

Translated by Donna L. Hicks  
Santo Domingo Speakers Bureau, S.A.  
Tel.: (809) 566-3085; Fax.: (809) 289-0080; E-mail: donna.hicks@codetel.net.do

**YEAR CXLVI**

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# **OFFICIAL GAZETTE**

**Founded 2 June 1851**

**Administrative Director: Dr. César Pina Toribio**  
**Legal Consultant of the Executive Power**

**Santo Domingo de Guzmán, N.D., Dominican Republic**  
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# **General Telecommunications Law No. 153-98**

## **THE NATIONAL CONGRESS In the Name of the Republic**

### **Law No. 153-98**

**WHEREAS:** It is the duty of the State to encourage the development of telecommunications in order to contribute to the socio-economic expansion of the Nation;

**WHEREAS:** It is the interest of the State to organize and promote fair, efficient, and sustainable competition within the telecommunications sector;

**WHEREAS:** It is the objective of the State to ensure the Nation a telecommunications service, through the participation of the private sector, which is efficient, modern, and at a reasonable cost;

**WHEREAS:** It is the interest of the State to guarantee telecommunications services in conditions accessible for the entire country, and for all social groups, in accordance with the principles of universal service sponsored by the international entities of which the Dominican Republic forms part;

**WHEREAS:** Telecommunications Law No. 118 dated February 1, 1966, must be substituted by a new legal instrument which will respond to the present and future needs of the country, and which is consistent with the agreements, conventions, and treaties subscribed and ratified by the Dominican Republic.

**HAS GIVEN THE FOLLOWING LAW:**

**GENERAL TELECOMMUNICATIONS LAW**

## **CHAPTER I**

### **DEFINITIONS**

#### **Article 1.- Definitions of the law.**

For effects of the present law and its regulations of application, the following terms will be understood to mean:

- Lease of circuits: Temporary transfer in the use, offered by a concessionaire of a carrier service, of the medium for the establishment of a point to point link or from one point to multi points, for the transmission of telecommunications signals, for a particular agreed upon rental sum.
- Concession area: Geographical area within which the rendering of public telecommunications services by a concessionaire is permitted.
- Assignment: Authorization of the regulatory body, in the act of granting a concession or license, for the use of a frequency associated with particular conditions of use, by a radioelectric station.
- Attribution (assignation): Registration of a particular frequency band in the national plan of frequency attributions, so that it be used by one or several terrestrial or space radiocommunication services or by radio-astronomy service under specified conditions. This term is also applied to the band of frequencies considered.
- Client: User who has signed a contract for rendering of public telecommunications services, with a concessionaire of said services.
- Effective competition: That which takes place between two or more persons or companies, in order to service a particular portion of the market by means of the improvement of the supply in quality and price, in benefit of the client or user.

- Fair competition: That which is developed without incurring in practices which actually or potentially distort or restrict it. Said practices can be predatory or restrictive on the part of the competition, in other words, unfair.
- Sustainable competition: That which due to its characteristics can last in time, because it is based on conditions proper to the rendering itself.
- Intra-company communications: Telecommunications by means of which a company communicates internally with its affiliates, branches, and, under reservation of the laws and regulations of the country, affiliates, or by means of which the latter communicate among themselves. The latter do not include the commercial or non-commercial services supplied to companies which are not affiliates, branches, or linked affiliates, or which are offered to clients or possible clients.
- Sound broadcasting: Form of telecommunications which permits the emission or transmission of audible signs destined for direct reception by the general public.
- Televised broadcasting: Form of telecommunication which permits the emission or transmission of non-permanent images of fixed or mobile objects, by means of electromagnetic waves transmitted by cable, through space, without artificial guide, whether it be by means of terrestrial stations or satellites, or by any other means.
- Discrimination: The unequal treatment given to equivalent situations.
- Radioelectrical public domain: By public domain is understood the radioelectrical spectrum or spectrum of radioelectrical frequencies, and the space through which radioelectric or hertz waves can be transmitted.
- Terminal equipment: Device in which a telecommunications circuit ends in order to permit the user to access a point of network transmission.

- Radioelectrical spectrum: The totality of radioelectrical waves whose frequency is comprised between 9 kilohertz and 3,000 gigahertz.
- Earth station: A station located on the earth's surface, or in the main part of the terrestrial atmosphere, intended to establish communication with one or several space stations, as well as with one or several stations of the same nature, by means of the employment of one or several satellite reflector stations. Or other objects situated in space.
- Essential installations: Every installation of a network or public service of telecommunications transportation which is supplied exclusively or predominantly by a single provider or by a limited number of providers, and whose substitution in terms of supply of service is not feasible economically or technically.
- Interconnection: Union of two or more networks, technically and functionally compatible, belonging to different operators of public telecommunications services, the object of the union being to transport the traffic of signals which run between them. Interconnection includes the commercial and technical mechanisms by means of which the providers of services connect their equipment, networks, and services, in order to supply their clients access to the clients, services, and networks of other providers.
- Interface: Bordering zone shared between two functional units and defined by functional characteristics, common physical interconnection characteristics, characteristics of signals, and other characteristics, as applicable.
- International long distance telephone call: Telephone call established between one terminal equipment located within the national territory, with another located outside of the country.
- Domestic long distance telephone call: Telephone call established between one terminal equipment located within a given zone of

local rate, with another located outside of said zone, inside national territory.

- Local telephone call: Telephone call established between two terminal equipments located within a single zone of local rate in which a uniform rate is applied.
- Radioelectric waves or hertz waves: Electromagnetic waves whose frequency is set conventionally below 3,000 gigahertz and above 9 kilohertz, which is transmitted through space without artificial guide.
- Orbit: Trajectory which describes, with relation to a specific system of reference, the center of gravity of a satellite or object in space, by the main action of natural forces, fundamentally those of gravitation.
- Satellite orbit: Trajectory covered by a telecommunications satellite as it rotates around the earth.
- Minimum plan of expansion: The program of installations and expansions of services and systems which an operator authorized for the rendering of telecommunications services has promised to fulfill, for the purpose of achieving the goals and objectives agreed to in its concession contract during a particular period of time.
- Dominant position: That condition in which a lender of telecommunications services finds itself who possesses unique facilities or facilities whose duplication is anti-economical; or the condition in which renderers of services find themselves who have a monopoly situation in the marketplace of a particular telecommunications service or product, sufficiently important to permit them to impose their will for lack of alternative within the marketplace of said product or service, or when, without being the only provider of said product or service, the same are not susceptible to being rendered in an environment of effective competition.

- Unfair practices: Any deliberate action which tends to harm or eliminate competitors and/or confuse the user and/or to seek an illicit advantage, such as:
  - a) Deceitful or false advertising destined to prevent or limit free competition;
  - b) Promotion of products and services based on false statements, concerning the disadvantages or risks of other products or services of the competitors; and
  - c) Industrial bribery, the violation of industrial secrets, the obtaining of sensitive information by non-legitimate means and the simulation of products.
- Practices which restrict competition in the telecommunications sector. All those actions, conduct, agreements, conventions, and conditions which can actually or potentially distort, restrict, or falsify free competition in a particular telecommunications service or product in whole or in part of the domestic market and to the detriment of providers and users of said service or product. They are made up of:
  - a) Verbal or written agreements or conventions which are made between the subjects of the present law or actions or conduct which, deliberately or not, prevent or obstruct the entry or permanence of telecommunications companies, products, or services in whole or in part from the market; and
  - b) The abuse of one or several subjects of this law of its position of dominance.
- Principle of continuity: Due to the principle of continuity, the service must be rendered in the area of concession without unjustified interruptions.
- Principle of generality: Due to the principle of generality, the service must be rendered in the area of concession, to whoever requires it and is regulatory, technical, and economic conditions to access it.

- Principle of equality: Due to the principle of equality, the service must be rendered without discrimination of price and quality to the general public. The categorizations of users which may be made must have a reasonable basis and not be arbitrary in the opinion of the regulatory entity.
- Principle of neutrality: Due to the principle of neutrality, the service must be rendered taking into account its own conditionings, without distorting by means of discrimination or arbitrariness the functioning of other markets.
- Principle of transparency: By principle of transparency is understood the fact that operators offer the services under such conditions that all possible users may have prior knowledge of each and every one of the technical and economic conditions related to their provision.
- Important provider: A provider who has the capacity to affect in an important manner the conditions of participation (from the point of view of price and supply) in a particular market , of basic telecommunications services, as a result of the control of essential installations, or of the use of its position in the market.
- Point of interconnection: The place or point of the network where the interconnection is produced, that is, the point where traffic is delivered or received.
- Point of network termination: Totality of physical or radioelectrical connections and their technical access specifications, which form part of the public network and which are necessary to have access to this public network and to a carrier service.
- Radiocommunication: All telecommunications transmitted by radioelectrical waves.
- Private network of telecommunications transport: Telecommunications network or system which a person or company establishes , with its own infrastructure and/or by means

- of the renting of channels or circuits of public telecommunications networks, which permit telecommunications between two or more defined terminal points on a network.
- Signal: Physical phenomenon in which one or more of its characteristics vary in order to represent information.
  - Basic services: The carrier or end telecommunications services.
  - Cable distribution service: Totality of services of distribution consistent in the supply or in the exchange of information in the form of images or sound which are rendered to general users, in their domiciles or dependencies, by means of cable or fiber optic networks.
  - Fixed service: Service rendered by networks or systems installed in fixed points, with fixed terminal equipment.
  - Information service: Service of production and generation of news, entertainment, or information of any type, normally associated or linked for its transmission, emission, or reception, to telecommunications services.
  - Mobile service: Service which is rendered through the radioelectric medium with mobile terminal equipment.
  - Radiocommunications services: The public or private telecommunications services whose medium of transmission is fundamentally the radioelectrical spectrum.
  - Satellite radiotransmission service: Radiocommunication service in which the signals emitted or retransmitted by space stations are destined to direct reception by the general public. In the satellite radio transmission service the expression of direct reception includes both individual and common reception.
  - Terrestrial radio broadcasting service: Broadcasting service which uses transmission systems by means of radioelectrical waves, which are distributed throughout the surface of the earth or by means of ionospheric reflection.

