3) The Commission in appropriate cases, may on its own initiative in the public interest, intervene at any time during negotiations on interconnection agreement or thereafter and give instructions/ directions.

(4) Interconnection agreement shall contain the interconnection circuit capacity, the quality of service, requirement, network standards, maintenance and operation aspect, charging and billing principles and other related matters. Provision shall also be kept for increasing the circuit capacity, if the network congestion due to increased traffic exceeds the standard level.

(5) If an interconnecting operator decides to increase its network capacity, requiring the increase in interconnection circuit capacity, it shall inform the concerned operators at least 6 (six) months before the proposed increase.

(6) On conclusion of the interconnection agreements or any amendments thereof by the operators and access providers, the same shall be submitted to the Commission not later than 7 (seven) days from the date of execution of the interconnection agreement. The parties to an interconnection agreement shall furnish to the Commission any additional information that the Commission may require in respect of, but not limited to the terms and conditions, circuit capacity and the charges set out in the interconnection agreement.

(7) Where the Commission considers that the terms and conditions of the agreement are not fair and/or contrary to the provision of the Act, Regulations or Guidelines, it may consult with the parties concerned to review the agreements and may engage its representative to inspect such agreements and direct the interconnection parties to incorporate changes in whole or part in the agreement as may be necessary.

(8) Termination or suspension of the agreements between the parties cannot be done without the consent of the Commission. However, modification or amendment of the agreements may be done with mutual consent of the parties or if directed by the Commission.

8. Issues to be included in the Interconnection Agreement.— The Interconnection agreements may include, but not limited to the following:

(1) Description of interconnection services including transit services, if offered.

(2) Interconnection and POI requirements and principles.

(3) Procedures for provisioning of interconnection services and facilities.

(4) Network and transmission capacity requirement and standards.

(5) Technical specification, standards and quality of services for interconnection.

(6) Tests on interoperability and measures for effecting conformance with the requirements and non-discriminatory access.

(7) Exchange and analysis of the traffic data for compliance with quality of service.

(8) Network management and maintenance.

(9) Network security, protection and related matters.

(10) Provision of collocation and facility sharing.

(11) Procedures in the event of alterations being proposed to the network or service offerings of one of the parties.

(12) Access to ancillary, supplementary and advanced services.

(13) Operational and maintenance procedures.

(14) Operator assisted service, directory information and assistance.

(15) Fixation of interconnection charges and terms of payment, including billing procedures.

(16) Confidentiality of non-public parts of the agreements.

(17) Limitation of liability and indemnity, where applicable.

(18) Dispute resolution procedure between the parties before requesting intervention of the Commission,

(19) Duration, re-negotiations and amendment of the agreements.

(20) Termination or suspension of the agreement (only with the approval of the Commission.)

(21) Intellectual property rights.

(22) Force majeure situation.

(23) Any other condition as necessary.

9. Interconnection Charging and Pricing.- (1)

Interconnection charges payable to the inter-connection providers for carrying its traffic to the others, shall be based on the following principles:

(a) Interconnection providers shall be able to recoup the costs with reasonable rate of profit for providing the interconnection services.

(b) Interconnection costing shall be sufficiently unbundled and the requesting parties should only pay for services they request.

(c) Interconnection services shall be provided on a neutral, non-discriminatory and transparent basis.

(d) Interconnection arrangements shall encourage efficient and sustainable competition.

(2) The operator seeking for interconnection shall arrange to bring its traffic to the POI of the operator or access provider through his own or hired circuits. The number of POIs shall be based on where it is technically feasible and shall be decided in the agreement between the parties. The charges for carrying the traffic from the POI to its destination shall be based on the extent of use and cost of the network of the interconnection provider. This may be grouped into the following categories (the negotiating

operators may have other grouping for the time being if mutually agreed).

- (a) From POI to local PSTN network
- (b) From POI to local Mobile network
- (c) From POI to National network of PSTN-
 - * through single Tandem
 - * through double Tandem < 100 km
 - * through double Tandem > 100 km
- (d) From POI to National network of Mobile-
 - * through single Tandem
 - * through double Tandem < 100 km
 - * through double Tandem > 100 km
- (e) From POI to international gateway (as per network used from 'a' to 'd')

There may be different charges for the peak hour and off-peak hour traffic for all domestic calls.

