

**Decree-Law no. 15/2012  
of 28 March 2012**

**ON THE REGULATION OF THE TELECOMMUNICATIONS SECTOR**

Telecommunications are essential to Timor-Leste's future development - for creating wealth and employment, for delivering services in vital areas such as health, education and law and order, and for ensuring an adequate functioning of the administration.

International experience has demonstrated that telecommunications growth and development are fostered in a competitive market. The outcome of competition has been a wider range of services made available to a larger portion of the population, at lower cost, higher quality and with customer support services more responsive to user needs.

Recognising the importance of a competitive telecommunications market to the social and economic future of Timor-Leste, the Government has embarked upon a process aimed at liberalising the telecommunications market and introducing effective competition through private sector participation.

As part of that process, the Government thus establishes a new legal framework for telecommunications and creates a new national authority for communications, with the functions, duties and powers necessary to ensure its implementation.

Thus, pursuant to subparagraph e) of article 115.1, and to subparagraph d) of article 116, both of the Constitution of the Republic, the Government enacts the following to have the force of law:

**CHAPTER I  
GENERAL PROVISIONS**

Article 1  
Scope

The present Decree-Law establishes the legal regime applicable to the provision of telecommunications services, the operation of telecommunications networks and the use of radio-frequency spectrum in the Democratic Republic of Timor-Leste.

Article 2  
Object

The objective of the present Decree-Law is to promote the long-term social and economic well-being of the population of Timor-Leste by ensuring the availability, affordability and quality of telecommunications services through:

- a) Establishing and maintaining an open, non-discriminatory, technologically neutral, objective, transparent and proportionate telecommunications regulatory regime;

- b) Promoting an effective and fair competition among service providers;
- c) Ensuring the efficient use of the scarce resources required for telecommunications; and
- d) Encouraging investment in, and efficient use of, infrastructure used to provide telecommunications services.

### Article 3 Definitions

In this Decree-Law, unless the context indicates otherwise, the following terms shall have the meanings set out below:

Access	The making available of facilities, network elements, systems, software and operational support services by one service provider to another for the purpose of providing telecommunications services;
Administrator	An Administrator of the Board of Administration of the Authority;
Subscriber	Any person who is a party to a contract entered into with a provider of public telecommunications services, including contracts for prepaid and post-paid telecommunications services;
Authority	National Communications Authority;
Consumer	Any natural person who uses or seeks to use a public telecommunications service that is offered on conditions that are that are standard, previously defined and not subject to negotiation;
Concession Contract	The Concession Contract entered into between the Democratic Republic of Timor-Leste and Timor Telecom on July 19, 2002;
Control	The power to determine, directly or indirectly, the actions of another person in any manner, whether through the ownership of shares or other securities (held directly or through intermediary entities) or an agreement or arrangement of any type;
Decree-Law	The present Decree-Law, Decree-Law [X]/2012, setting forth the legal framework applicable to the telecommunications sector of the Democratic Republic of Timor-Leste;

Dominant company	By reference to any one person, any person that directly or indirectly controls it, or is controlled by it, or is directly or indirectly controlled by the entity that controls it;
Government	The Government of the Democratic Republic of Timor-Leste
Infrastructure suitable for installation of telecommunications networks, or facilities	Passive infrastructure, including any facility for housing transmission systems, equipment and/or communication network resources, cell sites, buildings, pipes and other underground infrastructure, but excluding any network resources and/or electronic equipment;
Interconnection	A type of access between service providers consisting in the physical and logical linking of two or more public telecommunications networks in order to allow the users of one telecommunications network to communicate with users of the other, or to allow access to the services of another service provider, in any event, on an interoperable basis (services may be provided by the parties involved or third parties who have access to the network);
Regulatory measure	Any decision, determination, regulation, standard, directive, designation as a service provider with significant market power, or any decision made by the Authority, irrespective of its form or formality, pursuant to the authority conferred to it by the present Decree-Law imposing obligations on or affecting the rights of the person or persons that are subject to it;
Telecommunications market	A market in Timor-Leste for any telecommunications service;
Minister	The Minister responsible for the telecommunications sector;
Number	A series of digits indicating a telecommunications network terminating point comprising of information necessary for the routing of telecommunications services to that point;