- Public telecommunications transport service: Any telecommunications transport service which is offered to the general public. Such services can include, among others: telegraph, telephone, telex, and data transmission characterized by the transmission in real time of information facilitated by the clients, between two or more points, without any change from one extreme to the other in form or content of said information.
- Vertical services: The modalities of basic services which add greater facility to them. Vertical services of telephone service, among others, will be considered to be the call-waiting signal, or call transfer (forwarding), mechanisms of redial or teleconferences.
- Rate: The price to the general public or end user of a public telecommunications service.
- Accounting rate or distribution rate: The fixed rate per unit of traffic as per an agreement between operators, for a particular relation which is used for establishing accounts between said operators in their relationships of international long distance service. The accounting or distribution rate includes the liquidation rates, and when applicable, transit rates.
- Liquidation rate: The rate corresponding to the renderer of a country in which a communication originates or terminates coming from the distribution of the accounting rate.
- Telecommunications: The transmission and reception of signals by any electromagnetic means.
- Users: Consumers of services and providers of services.
- Number 1 World Zone: Geographic zone defined by the International Telecommunications Union (UIT) for purposes of numbering, made up of the United States, Canada, and a group of Caribbean islands, including the Dominican Republic.

- Service zone: Part of the concession area in which a concessionaire of a public telecommunications service effectively renders the concessioned service to the general public.

## **CHAPTER II**

### **SCOPE AND OBJECTIVES**

#### **Article 2.- Scope of the law.**

The present law constitutes the basic regulatory framework which is to be applied throughout the national territory, to regulate the installation, maintenance, and operation of networks, the rendering of services, and the provision of telecommunications equipment. It must be interpreted pursuant to the international conventions ratified by the Dominican Republic, and will be complimented by the regulations dictated by the competent authorities.

#### **Article 3.- Objectives of the law.**

The objectives of public and social interest of the present ordinance, in light of which its provisions must be interpreted, are the following:

- a) To reaffirm the principle of universal service through:
  - i. The guarantee, in rural and urban low-income areas , of the possibility of access to a minimum and efficient telephone service at accessible prices, by means of the free functioning of markets and use of mechanisms provided by this law;
  - ii. The satisfaction of the demand for public telecommunications services in conditions of free competition, ensuring continuity, generality, equality, and neutrality of said services; and
  - iii. Free access to public telecommunications networks and services in conditions of transparency and non-

discrimination by the providers and users of telecommunications services, the generators and receivers of information, and the providers and users of information services;

- b) To promote the rendering of telecommunications services with characteristics of quality and price which will contribute to the development of productive activities and of services in conditions of international competitiveness;
- c) To guarantee the right of the user to choose the providers of the telecommunications service which in his judgment is most convenient to him;
- d) To ratify the principle of freedom of provision, by the owners of concessions obtained according to the present law, of all types of public telecommunications services, including the freedom of construction and operation of systems and facilities;
- e) To promote participation in the market of public telecommunications services by providers with capacity to develop fair, effective, and sustainable competition, which will be translated into a better supply of telecommunications in terms of prices, quality of service, and technological innovation;
- f) To ensure the exercise, by the State, of its function of regulation and inspection of the modalities of rendering of service, within the limits of the present law, in an impartial manner, by means of the creation and development of an independent and efficacious telecommunications regulatory body; and
- g) To guarantee the administration and efficient use of the public domain of the radioelectrical spectrum.

### **CHAPTER III**

#### **GENERAL PRINCIPLES**

#### **Article 4.- National jurisdiction**

Telecommunications are of national jurisdiction, and therefore taxes, rates, contributions, and rights shall be applied on a national level. Special standards which limit, prevent, or obstruct the installation of telecommunications may not be pronounced, except for those which come from the application of the present law.

#### **Article 5.- Secret and inviolability of telecommunications**

Telecommunications and the information and data emitted by means of telecommunications services are secret and inviolable, with the exception of judicial intervention pursuant to common law and provisions of special laws. Those lending public telecommunications services must comply with said inviolability, and shall not be liable for the violations committed by users or third parties without their participation, guilt, or fault.

#### **Article 6.- Undue (improper) use of telecommunications**

The use of telecommunications contrary to laws or which is intended to commit crimes or obstruct the action of justice is prohibited.

#### **Article 7.- Emergency, defense, and national security.**

In the event that conditions of security and national defense are compromised, or in the event of emergency or officially declared catastrophes, the Executive Power, through the competent entity, may dictate instructions which must be complied with by the providers and users of telecommunications services. Said orders shall be adopted within full respect for the constitutional framework in effect.

#### **Article 8.- Practices which restrict competition.**

8.1. In commercial relations between providers of public telecommunications services, it is forbidden to apply unequal conditions to for equivalent services, which will create disadvantageous situations for third parties.

8.2. The providers of public telecommunications services may not perform practices which limit, impede, or distort the right of the user to free choice.

8.3. Practices which restrict competition are, among others which may exist, the following:

- a) Abuse of dominant market positions, especially over essential installations;
- b) Predatory actions or practices which tend to falsify or which effectively or potentially limit or distort sustainable, fair, and effective competition; and
- c) The refusal to negotiate in good faith or the generation of unjustified delays in the negotiations which place a present or potential competitor at a disadvantage.

**Article 9.- Basic technical plans and applicable technical standards.**

The concessionaires shall be obligated to respect the basic technical plans and technical standards established by the regulatory body. Said standards shall be adjusted to international practices in use in the Number 1 World Zone, and to the recommendations of international entities of which the Dominican Republic forms part, guaranteeing free access and inter-operability of networks in conditions which are non-discriminatory and transparent.

**Article 10. Connection of systems and equipment**

10.1 Owners of public telecommunications networks must permit the connection of all the equipment, interfaces, and telecommunications apparatus duly standardized by other providers in the terms of clause a) of Article 62.

10.2 The marketing of terminal equipment and the installation of facilities on the user side of the network will be done in conditions of free competition. Consequently, the responsibility of the providers of public services shall be extended up to the point of termination of their networks. The installations on the user side of the network must be made by a competent professional, according to the regulation which may be dictated to that effect.

10.3 All telecommunications apparatus, devices, systems, and installations which generate electromagnetic waves of whatever nature must be installed and operated so that they not cause any harm to persons or damage to things nor interference harmful to the domestic or foreign telecommunications services, nor interruptions in their functioning.

### **Article 11.- Goods (properties) of public domain**

The owners of public telecommunications services will have the right to use goods (properties) of the public domain for displaying their networks and installing their systems, abiding by the pertinent municipal norms, especially in matters of protection of cultural and historical patrimony, in which case they must be underground.

### **Article 12.- Easement**

12.1 Easements for the installation of telecommunications facilities and systems for public services which fall on private properties must be agreed upon by the parties and will be governed by the general norms of common law, with the exception of the term or statute of limitations of the actions, which shall be one year.

12.2 When the parties do not come to an agreement concerning a matter of public telecommunications services, an easement shall be understood to be incorporated in full right, and legal for the indicated effects, so long as the regulatory body, by motivated resolution, declares the easement indispensable for the service. In this case, the corresponding compensation shall be set judicially pursuant to the procedure for expropriation which the law establishes, and will be advanced by the interested concessionaire. The right of this article may be exercised even before there exists a definitive ruling with authority of judged matters, so long as the interested concessionaire bonds the payment of the amount which the court may set provisionally, by hearing the parties and an expert.

## **CHAPTER IV**

### **TELECOMMUNICATIONS SERVICES**

#### **Article 13.- Classification of telecommunications services**

Telecommunications services are classified as:

- a) Carrier services;
- b) End services or teleservices;
- c) Value added services; and
- d) Transmission services.

#### **Article 14.- Types of services**

14.1 Telecommunications services may be public or private.

14.2 Public telecommunications services are those which are rendered to the general public under non-discriminatory conditions, in exchange for an economic compensation.

14.3 Private telecommunications services are those established by a person or company to satisfy strictly their own communications needs or those of others who make up the social, economic, or financial group to which it pertains.

14.4 Private telecommunications services may not be rendered to third parties except when dealing with a value added service used as a means to fulfill the corporate objective of the company, so long as said corporate objective is not precisely the rendering of telecommunications services.

### **Article 15.- Telecommunications carrier services**

15.1 Carrier services are those telecommunications services which supply the capacity necessary to transport the signals between two defined network termination points, which permit the rendering of other public or private telecommunications services .

15.2 Carrier services of a public nature are governed by the principles of transparency, non-discrimination, and neutrality with regard to the services which they transport.

15.3 Carrier services may be local, domestic long distance, and international long distance. The leasing of links or circuits is considered to be a carrier service.

### **Article 16.- End services or teleservices.**

They are those telecommunications services which supply the complete capacity which make possible communication between users. The renderer of a public end service shall provide the user-network interface corresponding to that service.

### **Article 17.- Value added services**

17.1 Value added services are those telecommunications services which, by using as support carrier services, end services, or transmission services, add or contribute some characteristic or facility to the service which serves as base.

17.2. The entities rendering carrier, end, and transmission services, whether or not they render value added services, shall guarantee the principle of neutrality and non-discrimination vis-à-vis renderers of value added services who need to use their essential installations.

### **Article 18.- Transmission services**

18.1 Transmission services, whether they be sound or televised, are telecommunications services in which the communication is performed normally in a single sense or direction to several points of reception simultaneously. Transmission services may include facilities which permit communication in inverse direction, that is, from the receivers to the transmitting center, so long as said communication does not constitute a service independent from the transmission service.

18.2 Transmission services may be public or private, depending on whether they are destined to the general public or rendered by a person or company to satisfy their own needs.

18.3 According to the means which they use to transmit, the emissions can be classified as radiotransmission service or cable transmission services.

18.4 Radiotransmission services can use terrestrial systems or satellite services

18.5 Sound radiotransmission and television service and cable transmission service are transmission services.

18.6 Carrier services of transmission services may be used to serve as carriers for other telecommunications services, and vice versa.

**CHAPTER V**  
**CONCESSIONS AND LICENSES**

**Article 19.- Concessions**

A concession granted by the regulatory body shall be required for the rendering to third parties of public telecommunications services, with the exceptions provided for in the present chapter. The regulation shall provide for the procedures for competition, collection for a particular type of concession, and shall respect the principles of equality and non-discrimination.

**Article 20.- Licenses**

A license granted by the regulatory body shall be required for use of the public radioelectric domain, with the exceptions established by the regulation.