For the incoming traffic, charging may also be similar but shall be based on the extent of network use of the interconnection provider.

(3) The methodology for fixing the interconnection charges (including the provision in the existing agreements) are left to the negotiating parties for the time being, which may be based on the following types:

(a) Senders keep All (or Bill and keep) method.

In this method, no charge is payable between the interconnecting operators for terminating each other's traffic, i.e. the originating operator keeps all the revenue it collects from its subscribers. This method is suitable when the two operators are similarly situated and exchange approximately the same amount and profile of traffic.

(b) Revenue sharing method

In this method, the interconnection payment is based on the revenue earned by each operator for interconnection services and sharing the same either by-

- (1) symmetric revenue sharing in which operators pay each other the same portion of retail revenues; or.
- (2) asymmetric revenue sharing in which one operator pays the other more for the equivalent services.

(c) Retail Minus system

Under this system, the payment for interconnection on the incumbent's network, is based on its retail charge minus the avoidable costs, e.g. marketing, customer service, billing etc. not directly related to the interconnection services.

(d) Cost based charging

This is the appropriate interconnection charging method, since it is based on cost-causation i.e. the costs

caused by the user for using the network of the provider. It determines the absolute level of prices, rather than the relative level and requires all network-related cost data and its analysis for determining the interconnection charges for different service offering. The value of the assets may be based on the *historical cost* or the *current cost* and the cost of call termination may be done through *fully allocated cost* approach by which the total costs are allocated for various services or through *incremental cost* approach (e.g. Long Run Incremental Cost or LRIC) by which the cost due to increase in the volume of services are taken into account.

(4) The cost based charging being the most appropriate method of fixing the interconnection charges, the same may be adopted as ultimate method of charging. However since there is large variation in the volume of business and facilities of various operators, the cost data of their networks are not all available or reliable and their non-familiarity with the method of calculation of cost-causation with accounting separation, other methodologies may be followed as an interim arrangement, with the ultimate goal to reach a cost based pricing structure.

(5) The requesting party and the requested party during negotiations shall finalise the interconnection charges for the particular services requested. It shall be based on the principles laid down in these Regulations and the directives and Guidelines issued by the Commission from time to time. It shall be up to the negotiating parties to conclude an agreement, unless intervened by the Commission as per provision of this Regulation. Interconnection charges with the dominant operator shall be fixed on the basis of RIO, after it is made effective.

(6) The charges may be reviewed and adjusted by the interconnection parties after completion of one year of agreement.

10. Dispute Resolution Process.— (1) Interconnection disputes between two operators or between an operator and an access provider on entering into new or maintaining an existing interconnection agreement, related especially to the capacity of circuits, provision of services/facilities, quality of services, standards, traffic recording/ monitoring, hindrance to traffic flow, anticompetitive & discriminatory practices, charging and pricing of interconnection services/facilities, non-compliance of the terms & conditions of agreement, commercial & legal issues and provisions contrary to the Act, Regulations, Guidelines, orders & directives, issued from time to time by the Commission, may be referred to the Commission by any of the parties.

(2) In a situation where one party to interconnection negotiations considers that it is not getting fair deal from the

other party to reach an agreement within the specified time of 3(three) months or the other party fails to start interconnection negotiations within 15(fifteen) days, it may apply to the Commission. The concerned parties, if aggrieved, may apply anytime during operation of the interconnection services.

(3) The concerned parties may employ an informal mediation process if agreed mutually and appoint a mediator to facilitate a compromise of the disputes, before bringing it to the Commission if it is unsuccessful.

(4) The application for resolving the dispute shall contain the nature of dispute, the reasons on which it is based, points of disagreement, explanation of the view-points, reasoning for the claim and all related supportive documents.

(5) On receipt of the complaint, the Commission shall examine whether sufficient information has been submitted and if necessary direct the complainant to furnish the required information to accept the dispute and commence the dispute resolution process. If it finds that the dispute does not fall within the jurisdiction of the regulator, the Commission shall not accept the complaint.

(6) Once the dispute is accepted, the Commission shall notify both the parties of its initiative and start dispute resolution process and may take the assistance of technical, financial and legal experts at the cost of the disputing parties.