**Article 21.- Simultaneousness of requirements.**

When for the rendering of a public telecommunications service concessions and licenses are required, they shall be granted simultaneously.

**Article 22.- Legal nature**

In order to obtain concessions and the corresponding licenses to render public telecommunications services, one shall be required to be incorporated as a company in the Dominican Republic.

**Article 23.- Qualification**

23.1 In order to have access to a concession to render public telecommunications services, they must have the qualifications

established by the regulation, whether they be general or eventually specific for particular services.

23.2 The respective regulation must provide as a minimum the technical and economic requirements necessary, the presentation of projects and the commitments of implementation plans.

#### **Article 24.- Mechanism of competition**

24.1 The regulatory body must notification of public bidding for the granting of concessions or licenses when it is required to use the radioelectrical spectrum attributed to public radiocommunications services, except in cases of emergency justified to the regulatory body. Exceptions to this procedure shall be the institutions of the State and those authorities operating not-for-profit, as well as religious institutions recognized by the State and who act pursuant to what is established by Article 8 of the Constitution of the Republic.

24.2 The notification of bidding must be published at least ninety (90) days prior to the presentation of proposals, clearly indicating the object and time periods. Said publication shall be made in a newspaper of wide national circulation.

24.3. The biddings shall be divided into two stages: the first, the qualification, according to the general guidelines and particular objective, non-discriminatory and determinable requirements, which previously shall be established; and second, the comparison of offers. The mechanisms for selection shall be objective, and the biddings must provide for homogeneous guidelines which will permit the comparison of offers. The adjudication shall correspond to the most convenient offer according to the criteria established in the bases of the bidding.

#### **Article 25.- Processing of concession**

In cases determined by the regulation, in which the mechanism of bidding is not in order, and once an application for concession is made with the regulatory requirements, by an interested party who has the conditions stipulated in Articles 22 and 23, the

regulatory body shall proceed to examine it, and once it has determined that all of the requirements have been met, it will so communicate to the applicant so that it proceed to publish in a newspaper of wide national circulation, an extract of the application with the requirements which the regulation establishes. Any interested person may make observations in the term of thirty (30) calendar days counting from the date of publication. Once said term has expired, considering the observations which have been made, the regulatory body shall proceed, in its case, to the immediate granting of the concession requested.

### **Article 26.- Initiation of rendering of new services**

When a concessionaire possesses a concession which implies the possibility of rendering several public services, within the thirty (30) days term from the beginning of the rendering of a service which, until that moment it did not provide, it must inform the regulatory body of the compliance with the requirements necessary to lend such service, in matters of accounting, minimum plan of expansion or other type which the regulation may set.

### **Article 27.- Duration, renovation, and revision**

27.1 The concessions shall have the duration which the interested party may request between five (5) and twenty (20) years, and shall be renewal, at the request of the interested party, for equal terms.

27.2. Requests for renewal must be made within a term no greater than one (1) year prior to the end of the period of effectiveness, and the regulatory entity must make a pronouncement in a maximum term of six (6) months, from date of receipt of the request. Once said term has expired without any express negative ruling from the regulatory body, the renewal shall be deemed to have been granted.

27.3. The only causes for non-renewal of the concession shall be those provided for for its revocation.

27.4. The regulatory body may, every five (5) years, review the conditions of rendering of service. Said review shall be performed after consultation with the parties, and observing the respect for acquired rights, economic equilibrium fo the contract, and investments made by the concessionaire companies.

27.5. The licenses which may be granted linked to a concession of public telecommunications services shall have the same duration as said concession, including its renewals.

### **Article 28.- Assignment**

28.1. The transfer, assignment, lease, or granting of the right of use of any title and the incorporation of a lien over the concessions or licenses must be carried out, under penalty of forfeiture, after authorization of the regulatory body, which may not be denied it without justified cause. The acquiring party, who must fulfill the requirements demanded by the granting party, shall be submitted to the same obligations as the concessionaire or licensee.

28.2. In the situations foreseen in the previous paragraph, the sale or assignment of shares or corporation participation (equity) which implies the loss by the seller or assigner, of corporate control or the possibility of forming the corporate will, shall require the authorization of the regulatory body.

28.3. Transfers shall not be authorized when the concessionaire of the public telecommunications services has not complied, in quality and time period, with the minimum plan of expansion foreseen in its concession contract, or when said concession is in conditions of being revoked. Neither shall transfers be authorized until the cancellation of the rights, charges for noncompliance, and taxes foreseen by this law which the concessionaire has pending payment.

28.4 In the situations foreseen in the above paragraph, the sale or assignment of shares or corporation equity (participation) which implies the loss by the seller or assigner of the corporate control or of the possibility of forming corporate will shall be prohibited.

## **Article 29.- Causes for revocation**

29.1. The following shall be causes for revocation of the concession or registration and, in such case, of the corresponding licenses:

- a) Noncompliance in quality and time period with the minimum plan of expansion foreseen in its concession;
- b) The state of cessation of payments of the concessionaire, declared by irrevocable ruling of the competent court;
- c) Reincidence in the commission of very serious infractions, with definitive sanction applied;
- d) The illegitimate use of resources from the “Telecommunications and universal service development fund”;
- e) The impossibility of compliance with the corporate object of the concessionaire according to its statutory mandate insofar as it is related to the concession and/or license granted;
- f) Disconnection, when it implies the definitive impossibility of continuing to render the service; and
- g) Unjustified suspension of the service.

29.1 Revocations may be total or partial, for one or more services.

## **Article 30.- General obligations of concessionaires.**

In general, and without prejudice of others established by the regulation, the following shall be essential obligations of concessionaires of public telecommunications services:

- a) Compliance with the minimum expansion plan of the services provided for in the concession document, in the plans

established by a particular timetable, under penalty of revocation of its concession;

- b) Continuity in the rendering of the public services in its charge;
- c) The rendering of service to interested parties who request it within the zone of service, under non-discriminatory conditions, in the terms and with the quality conditions set by their concessions or the regulatory body in the pertinent regulations.
- d) To permit free access to its networks and to the services which they render through them, under reglamentary and non-discriminatory conditions, to providers and users of telecommunications services, to generators and receivers of information, and to providers and users of information services;
- e) The establishment, by the concessionaries who provide local telephone service, gradually, so that it includes all its systems, of a mechanism for access and automatic identification of the client's telephone number, which will permit the user of the service to select the domestic or international long distance services of the provider of his choice. Access to other different providers than the one who offers the local service shall be achieved by dialling the same number of digits to identify any concessionaire rendering long distance services. For that, the concessionaries who provide local telephone service must give to the concessionaires rendering long distance services equal access to their network and services of invoicing, and are prohibited from any type of discrimination. This system of access and its evolution until getting to the "Equal access system" will be put into effect by following the technical standards adopted by the countries of the World Zone Number 1 on this point. The form of application of these norms, their terms and evolution, shall be established by the regulatory entity by means of the pertinent regulations.

- f) To participate in the perception of “Contribution to the development of telecommunications” (CDT) in the form foreseen in this law and its regulation;
- g) To permit officials of the regulatory body, both owners of concessions and their dependents, free access to their installations, dependencies, and equipment, for the sole and exclusive purpose that they may be able to inspect compliance with the pertinent legal and regulatory norms, in the cases foreseen by this law for request of inspection or information;
- h) In the event that a concessionaire renders several public telecommunications services, it must keep separate accounting for each service, making it possible to control fair and effective competition; and
- i) Others which this law, its regulations of application, concessions, or licenses may establish.

### **Article 31.- Assistance to user**

In accordance with the regulations, those rendering public telecommunications services must provide consultation service for subscribers related to related to those who have not indicated reservations to the contrary, and who appear in the guidebook. Also, they must have free consultation services on applicable rates for the different services which they offer; attention to general consultations; receipt and processing of claims by clients and users, and attention to emergencies. All of these services must be accessible through any telephone, including public phones.

### **Article 32.- Service for ham radio operators**

In order to operate ham radio stations, the recording of a special registration will be required which, to such effect, the regulatory body will carry. At the request of the interested party or an entity recognized as a ham radio association, the regulatory body may record the interested party in the corresponding category.

### **Article 33.- Mobile aeronautical service**

In order to operate mobile aeronautical service stations, the recording of a Special Registration will be required, which the regulatory body will carry to that effect. The owner of the registration will be responsible for the use of the authorized station pursuant to the international agreements and technical standards which the regulatory body may pronounce within the sphere of its competence.

### **Article 34.- Mobile maritime service**

In order to operate mobile maritime service stations, the recording in a special registration will be required, which the regulatory body will carry to that effect. Every ship or embarkation which is subject to the International Convention on Security of Human Life at Sea (SOLAS) must be equipped with a radio communications station which complies with the minimum technical standards established in said convention, with the exceptions provided by the regulation. The operators must observe the corresponding national and international regulations.

### **Article 35.- Registration of the value added services**

For the rendering of public value added services, qualified as thus by the regulatory body, no concession will be required but rather only the registration in a special record which the regulatory body will carry to that effect.

### **Article 36.- Resale of services**

Those who contract services to concessionaires in order to resell them by marketing them to the general public must be recorded in a special registry which the regulatory entity will carry to that effect. Services may not be resold if thereby the quality of the service rendered by the concessionaire is harmed, so long as it is previously backed by the regulatory entity.

### **Article 37.- Private telecommunications services**

37.1 For the use of private telecommunications services, it will be necessary to inscribe them in a special record which the regulatory entity will carry to that effect.

37.2. The party requesting the inscription must provide all the documentation which may be required, in order to be able to determine the qualification of the service as private.

### **Article 38.- Duration and renewal**

Registrations in the special records provided in the present chapter shall be governed by what is established in the corresponding specific orders.

## **CHAPTER VI**

### **RATES AND COSTS OF SERVICES**

#### **Article 39.- Freedom of rate**

The prices to the public or rates of public telecommunications services shall be set freely the companies providing the services, unless the regulatory entity, by means of motivated resolution, deems that in a concrete case there do not exist in the service market sufficient conditions to ensure effective and sustainable competition due to the existence of practices which restrict competition. Only under those circumstances shall the regulatory entity proceed to set them.

#### **Article 40.- Mechanism to set rates**

40.1 In the cases in which the regulatory entity must intervene in the setting of rates due to the causes foreseen in the above paragraph, said rates shall be set by taking as a parameter the costs, including a reasonable remuneration for the investment, calculated

according to what is established in the “Regulation of rates and costs of services.”

40.2. For purposes of guaranteeing the existence of effective and sustainable competition, they may not charge the public for a service less than the cost of same for the provider. By regulation the special procedures shall be established for the setting of rates of service financed by the “Fund for telecommunications development and universal service,” as well as the rates in process of rebalancing.

#### **Article 41.- Interconnection charges**

41.1 Interconnection charges shall be agreed to freely between the concessionaire companies which operate in the national territory.

41.2. The regulatory entity will see that the charges are not discriminatory and that they ensure effective and sustainable competition. In the event of a disagreement between the parties, it may intervene in the setting of same by means of a motivated resolution, taking as parameters the costs, including a reasonable remuneration for the investment, calculated according to what is established in the “Regulation of rates and costs of services.”

#### **Article 42.- Accounting rate**

The accounting rates (rates of distribution) for international service will be agreed to freely between the interested parties. The agreements which may be subscribed must not incur in practices which restrict competition, must not be discriminatory, must respect the recommendations which the international bodies to which the Dominican Republic belongs make in this regard, and must be communicated to the regulatory body, which may review the agreements held, *de oficio* or at the request of one of the parties.

### **CHAPTER VII**

#### **PROMOTION OF UNIVERSAL SERVICE**

#### **Article 43.- Development projects**

43.1. For purposes of compliance with what is established by Article 3, clause a), sections i) and iii) of the present law, the regulatory body shall prepare a biannual plan of concrete projects to be financed, which shall be called “Development projects,” according to the regulations.

43.2. Once each project has been assigned, it will perform follow-up of its execution pursuant to the provisions of the regulation.

#### **Article 44.- Contents and assignation of projects**

44.1. The projects shall be adjudicated by public bidding to the qualified bidder which requests the lowest subsidy, calculated on standardized preestablished bases, and shall contain an indication of zones of service; quality of service; maximum rate applicable, in its case; terms for rendering the service, and penalties for noncompliance.

44.2. The biddings may adjusticate the installation of systems, rendering of services, or both.

#### **Article 45.- Contribution to the development of telecommunications**

45.1. There is hereby created the “Contribution to the development of telecommunications (CDT), which shall consist of an aliquote of two percent (2%) over:

- a) The pre-tax amounts perceived during the month prior to the liquidation of the CDT, from invoicings to end users of public telecommunications services, except for radio broadcasting; and
- b) The amounts perceived by those rendering public telecommunications services during the month prior to the liquidation of the CDT, as payments of correspondent relationship (liquidation) for international services, except for those of radiotransmission.

45.2. For purposes of the present article, end users of those rendering public telecommunications services, the owners of private telecommunications services, when the latter's networks are connected to a public network of the former. On the other hand, end users of a party rendering its services to resalers and those rendering services with networks interconnected through the relationship of interconnection shall not be considered as end users.

#### **Article 46.- Destination and application of the CDT**

The CDT shall be applied in a fixed percentage to the financing of the regulatory body and in a fixed percentage to the financing of development projects. The respective percentages shall be established by regulation.

#### **Article 47.- Mechanism of perception (receipt)**

Those rendering public telecommunications services and resalers of said services shall be retention agents of the CDT. Retention agents will charge on their invoices to end users the amount of the corresponding CDT.

#### **Article 48.- The special account**

48.1. Each party rendering public telecommunications services shall deposit into a special account of the regulatory body in a Bank with corporate seat in the capital city of the Dominican Republic .

48.2. The funds deposited in the special account are not subject to embargo.

#### **Article 49.- Fund for financing development projects**

The regulatory body shall administer, independently of all of the rest of its ordinary activities, a "Fund for the financing of development projects", to which effect it will open a special account. With the resources from this account it will pay or finance the development projects adjudicated.

#### **Article 50.- Participation in the development projects**

Any interested party who has the qualifications to be a concessionaire of public telephone service may participate in the biddings provided for in Article 44.-

## **CHAPTER VIII**

### **INTERCONNECTION**

#### **TITLE I**

#### **PRINCIPLES**

##### **Article 51.- Obligatory Nature.**

The interconnection of networks of different parties rendering public telecommunications services is of public and social interest, and therefore is obligatory, in the terms of the present law and its regulation.

##### **Article 52.- Cooperation agreements between providers**

The providers of public telecommunications services may celebrate agreements between themselves in order to share buildings, systems, facilities, and equipment, which prior to their implementation must be communicated to the regulatory body. The regulatory body shall observe them, in the event that there exist discriminatory clauses or clauses which distort sustainable, fair, and effective competition.

##### **Article 53.- Responsibility (liability)**

When the networks of two or more providers of public services are interconnected, vis-à-vis the clients or users of all of the providers, each company shall be liable only for the acts or facts originating in its network and not for those which originate in the rest of the interconnected networks.

##### **Article 54.- Satisfaction of demand**

The concessionaires whose networks are interconnected must provide the interconnection facilities necessary to satisfy the demand and its growth, in a non-discriminatory manner and in accordance with its availability. In the event that the party to whom is requested an interconnection lacks sufficient availability, the requesting party may provide the facilities necessary so that it exist, which shall be discounted from the future payments which it must make pursuant to what the parties agree upon.

#### **Article 55.- Procedure for disconnection**

When by judicial ruling with authorities of irrevocably judged matter, or through a standardized arbitration award, or by definitive decision of the regulatory body, based on regulatory standards or on legitimate contractual norms, a disconnection is decided on, it shall not be carried out without the regulatory entity's previously having taken the pertinent measures for the sole purposes of safeguarding the situation of the users. The regulatory body may resolve, besides the measure of revocation of the concession or license, in its case, that the committed system be temporarily operated by a third party for effects of guaranteeing the continuity of the service. The regulatory entity may then proceed to auction the system, and in such case, the owner of the system susceptible to disconnection shall have a right only to perceive the amount remaining from the auction, after the pending costs and debts are covered. The regulatory body shall apply these procedures pursuant to the regulation which may be ordered.

## **TITLE II**

### **INTERVENTION OF THE REGULATORY BODY**

#### **Article 56.- Freedom of negotiation**

The conventions of interconnection (interconnection agreements) shall be freely negotiated by the parties, and shall be guided by what is established in the corresponding regulations. In the event of a disagreement, at the petition of either of them or even *de*

*oficio*, the regulatory body shall intervene, and in a term no greater than thirty (30) calendar days, said regulatory body shall determine the preliminary conditions of interconnection, and after non-binding consultation with the parties, shall set the definitive terms and conditions, pursuant to the provisions of Article 41 and of the present law with regard to the charges.

#### **Article 57.- Publication and observation**

Once an agreement is reached for interconnection of public telecommunications networks, it must be submitted by the parties to the regulatory body for the latter's consideration. Simultaneously, it must be published, in its substantive aspects, at least in one newspaper of wide national circulation, after which any affected party who credits a legitimate and direct interest and may make the observations which it deems convenient, in the thirty (30) calendar day term. The regulatory body may observe the convention in the term of ten (10) calendar days, after which in the event that there is no observation, it will be deemed to be accepted in all of its parts. If the regulatory body finds that the convention violates the norms in effect, it will re-send it with its ruling to the contracting parties for its modification and new submission.

#### **Article 58.- Connection of value-added services**

Access of those rendering value added services to public telecommunications networks shall be governed by the norms of this chapter which may be applicable.

#### **Article 59.- Connection of private networks**

59.1 Private networks may not be connected among each other by their own means, excepting when it be necessary for strict compliance with the corporate objective of the owners of both networks to be connected. In that case, the regulatory body must authorize the installation and operation of the linking network.

59.2. Private networks may be connected to public telecommunications networks, after agreement of the parties on the technical and economic terms and conditions of such connection. In

the case of disagreement, the regulatory body shall set the conditions of this connection.

### **Article 60.- Interconnection regulation**

The regulatory body shall pronounce an “Interconnection regulation” containing the technical norms, economic guidelines, and procedural rules to which the interconnection agreements and the intervention of the regulatory body itself must be subjected.

## **CHAPTER IX**

### **STANDARDIZATION OF EQUIPMENT AND APPARATUS**

#### **Article 61.- Certificate of standardization**

Every terminal, equipment, or system susceptible to being connected directly or indirectly to a public telecommunications network, or which uses the public radioelectric domain, must have the corresponding standardization certificate. Excluded from the obtaining of the standardization certificate are equipment destined to be operated in ham radio service.

#### **Article 62.- Issuance of the standardization certificate**

Equipment will be deemed to have the standardization certificate in the following cases:

- a) When a concessionaire of public telecommunications service accepts the connection of the equipment to its network, communicating such to the regulatory entity by means of the corresponding Isits. This acceptance (self-standardization) shall not imply authorization to connect the equipment to other public networks.
- b) When it has a standardization issued by the competent authorities of a country from the Number 1 World Zone; and

- c) When the regulatory body issues it, after performance of the pertinent technical checks by a specialized third party, whether domestic or foreign, duly authorized by said body to do so. Nevertheless, the equipment destined to or which can be susceptible to use the radioelectric spectrum must have the corresponding certificate of standardization obtained by this procedure.

### **Article 53.- Marketing of equipment**

For the marketing in the country of any telecommunications equipment or apparatus, an indispensable requirement will be to have the corresponding certificate of standardization.

## **CHAPTER X**

### **RADIOELECTRIC SPECTRUM**

#### **Article 64.- Legal nature**

The radioelectrical spectrum is a property of public domain, natural, scarce, and inalienable, which forms part of the State's patrimony. Its use and the granting of rights of use shall be performed under the conditions indicated in the present law and its regulation.

#### **Article 65.- International standards (norms)**

The use of the radioelectrical spectrum and spectrum orbit resources are subject to international recommendations and norms, especially those pronounced by the international bodies of which the Dominican Republic forms a part, and acquired right may not be alleged in the use of a particular portion of same.

#### **Article 66.- Powers of regulation, administration, and control**

66.1. The regulatory entity, acting pursuant to the present law, with the "national plan of attribution of frequencies," and with international norms and recommendations, has the power of

management, administration, and control of the radioelectrical spectrum, including the powers to attribute particular uses, specific bands, assign frequencies to particular users, and to control their correct use.

66.2. The regulatory entity, pursuant to what is established in international norms, shall draft the “national plan for attribution of frequencies,” which it will submit to the Executive Power for its approval.