(7) While resolving the interconnection dispute, the Commission may ask for any relevant information or data that is not available, carry out initial investigation on all technical, economic, commercial and legal matters take cognizance of the market position & capacity resources of the opposite party and circulate a draft determination paper, inviting responses from the concerned parties within a specified time.

(8) After considering all matters provided in the draft determination paper and the responses and claims of defence by the concerned parties, the Commission shall complete the investigation and assessment of the dispute and give its decisions or final determination, which will be final and binding upon the parties.

Syed Marghub Murshed

Chairman

Bangladesh Telecommunication

Regulatory Commission

LEGAL DECISIONS

Telegraph Act, 1885-

Section 4- Power of Government to grant licence for broadcasting-

Wireless Telegraphy Act, 1933-

Section 5- Transparency in the process of granting licence-

Ekushey Television was granted licence by the Government for broadcasting television programmes. There was lack of transparency in the process of granting licence. In view of the illegality in the process of granting licence the High Court Division held the licence illegal, void and of no legal effect.

Chowdhury Mohammad Hossain Vs. Bangladesh and otehrs, 7 MLR (2002) (HC) 237.

Bangladesh Telecommunications Act, 2001 (Act No. 18 of 2001)-

Section 37(3)(g), 89 and 90- Monopoly of any operator in providing telephone services to the consumers in any particular area is opposed to law and national policy-

Contract Act, 1872-

Section 23- Agreement opposed to law is void-

Bangladesh telecommunication Regulatory Commission (BTRC) is empowered to amend licence condition-

Bangladesh Telecommunication Regulatory Commission (BTRC) is empowered under section 89 and 90 of the Bangladesh Telecommunications Act, 2001 to amend any condition of licence or licence agreement existing at the commencement of the Act, which are inconsistent with the provisions of the Act, 2001. The co-exclusivity clause of the licence agreement of the World Tel with the BTTB prohibiting entry of other operators for 4 (four) years in the Dhaka Multi-Exchange area where there is huge unmet demand for telephone having been found inconsistent with the provisions of law and opposed to public interest has been cancelled by the BTRC in exercise of its power under section 89 and 90 of the Act, 2001 which the High Court Division and the apex court held perfectly justified.

World Tel Bangladesh Ltd. Vs. Bangladesh and others, 11 MLR (2006)(AD) 65.

ABBREVIATIONS

ADP	- Annual Development Program
ADR	- Alternative Dispute Resolution
APT	- Asia Pacific Telecommunity
BCS	- Bangladesh Cable Shilpa Ltd. Khulna
BLT	- Build, Lease and Transfer
BOO	- Build, Operate & Own
BOT	- Build, Operate and Transfer
BTRC	- Bangladesh Telecommunication Regulatory Commission (established on 31st January 2002 under the Bangladesh Telecommunication Act, 2001.)
BTTB	- Bangladesh Telegraph and Telephone Board
CTB	- Commonwealth Telecom Bureau
CDMA	- Code Division Multiple Access
GMPCS	- Global Mobile Personal Communication by Satellite
GOB	- Government of Bangladesh
GSM	- Global system for Mobile
GTT	- Global Information Infrastructure.
HF	- High frequency
ICT	- Information Communication Technology
ISD	- International Subscriber Dialing
ISP	- Internet Service Provider
IT	- Information Technology
IT	- Internet Telephony
ITU	- International Telecommunication Union
KBPS	- Kilo Bite Per Second
MOU	- Memorandum of Understanding
MOPT	- Ministry of Post and Telephones
MLR	- Mainstream Law Reports
MW	- Micro Wave
NGO	- Non-Government Organisation
NII	- National Information Infrastructure
NIRD	- National Institute of Research and Development
NIHRDT	- National Institute for Human Resource Development in Telecommunication
NWD	- Nation Wide Dialing
PCO	- Public Call Office
PSTN	- Public Switched Telephone Network
PSTN	- Private Service Tele-network
SHF	- Super High Frequency
TSS	- Telephone Shilpa Sangstha; Tongi
UHF	- Ultra High Frequency
VAS	- Value Added Service
VHF	- Very High Frequency
VOIP	- Voice Over Internet Protocol
VAT	- Value Added Tax
VSAT	- Very Small Aperture Terminal
WTO	- World Trade Organisation