66.3. The regulatory body shall pronounce a “general regulation of use of the radioelectrical spectrum.”

### **Article 67.- Right by use**

67.1. As of their assignation, the use of the frequencies of the radioelectrical spectrum will be taxed with an annual charge, whose amount shall be destined for the management and control of same.

67.2. The “General regulation of use of the radioelectrical spectrum” shall define the forms of use and the methods of calculation of the right to be applied to each one of the uses and services. The regulatory guidelines must be general, based on objective criteria, and non-discriminatory.

67.3. The use of the radioelectrical spectrum for applications of scientific and medical research (ICM) in the bands which are attributed to such effect, and for low-powered equipment so defined by the regulation, shall be exempt from the payment of the tax.

67.4. The value the unit of radioelectrical reservation shall be set and reviewed by decree of the Executive Power, upon the motivated proposal of the Board of Directors of the regulatory entity.

67.5. In the event that the Executive Power not deem to be convenient the proposal of the Board of Directors of the regulatory entity, it will return it to the latter with the pertinent observations, for the purpose that a new proposal be drafted.

### **Article 68.- Use of satellites**

The use of the radioelectrical spectrum by means of communications satellites is governed eminently by international law, without prejudice of subjection to internal law, regarding the segment of land referred to.

Article 69.1. In order to facilitate the functions of control, vigilance, and conservation of the radioelectrical spectrum, the regulatory entity will have the power to install stations for technical checking of radioelectric emissions. For the proper functioning of the stations, limitations may be established on the ownership and domain over the bordering properties, pursuant to the pertinent regulations.

69.2. For purposes of the provisions of the present law, by limitation of ownership and possession, for the defense of the public domain of the radioelectric spectrum and of the stations for technical checking of emissions, will be understood the obligation imposed on owners and possessors of the properties bordering the installations which are the object of the protection, of supporting the limitations which may be established in the pertinent regulations.

69.3. The said owners or possessors may not perform works or modifications on the premises affected, which do not take into account the limitations, once the same have been agreed to by the telecommunications regulatory entity through the procedure which shall be established in the “General regulation on use of the public domain of the radioelectrical spectrum.” The limitations may not ever affect the rights acquired previously to the establishing of the said stations.

69.4. The limitations referred to in the above paragraphs may be imposed for the radioelectrical protection of earth satellite stations, astronomy and astrophysics radio stations, and similar centers, established aeronautical radioelectrical installations, or whenever it is necessary for the good functioning of the public service or pursuant to international agreements.

## **CHAPTER XI**

## **BROADCASTING SERVICES**

### **Article 70.- Broadcasting legislation**

Broadcasting services will be governed essentially by the present law and by the regulations which the regulator entity approves. Also, they will be governed, in terms of their content, by the provisions of the specific legislation which regulates the social communications media and by that which regulates copyrights, whether they are domestic standards of rights or the result of international conventions or agreements subscribed and ratified by the Dominican Republic.

### **Article 71.- Equal access**

Public broadcasting services, whether they be radio sound or television broadcasting by terrestrial waves or by satellite or by broadcasting by cable or other type, will always be addressed to the general public and will be rendered guaranteeing free and equal access to the corresponding concessions granted by the regulatory entity.

### **Article 72.- Regulation on rendering of service and technical plans of frequencies**

72.1- The regulatory body shall approve the corresponding regulations for Rendering of the Service for each modality of broadcasting service. In the case of radio broadcasting services, the regulation shall contain also the technical bases for the establishing of the corresponding technical plan of frequencies.

72.2- The Executive Power shall determine the nature of the exploitation and its objectives in the case of public exploitation, avoiding a monopoly and the abuse of a dominant position.

72.3. The regulations for rendering of service shall contain as a minimum provisions concerning:

- a) The object or purpose of the service;

- b) The nature and legal regime;
- c) Scope of coverage;
- d) Procedure for public biddings and set of conditions; and
- e) Carrier services.

**Article 72.- Requirements to be a concessionaire of a public broadcasting service**

73.1. In order to be a concessionaire of a public broadcasting service, one must comply with the requirements established in Article 22 of the present law, and with those specific requirements which may be determined by regulations for the rendering of each service.

73.2. In the case of public radiobroadcasting services, it will also be required to be Dominican or naturalized foreigner in order to maintain corporate control of the management of the concessionaire company.

**Article 74.- Assignment**

The transfer, concession, lease, or granting of right of use of any title and the incorporation of lien over the concessions of public services of broadcasting must be carried out pursuant to Article 28 of the present law.

**Article 75.- Initiation of functioning**

75.1. For the cases of radio broadcasting services, once the concession is adjudicated, the regulatory body shall assign the corresponding frequency subject to the provisions in the “Technical plan of frequencies,” approved for the service which is the object of the concession. Said assignation must be notified to the concessionaire, and recorded in the corresponding record of frequencies.

75.2. Prior to the beginning of the rendering of the broadcasting services, the regulatory entity must determine that the installation performed corresponds faithfully to the approved technical project.

## **CHAPTER XII**

### **THE TELECOMMUNICATIONS REGULATORY BODY**

#### **TITLE I**

#### **OBJECTIVES AND POWERS**

##### **Article 76.- Regulatory entity**

76.1. The telecommunications regulatory body is created as a decentralized state entity, with functional, jurisdictional, and financial autonomy, with its own patrimony and legal identity. It will have legal capacity to acquire rights and to contract obligations. It will perform the acts and exercise the mandates provided in the present law and its regulations, and it is not subject to embargo.

76.2. The telecommunications regulatory body, which shall be called the Dominican Telecommunications Institute (INDOTEL), will have its domicile in the capital of the Republic, and will have national jurisdiction in matters of regulation and control of telecommunications.

76.3. The regulatory entity will be subject to inspection and control by the Office of the Comptroller General of the Republic.

##### **Article 7.- Objectives of the regulatory body**

The regulatory body must:

- a) Promote the development of telecommunications, by implementing the principle of universal service defined by the present law;

- b) Guarantee the existence of sustainable, fair, and effective competition in the rendering of public telecommunications services;
- c) Defend and enforce the rights of clients, users, and renderers of said services, by pronouncing the pertinent regulations, enforcing the obligations corresponding to the parties, and in such case, by sanctioning those who do not comply with them, pursuant to the provisions contained in the present law and its regulations; and
- d) Ensuring the efficient use of the public domain of the radioelectric spectrum.

#### **Article 78.- Functions of the regulatory body**

The functions of the regulatory entity include:

- a) Drafting regulations of general scope and dictating standards/norms of particular scope, within the guidelines of the present law.
- b) Regulating those services in which the absence of competition is harmful to the user;
- c) Granting, expanding, and revoking concessions and licenses under the conditions provided for by the norms in effect, by permitting the incorporation of new providers of telecommunications services;
- d) Preventing or correcting anti-competitive or discriminatory practices according to the present law and its regulations;
- e) Regulating and administrating, including the functions of control, by means of the stations for technical determination of emissions which may be installed to that effect, the use of limited resources in matters of telecommunications, such as the radioelectric public domain, facilities/powers of numbering, unique facilities, or other similar;

- f) Managing and administering the spectrum orbit resources, including the management of the orbital portions of the telecommunications satellites with their respective bands of frequencies, as well as the satellite orbits for Dominican satellites which may exist and coordinating their use and operation with international entities and organisms and with other countries;
- g) Addressing, pursuant to the principles of the present law and its regulations and safeguarding the public interest, the disagreements which could arise between telecommunications service providers themselves, and with their clients or users;
- h) Controlling the compliance with obligations of the concessionaires of public telecommunications services and of the users of the radioelectric spectrum, safeguarding in their actions the right of defense of the parties;
- i) Whenever necessary, setting the rates for services to the public and the charges for interconnection, pursuant to the present law and its regulation;
- j) Administering, managing, and controlling the use of the radioelectric spectrum, performing itself or through intermediation of third parties, the technical determination of emissions, the identification, localization, and elimination of harmful interferences, watching out that the levels of radiation not pose a danger for public health;
- k) Applying the regime of sanctions in case of commission of administrative faults foreseen in the present law and its regulations;
- l) Administering and managing the resources of the CDT;
- m) Authorizing the concessionaires of public telecommunications services who so request, to assume the condition of signatories of international telecommunications entities, pursuant to the applicable rules, and in such case, coordinating the non-discriminatory participation of the concessionaires of public

telecommunications services in the international telecommunications entities;

- n) Approving, after consultation and coordination with the interested parties, and administering the fundamental technical telecommunications plans which the regulation may establish, by granting reasonable time periods for them to adjust themselves to same;
- o) To dictate technical standards/norms which will guarantee technical, operational, and functional compatibility of the public telecommunications networks, minimum quality of service, and interconnection of networks. Said norms shall fit international practices and the recommendations of the international entities of which the Dominican Republic forms part;
- p) Drafting technical specifications for the standardization of telecommunications equipment, apparatus, and systems, as well as issuing, in such case, the corresponding standardization certificates;
- q) Administering its own resources;
- r) Exercising the powers of inspection over all the telecommunications services, installations, and equipment. To this effect the inspection officials of the regulatory body will have, in the exercise of their functions, the condition of public authority, and must draft an act of determination of same, which will give faith of their contents until proved otherwise;
- s) Proposing to the Executive Power, by means of motivated resolution, the value of the units of radioelectrical reserve; and
- t) Guaranteeing in the “National plan of attribution of frequencies” the reservation of bands and frequencies necessary for the entities of national defense.

**Article 79.- Solution of controversies and protection of user**

The regulation shall establish the mechanisms for solution of controversies, and protection of the user before the collegiate bodies to whom the parties must appear. The arbitration decisions standardized by the regulatory entity, in order to be executed, shall not be subject to the requirements established in Articles 1020 and 1021 of the Code of Civil Procedure, and may be appealed only before the Supreme Court of Justice.

## **TITLE II**

### **INCORPORATION**

#### **Article 80.- Incorporation of the regulatory body**

80.1. The regulatory body will be made up of a Board of Directors which will be its maximum authority, and by an Executive Directorate.

#### **Article 81.- Board of Directors**

81.1. The Board of Directors will be made up of five members designated by the Executive Power, distributed in the following manner: one (1) President with the rank of Secretary of State; the Technical Secretary of the Presidency; one (1) member selected from a slate prepared at the proposal of the companies rendering public telecommunications end services; one (1) member selected from a slate prepared at the proposal of the companies rendering broadcasting services, with the provision that two of the candidates from this last slate will be proposed by the television companies with national scope, and the other at the proposal of the companies of sound radio broadcasting, and the cable television companies; and one (1) member chosen directly and freely, with professional qualification, who will watch out for the rights of the users of the services of the above mentioned companies.

81.2. The Executive Director of the regulatory body will be a member of the Board of Directors with voice but without vote, and will function as secretary of same.

81.3. For the nomination of candidates, the companies rendering public telecommunications services, and broadcasting services must present to the Technical Secretary of the Presidency the slates with the candidates which they select, at the joint proposal of all of the providers. In the event that the concessionaires of the respective category do not agree on a slate within the sixty (60) days following the taking effect of the present law, the position will be covered directly by the Executive Power.

81.4. With the exception of the Technical Secretary of the Presidency, the rest of the members of the Board of Directors will last four (4) years, and their designation may be renewed by the same procedures of designation.

**Article 82.- Requirements to compose the Board of Directors and the Collegiate Bodies.**

82.1. In order to be a member of the Board of Directors and the Collegiate Bodies, it will be required:

- a) To be a Dominican citizen in full exercise of his civil rights; and
- b) To have creditable experience in some of the following disciplines:
  - i. In the control of unfair practices and in the regulation of public services, preferably in the telecommunications market;
  - ii. In the resolution of conflicts, whether it be by arbitration, administrative, or judicial proceedings;
  - iii. In business economics, preferably in telecommunications; or
  - iv. In the use or engineering of telecommunications networks, systems, or services.

82.2. The Board of Directors may set additional requirements in order to be the Executive Director.

**Article 83.- Impediments to be a member of the Board of Directors and the Collegiate Bodies**

The following persons may not be members of the Board of Directors or the Collegiate Bodies, nor the Executive Director of the regulatory entity:

- a) Persons of less than 25 years of age;
- b) Members of the National Congress;
- c) Active members of the Judicial Power;
- d) Those who perform remunerated charges or employment in any of the entities of the State or townships, whether it be by popular election or by means of designation, except for positions of a teaching nature;
- e) Two (2) or more persons who are relatives within the fourth degree of consanguinity or second of affinity; or who belong to the same corporation in a collective name, or who form part of a single board of directors of a stock corporation;
- f) Persons who have been declared in a state of bankruptcy, as well as those against whom bankruptcy proceedings are pending;
- g) Persons who are *sub judice*, or completing sentences or who have been condemned of afflictive or defaming crimes;
- h) The owners, partners, employees, or persons who have an interest in companies subject to the regulatory power of the regulatory body, in a percentage which the regulation shall set, or have been or have had in the two (2) years prior to the designation;
- i) Those who present the same causes for inhibition and recusation as those corresponding to the members of the Judicial Power; or
- j) Those who for any reason are legally incapable (incapacitated/incompetent).

## **Article 84.- Functions of the Board of Directors**

The functions of the Board of Directors are:

- a) To establish the directives of the general policies and criteria to be followed by the regulatory body;
- b) To pronounce the regulations of general scope and norms of particular scope within the rules and competencies set by the present law and maintaining the qualitative criteria of the companies rendering the various public services regulated, and of their users;
- c) To designate and remove the Executive Director and the Internal Auditor;
- d) To approve the internal regulations concerning the administration of the entity, and to set the corresponding remunerations. The remunerations of the personnel of the regulatory entity will be equivalent to those of similar decision-making levels of the private sector;
- e) To hear the appeals against administrative acts pronounced by any functionary of the regulatory body;
- f) To adopt the precautionary and corrective measures referred to in the present law within the context of its regime of sanctions;
- g) To update the amounts of the taxes, rates, duties, canons, as well as the charges for noncompliance provided in the present law;
- h) To submit to the Executive Power for its approval the “National plan of assignation of frequencies”;
- i) To bring charges for noncompliance deriving from faults classified as serious and very serious;
- j) To approve the annual report, the financial statements, and the annual budget of the regulatory body;

- k) To name the members of the collegiate bodies for the solution of controversies and protection of users pursuant to the “Corporate-functional regulation” of INDOTEL;
- l) To take the final decisions concerning development projects and to administer the “Fund for financing development of telecommunications” provided in Chapter VII;
- m) To take as many decisions as may be necessary to make feasible compliance with the provisions of the present law; and In the case of absence, incapacity, or other temporary or permanent impediment of the president of the Board of Directors, his functions will be exercised temporarily by the Technical Secretary of State of the Presidency.

#### **Article 85.- Quorum and majority**

85.1. The Board of Directors may function legally with half plus one of its members, one of whom must be the president of the Board of Directors.

85.2. In order to have legal validity, the decisions of the Board of Directors must be adopted by majority of three.

85.3. The Technical Secretary of the Presidency may be represented by a duly accredited functionary.

#### **Article 86.- Functions of the President of the Board of Directors**

The President will have the following functions:

- a) To sign the resolutions by means of which are granted, expanded and revoked provisional concessions, licenses, and permits, under the conditions provided by the norms in effect;
- b) To represent the Dominican State before international telecommunications entities of which the Dominican Republic

forms part, assisted by the Executive Directorate of the regulatory entity, to which it may delegate particular functions;

- c) To transmit to the regulatory body the directives of the Government with regard to the relations with other countries or with bilateral or multilateral entities in matters of telecommunications;
- d) To impart directives to the Executive Director regarding the measures to be taken when security is compromised, or the needs of national defense or officially declared emergency situations so require;
- e) To call together and to preside over the sessions of the Board of Directors, with double vote, in case of tie, and to determine the matters to be incorporated into the agenda, among those submitted by the Executive Director; and
- f) To supervise the correct execution of the resolutions adopted by the Board of Directors.

### **Article 87.- The Executive Director**

The regulatory body will have an Executive Director, with the following functions:

- a) To exercise the legal representation of the regulatory body;
- b) To exercise, in fulfillment of the mandates of the Board of Directors, the internal administration of the regulatory body;
- c) To decide on the application of the light sanctions foreseen in the present law;
- d) To recommend the application of serious sanctions and very serious sanctions foreseen in the present law; and
- e) To exercise the rest of the functions charged to it by the Board of Directors.

## **Article 88.- Termination**

88.1. When one of the causes of incapacity mentioned in the present law is noticed or occurs, the designation or term of the respective member shall be terminated and they shall proceed to replace him.

88.2. Despite such termination, the acts or contracts authorized by the incapacitated member before being declared terminated, shall not be invalidated by such circumstance, either with regard to the regulatory body nor with regard to third parties.

## **Article 89.- Removal**

89.1. The Executive Power may remove the titular members of the Board of Directors, as well as the members of the collegiate bodies, in any of the following cases:

- a) When for any cause not duly justified, they have failed to attend six (6) ordinary sessions per year;
- b) When due to physical incapacity they have not been able to perform their duties for six (6) months;
- c) Due to definitive conviction to a criminal penalty.

89.2. Despite the provisions of the previous paragraph, the titular members of the Board of Directors, as well as the members of the collegiate bodies, may be removed by decision of the Supreme Court of Justice for the causes foreseen in the following cases:

- a) When he has demonstrated manifest negligence in the fulfillment of his duties or in the case that without due justification, he fails to comply with the obligations corresponding to him, pursuant to the law, the regulations and the decisions of the Board of Directors; or

- b) When he is responsible for fraudulent or illegal acts or operations evidently opposed to the purposes and interests of the institution;

89.3. The denunciation shall be made to the Attorney General of the Republic, by any person or company who demonstrates a legal interest. The Attorney General of the Republic will submit the case to the Supreme Court of Justice, which will immediately commission one of its judges to instruct the matter summarily and render the appropriate report within the shortest time period, which may not exceed fifteen days. Said report will be duly notified by the Secretary of the Court to the member who has been denounced, so that the latter present in writing the means of defense which he deems appropriate, in the term of ten (10) days from the date of said notification.

89.4. Upon expiration of the indicated time period, the Supreme Court of Justice, in Council Chamber, will hear the report from the commissioned judge and the writ of defense, if such exists, and in the term of one month, at the latest, shall decide whether to accept or deny the cause of removal invoked, which decision shall not be the object of any appeal and which will be communicated to the Board of Directors for its compliance in the term of three (3) days following the date of such decision.

89.5. The special procedure established by the present article is declared to be free of expenses, duties, taxes, costs, and legal honorariums of any kind.

#### **Article 90.- Norms of conduct**

90.1. No functionary or employee of the regulatory body may reveal confidential information obtained in the exercise of his functions. The revelation of such information shall be sanctioned with the cessation of the functions of such employee, without prejudice to other civil or criminal actions against him.

90.2. No functionary or employee of the regulatory body, while in the exercise of his charge, may receive any payment for any reason from companies subject to the regulatory power of the regulatory body. Said prohibition shall be extended for the period of one year

subsequent to the abandoning of the position for the members of the Board of Directors, of the collegiate bodies, and the Executive Director.

90.3. Informal or individual contacts between the interested parties and the personnel of the regulatory body on subjects pending resolution by the body shall be prohibited. Said communications must be formal and accessible to the interested parties or their representatives in cases of acts of general scope, whether it be by participating in the meetings or hearing the respective presentations or acts, in the form regulated by the regulatory body.

### **TITLE III**

#### **PROCEDURES**

##### **Article 91.- Resolutions and their contents**

91.1. The regulatory entity shall make its decisions by means of resolutions, which shall be dated, numbered consecutively, and recorded in a medium of public access. The resolutions of a general nature, and other of public interest which the regulatory entity may determine, must also be published in a newspaper of wide national circulation.

91.2 The resolutions of the regulatory entity must be duly motivated and as a minimum, must contain:

- a) A description of the positions of the parties, and the motives of each of them to accept or reject;
- b) The relevant facts on which its adoption is based;
- c) The norms which apply;
- d) The public interest which is protected; and
- e) The provisions of the resolution.

## **Article 92.- Criteria of action**

92.- Upon pronouncing regulations relating to the functioning and development of telecommunications markets, the regulatory body must abide by the rule of minimum regulation and maximum functioning of the market, and must act in such a manner that in the effects of its decisions they provide for fair, effective, and sustainable competition, in those cases in which it does not exist.

92.2. Also, in its actions, the regulatory entity must respect the right of defense of the interested parties.

## **Article 93.- Norms of general scope**

93.1. Before pronouncing resolutions of a general nature, the regulatory entity must consult the interested parties, and there must be written proof of the consultation and their replies.

93.2. When the interested parties are of an undetermined nature, the regulatory entity shall convoke a public hearing in which, after accreditation and according to the procedures provided in the regulation which may be pronounced, the possible interested parties may issue their opinion, which shall not be binding on the regulatory entity. As an alternative method of consultation, the regulatory body may publish the norm provided in a newspaper of broad national circulation, establishing a reasonable time period to receive comments from the public; once said time period has expired, the norm shall be pronounced.

## **Article 94.- Regulatory proposals**

In those cases in which it is necessary to carry out particular actions in benefit of the public interest, this shall be done without prejudice to the obligation of consultation and the right of participation, and the regulatory body shall pronounce a provisional executory resolution. Said resolution shall be published and will be

subject to observations for sixty (60) calendar days, in which period a definitive resolution must be taken. In said time period, and before the definitive resolution, the regulatory entity may modify its provisional regulatory proposal.

### **Article 95.- Publication**

All of the acts before the regulatory body and its own acts may be consulted on by the public in general, excepting that, by motivated request of the interested party, in a concrete case, and for the time which may be set, the regulatory entity, based on reasons of secret or commercial or other type of justified reservation, may determine not to make it public.

### **Article 96.- Appeals.**

96.1. The decisions of the Executive Director and of the Board of Directors may be the object of an appeal for reconsideration, which must be submitted within the term of ten (10) calendar days, counting from the notification or publication of the appealable act. Both the Executive Director and the Board of Directors must issue a pronouncement in a maximum term of ten (10) calendar days from the date of the appeal.

96.2. Also, the decisions of the Executive Director may be the object of a hierarchical appeal before the Board of Directors; the latter must be brought simultaneously with the appeal for reconsideration. The Board of Directors must issue a pronouncement in a maximum term of ten (10) calendar days from the date of said motion for appeal.

96.3. The decisions of the Board of Directors shall be the object of a hierarchical appeal before the jurisdiction of administrative matters of contention, in the form and terms provided by law governing the subject.

### **Article 97.- Motives for objection**

The appeals against the decisions of the Board of Directors may be based only on the following causes:

- a) Exceeding one's powers;
- b) Lack of substantial basis in the facts of the cause;
- c) Evident error of law; or
- d) Noncompliance with the procedural norms established by this law or by the regulatory body itself.

**Article 98.- Obligatory nature of the administrative appeal**

The prior administrative channel is obligatory for concessionaires of public telecommunications services which require resorting to judicial channels.

**Article 99.- Executive nature of the administrative act**

The administrative acts of the regulatory body shall be of obligatory compliance, except for judicial mandate consented to which expressly indicates otherwise.

**Article 100.- Delivery of information**

100.1. The regulatory body may request of the concessionaires or licensees, accounting and statistical reports and data which are adequate for legitimate and regulatory purposes, in the following cases:

- a) When there exists a controversy in which the regulatory body has to intervene, between concessionaires and/or licensees; between the latter and the regulatory body; or between the former, and users or clients of services or third parties;
- b) When there exists an imputation of infraction, and the infraction is strictly linked to the imputed fact; or
- c) When the information is necessary and has a direct link to the drafting of public policies.

100.2. The reports must be supplied in the reasonable time periods set in each case, which may not be less than five (5) working days. In the cases foreseen, the concessionaires or licensees must permit the free access of the regulatory body to the books, accounting document, and information recorded in any form.

100.3. The regulatory body may require directly the assistance of the public force for the exercise of the powers conferred on it by the present article and by Article 30, clause g).

100.4. The regulatory body may establish the reasonable minimum requirements which the accounting of the concessionaires of public telecommunications services must have, including, in such case, plans for depreciation of facilities, equipment, and systems. It will also establish the reasonable minimum requirements for the supplying and conservation of accounting, cost, traffic, and operational information, which is strictly necessary for the fulfillment of its regulatory powers.

### **Article 101.- Defense of user and participation**

101.1. The regulatory body shall dictate a “General regulation for telephone service” which regulates the relations between the concessionaires of this service and its users and clients, guaranteeing their rights and establishing their obligations.

101.2. The regulatory body may pronounce other regulations for other services.

101.3. Every interested party with a legitimate interest may demand to be consulted, and present his position before the taking of decisions of a general or particular nature which affect him, according to the norms of procedure which the regulatory body may set.

## **TITLE IV**

### **RESOURCES OF THE REGULATORY BODY**

**Article 102.- Economic resources of the regulatory entity**

102.1. The regulatory body will be financed by means of the following economic resources:

- a) The percentage established corresponding from the CDT;
- b) The right for use of the public domain of the radioelectric spectrum;
- c) The rights which may be established, in their case, in the proceedings for the granting of concessions and licenses, according to the regulation;
- d) The proceeds generated by its own patrimony;
- e) The budgetary assignments which, in their case, are assigned to it by the Central Government; and
- f) Whatever it can obtain through any other means.

102.2. Once the budgetary needs of the regulatory body are covered, the Board of Directors shall destine the surplus of the resources which may exist to the Development Fund foreseen in Chapter VII.

**CHAPTER XIII**

**FAULTS AND SANCTIONS**

**TITLE I**

**SUBJECTS**

**Article 103.- Subjects responsible for faults**

There shall be deemed responsible for committing administrative faults classified in the present law:

- a) Those who perform activities regulated by the legal provisions in effect on telecommunications matters without possessing the respective concession or license;
- b) Those who, even with the respective concession or license, perform activities counter to the provisions of the present law;
- c) Or the user of telecommunications services, due to improper use of said services, as well as due to their use in prejudice of third parties.

## **TITLE II**

### **CLASSIFICATION**

#### **Article 104.- Classification of administrative faults**

Administrative faults under the provisions of the present law are classified as very serious, serious, and light.

#### **Article 105.- Very serious faults**

Very serious faults are:

- a) The performing of practices which restrict competition;
- b) Improper use of the CDT's resources;
- c) The use of powers of emission noticeably greater than those authorized;
- d) The rendering of telecommunications services without the corresponding concession, license, or registration;

- e) Giving facilities to third parties so that they render telecommunications services without the corresponding concession, license, or registration;
- f) The deliberate production of interferences defined as harmful according to international standards and norms;
- g) The production of interferences defined as harmful according to international rules and norms, when they come from the use of the radioelectric public domain without the corresponding license, or the use of frequencies other than those authorized;
- h) The use of a public telecommunications network without the corresponding payment to the concessionaire company owning said network;
- i) The refusal, obstruction, or resistance to the administrative inspections which the regulatory body must perform, or to the delivery of the information requested by same;
- j) The interception without authorization of telecommunications not destined for the general public;
- k) The revelation of the contents, existence, publication or any other use, without authorization, of any kind of information obtained through interception or reception of those communications which are not destined for the general public;
- l) The lack of payment of the rights provided for in the present law, pursuant to the terms established by the different regulations which compliment them;
- m) The installation of non-standardized apparatus or equipment which produce very serious damage or harm in the telecommunications networks or to third parties;
- n) Noncompliance with the essential conditions established in the concession contract, including the lack of construction of the installations and the exploitation of the services within the term syndicated;

- o) Refusal to comply with the obligation of interconnection, in the cases in which such interconnection is in order, pursuant to the provisions of the present law, or reticence in performing the obligations deriving from it;
- p) The application, in their case, of rates different from those authorized;
- q) The commission, in the course of one (1) year, of two (2) or more serious infractions sanctioned by means of definitive resolutions; and
- r) Any other action by the operators which, in the judgement of the Board of Directors of the regulatory body, threatens notoriously and deliberately against the principles of freedom of rendering of services, and of free competition guaranteed by the present law.

## Article 106.- Serious faults

Serious faults are:

- a) Arbitrary discrimination between clients or users;
- b) The use of the public domain of the radioelectric spectrum without the corresponding license, or the use of frequencies other than those authorized;
- c) The changes of location or of the technical characteristics of the radioelectric stations, without the corresponding authorization;
- d) The commercial association or contracting with any domestic or foreign entity, in order to channel communications to or from other countries, without the intervention of operators duly authorized for the rendering of such services;

- e) The non-deliberate production of harmful interference defined as such in international norms and standards, including those produced due to defects in the apparatus or equipment;
- f) The connection of apparatus or equipment not standardized, which produces serious damage to the telecommunications networks or to third parties;
- g) The alteration or manipulation of the technical characteristics, brands, labels, or signs of identification of equipment or apparatus, excluding ham radio equipment, so long as they have not been acquired on the market and are intended for this service;
- h) The use of telecommunications services for purposes other than those which have been authorized by the regulatory body;
- i) The emission of false or deceitful identification signals;
- j) The lack of publication or exposure to the public of rates in effect in each service;
- k) The commission, in the term of one (1) year, of two or more light infractions sanctions by means of definitive resolution;
- l) Collection from clients or users for services not rendered;
- m) The marketing of telecommunications equipment which does not have the corresponding standardization certificate, issued according to the provisions of the present law; and
- n) Any other action by the operators which, in the judgement of the Board of Directors of the regulatory body, is notoriously contrary to the principles of freedom of rendering of services and free competition guaranteed by the present law, and does not constitute a very serious infraction.

## Article 107.- Lesser faults

Lesser faults are:

- a) The production of inadmissible interferences, which are not ostensibly harmful, defined in international standards and norms;
- b) The undue use or rendering of services which are not considered as a very serious or serious fault;
- c) The installation of apparatus or equipment not standardized with the telecommunications networks ;
- d) Any other action by the providers which, in the judgment of the Board of Directors of the regulatory body, goes against the principles of freedom of rendering of services, and free competition guaranteed by the present law, and does not constitute a very serious or serious infraction.

### **TITLE III**

### **SANCTIONS**

#### **Article 108.- Charge for noncompliance**

A charge for noncompliance is established (CI), equivalent to the amount of twenty thousand pesos gold (RD\$20,000.00) in 1997. The regulatory body, by resolution, shall update the value of the CI in order to preserve its level of economic sanction, by using the consumer price indexes published by the Central Bank of the Dominican Republic.

#### **Article 109.- Amount of sanctions**

109.1. The faults considered very serious shall be sanctioned with a minimum of thirty (30) CI and a maximum of two hundred (200) CI.

109.2. The faults considered serious, shall be sanctioned with a minimum of ten (10) CI and a maximum of thirty (30) CI. In the case

of alteration of the characteristics of the equipment, the sanction may include the seizure of same.

109.3. The faults considered as lesser faults shall be sanctioned with a minimum of two (2) CI and a maximum of ten (10) CI.

109.4. The payment of the sanction does not imply the validation of the irregular situation, and the party committing the infraction must immediately cease the acts which gave rise to the sanction. The party committing the infraction who performs activities without concession or authorization, independently of the sanction which may be applied, shall be obligated to pay the corresponding rights, taxes, or duties, in their case, for the time during which it operated irregularly.

#### **Article 110.- Graduation and destiny**

110.1. The value of the imposable sanction shall depend:

- a) The number of infractions committed;
- b) Recurrence;
- c) Social repercussion of same.

110.2. Proceeds from charges for noncompliance which are perceived through the application of the present law and its regulations shall be destined completely to the “Development fund” provided for in Chapter VII.

#### **Article 111.- Independence of civil or criminal actions**

The administrative sanctions referred to in the present Title shall be applied after and independently of the criminal or civil liability in which those committing the infraction could incur.

### **TITLE IV**

#### **PRECAUTIONARY MEASURES**

## **Article 112.- Closure, suspension, or seizure.**

112.1. For cases in which it is presumed that the infraction can be classified as very serious, the regulatory body may provide for the adoption of precautionary measures such as provisional closure of the installations, or the provisional suspension of the concession; and in its case, may request judicially the provisional seizure of the equipment or apparati.

112.2. For effects of the provisional closure and confiscation, the regulatory body will make the pertinent request of the corresponding judge; the resolution which authorizes such measure shall be transcribed, so that it provide for the corresponding action, authorizing the breaking of doors and support of the public force, in case such is necessary.

112.3. In the cases of infractions related to undue use of the radioelectric spectrum, the personnel authorized by the regulatory body which detects it may provide for the provisional closure, and suggest to the regulatory body the judicial request for seizure of the equipment.

112.4. In matters of flagrant crimes, pursuant to the Criminal Code, the regulatory body may request the support of the public force and the intervention of the public ministry for the performing of its duties.

## **TITLE V**

### **DESTINY OF THE SEIZED PROPERTIES**

#### **Article 113.- Seizure**

The goods and equipment which have been seized as a result of definitive confiscations and closures shall become patrimony of the regulatory entity.

#### **Article 114.- Destination of the confiscated properties**

114.1. For purposes of developing telecommunications services in areas or places where they are not provided, the regulatory body may, by means of public auction, sell or providers of telecommunications

services, or donate to entities of the public sector or to persons or non-profit entities who so request, the properties or equipment confiscated. In any case, for the granting of a license or concession of telecommunications services with such equipment, the operator or requesting party must guarantee the functioning of same.

114.2. Income from the sale of confiscated equipment shall be destined entirely to the “Development fund” mentioned in Chapter VII.

## **CHAPTER XIV**

### **OTHER PROVISIONS**

#### **Article 115.- General Directorate of Telecommunications**

The General Directorate of Telecommunications (DGT) is eliminated. All references made to said General Directorate, in the norms which have not been repealed by the present law, shall be understood to refer to the regulatory body established in Chapter XII of the present law, with the exception of those norms referred to in the following two articles:

#### **Article 116.- Decreee 85-93**

116.1. As of the taking effect of the present law, all references made in Decree 85-93 dated March 28, 1993, to DGT and to the Patent (Copyright) Commission shall be understood to be made to the National Patent (Copyright) Office (ONDA).

116.2. The patrimony of the DGT becomes an integral part of the Dominican Telecommunications Institute (INDOTEL) created by the present law.

#### **Article 117.- Regulation No. 824.**

All allusions made in Regulation No. 824 dated March 25, 1971, to the General Directorate of Telecommunications shall be

understood to be made to the Administrative Secretariat of the Presidency.

**Article 118.- Of the interconnection contracts in force and the agreement with the World Trade Organization (WTO).**

118.1. The entities rendering public telecommunications end services shall review, within the term of one year, the interconnection contracts subscribed between them up till the date on which this law takes effect, for purposes of adapting them to the provisions of same and to its regulation for application.

118.2. Once the contracts are reviewed, they will communicate them to the regulatory body for their review, which, if it deems so necessary, may adopt the measures provided for in Chapter VIII, Title II of the present law.

118.3. The Fourth Protocol attached to the General Agreement on Commerce of Services (GATS) concerning negotiations on basic telecommunications of the World Trade Organization (TO) is ratified in all of its parts, so that, with respect to the Dominican Republic, it rule as of the taking effect of the present law, which shall be considered to be the ratifying instrument.

**CHAPTER VX**

**TEMPORARY AND REPEALED PROVISIONS**

**Article 119.- Concessions in force**

119.1. Within one year as of the taking effect of the present law, the regulatory body shall adjust the concessions in effect to its provisions, granting the corresponding acts. This process of adjustment shall be performed by maintaining the concessions for all services granted, and establishing equality between concessionaires regarding the scope of the concessions. For those concessions which have a particular time period, the duration of the new title shall be equal to the period of time still lacking to the original concession for termination of its term; for those concessions which did not have a particular duration of time, the new term shall be the maximum established in Article 27 of the present law,

and all of the above is without prejudice to the rights of renewal which the concessionaires shall have pursuant to said article. In all cases, the tax regime applicable to the concessionaires must be the same.

119.2. Until the new concession contracts are signed, those signed between the State and the concessionaire companies shall be understood to be in effect, and will enable their owners to continue providing all the services which they were providing until the moment that the present law took effect.

### **Article 120.- Rebalancing of rates**

120.1. The prices to the public for local telephone service of the first residential line must reflect its costs within the temporary period or period of rebalancing of rates, established by the regulatory body by means of motivated resolution, after the promulgation of the present law.

120.2. For purposes of implementing the rebalancing of rates, the Executive Power shall name, within the thirty (30) days following the date of promulgation of the present law, an “Advisory commission for rebalancing of rates,” adscribed to the regulatory body. Said commission shall be composed of the Technical Secretary of the Presidency, who shall preside it as president of same; the Secretary of State of Public Works, who will be the substitute of the president; the Executive Director of the regulatory body, who will function as Executive Secretary, and three members from the private sector related to the telecommunications sector, and selected by the Executive Power. The decisions of the commission shall be taken by majority vote of its members, and the vote of the president shall break any tie. Said commission shall evaluate the studies and recommendations presented by the International Telecommunications Union and based on same, shall submit, within the sixty (60) days following its incorporation, a term or period of time for rebalancing rates, which must be carried out before the thirty-first (31<sup>st</sup>) of December of the year two thousand (2000).

### **Article 121.- Installation of the regulatory body.**

Within the first twelve (12) months, counting from the promulgation of the present law, all collections/income from the CDT shall be dedicated to the installation of the regulatory body.

## **Article 122.- Cellular systems**

Resolution No. 2-91 dated August 22, 1991, on the DGT, concerning “Changes and regulation for the use of cellular systems in the Dominican Republic,” will continue to be applied by the regulatory body, until it dictates the regulation which will substitute it. The above does not imply any prejudice to the rights and licenses granted by the DGT up to the date that this law takes effect.

## **Article 123.- Provision for repeal**

With the promulgation of the present law, there are hereby repealed the following:

- a) Law 118 on Telecommunications, dated February 1, 1966, without implying the immediate disappearance of the General Directorate of Telecommunications (DGT), which shall maintain its existence until the Board of Directors of the regulatory body is designated pursuant to the provisions of the present law, and shall function provisionally as Executive Director of the new regulatory body;
- b) Article 381 of Law 11.-92, dated May 16, 1992;
- c) Decree No. 84-99, dated March 28, 1999, which approved the “Second Regulation for application of the Patent (Copyright) Law, for retransmission by cable of television programs”;
- d) Resolution No. 1-95, dated January 23, 1995, of the Secretariat of State of Public Works and Communications (SEOPC);
- e) Resolution No. 2-95 dated January 23, 1995, of SEOPC;
- f) Resolution No. 4-91 dated November 29, 1991, of DGT;
- g) Resolution No. 94-001 dated February 2, 1994, of DGT;
- h) Resolution No. 001-94 dated April 8, 1994, of SEOPC;
- i) Resolution No. 94-003 dated March 20, 1994, of DGT;

- j) Resolution No. 94-003/R/95-001 dated April 7, 1995, of DGT; and
- k) All legal provisions contrary to it.

**GIVEN** in the Hall of Sessions of the Chamber of Deputies, Palace of the National Congress, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the nineteenth (19<sup>th</sup>) day of the month of March of the year one thousand nine hundred ninety-eight, year 155 of the Independence and 135 of the Restoration.

Héctor Rafael Peguero Méndez  
President

Jesús Radhamés Santana Díaz  
Secretary Ad-Hoc

Néstor Orlando Mazara Lorenzo  
Secretary

**GIVEN** in the Hall of Sessions of the Senate, Palace of the National Congress, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the fifteenth (15<sup>th</sup>) day of the month of April of the year one thousand nine hundred ninety-eight, year 155 of the Independence and 135 of the Restoration.

Amable Aristy Castro  
President

Enrique Pujals  
Secretary.

Jesús Vásquez Martínez  
Secretary Ad-Hoc.

**LEONEL FERNANDEZ**  
**President of the Dominican Republic**

In the exercise of the powers conferred on me by Article 55 of the Constitution of the Republic.

**I PROMULGATE** the present Law and order that it be published in the Official Gazette for its publication and compliance.

**GIVEN** in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the twenty-seventh (27<sup>th</sup>) day of the month of May of the year one thousand nine hundred ninety-eight, year 155 of the Independence and 135 of the Restoration.

**Leonel Fernández**

**The undersigned: Legal Consultant of the Executive Power  
Certifies that the present publication is official**

**Dr. César R. Pina Toribio**

**Editora Alfa y Omega, C. por A.  
Calle José Contreras No. 69  
Telephones: 532-5577/532-5578  
Santo Domingo, N.D., Dominican Republic**