Service provider	Any person supplying or permitted to supply a telecommunications service or operating or permitted to operate a telecommunications network in Timor-Leste under a registration or an exemption in
Person	Any individual or corporate body;
Chairperson	The Chairperson of the Authority's Board of Administrators;
Competitive selection process	<p>A process for selection of a radio spectrum licensee or recipient of universal access funding based upon objective criteria which may include one or a combination of the following:</p> <ul style="list-style-type: none"> <li>(a) Financial bids, whether submitted with applications, made in an auction or in another manner;</li> <li>(b) Relevant experience, track record, financial standing or other qualifications; or</li> <li>(c) Commitments and guarantees with respect to the type, quality, geographical coverage, price, performance bonds, or other aspects of any relevant services.</li> </ul>
Gross revenues	Revenues earned by a service provider from the provision of telecommunications services (excluding equipment) after deduction of revenues from wholesale activity (including revenues from access and sharing obligations), but before any deduction for costs, taxation, accounting or any other purposes;
Telecommunications network	A system or series of systems capable of permitting the provision of telecommunications services;
Public telecommunications Network	A telecommunications network operated for the purpose of supplying public telecommunications services;
Registration	The registration process under Article 30 of the present Decree-Law;
Mobile network sites	Antenna towers, masts, poles, rooftops, supporting structures, shelters, power supply sources, ground space

	used or useful for the purpose of providing wireless telecommunications services;
Telecommunications service	Any service normally provided for consideration whether on a retail or wholesale basis which consists wholly or mainly in telecommunications; and
Public telecommunications Services	Telecommunications service available to the public;
Telecommunications	Telecommunications Transmission, reception or emission of signals representing symbols, writing, images, sounds or information of any nature through wires, optical systems, radio-electrical means and other electromagnetic systems; and
Timor Telecom	Timor Telecom, S.A., a joint stock company established under the laws of Timor-Leste.

## CHAPTER II NATIONAL COMMUNICATIONS AUTHORITY

### Article 4 Establishment and Nature

1. The present Decree-Law establishes the National Communications Authority.
2. The Authority is a public institute with legal personality, vested with administrative and financial autonomy and its own budget and assets, and has as its purpose to act as the regulatory entity for the telecommunications sector.
3. The Authority shall take on its functions, duties and obligations upon the Chairperson or interim Chairperson commencing his or her term of office.

### Article 5 Functions, Obligations and Powers

1. The Authority shall have the following powers:
  - a) Pursuing the objectives and accomplishing the provisions contained in the present Decree-Law;
  - b) Monitoring and regulating the Timor-Leste telecommunications sector pursuant to the present Decree-Law;

- c) Advising the Minister on policies to be defined by the Government for the telecommunications sector;
  - d) Managing the registration of persons wishing to provide telecommunications services and operate telecommunications networks, and granting radio-frequency spectrum licenses;
  - e) Monitoring and enforcing compliance with the present Decree-Law and regulatory norms approved pursuant to it;
  - f) Settling disputes arising among service providers;
  - g) Managing, allocating and assigning radio-frequency spectrum, numbers and other scarce resources;
  - h) Representing the Government on matters relating to obligations in the framework of regional and international telecommunications organisations; and
  - i) Exercising such other functions as are assigned to or conferred upon the Authority pursuant to the present Decree-Law or to any lawfully applicable provision.
2. The Authority takes on, for the purpose of exercising its responsibilities provided for in the present Decree-Law, the rights and obligations of the State pursuant to the laws of Timor-Leste.

#### Article 6 Superintendence

Without prejudice to its administrative and financial autonomy, the Authority shall operate under the superintendence of the Minister, pursuant to the provisions of the present Decree-Law.

#### Article 7 Board of Administration

1. The Authority shall have a Board of Administration composed of five Administrators:
- a) Three full-time executive Administrators, of which:
    - (i) One is the Chairperson of the Board of Administration;
    - (ii) One is the Financial Administrator;
    - (iii) One is the Technical Administrator.
  - b) Two part-time non-executive Administrators, one of whom at least shall be the person representing the interests of consumers.

2. A person shall not be eligible for appointment as Administrator unless that person is a person of integrity, independence of mind and good reputation, and has an in-depth knowledge of, or experience in, telecommunications, commerce, economics, law or management.
3. The Chairperson must have proven experience in senior leadership positions.
4. A person shall not be eligible to be appointed, or remain, as Administrator if that person:
  - a) Has, or has had within the past two years, any direct or indirect financial or other interest in any service provider;
  - b) Is a member, or a candidate for election as a member, of the National Parliament or a local government body;
  - c) Is an office-holder, or a candidate for election as an office-holder, in a registered political party;
  - d) Is of unsound mind or incompetent pursuant to the law;
  - e) Has been convicted for committing any offence in the exercise of any public function or any offence against property in any country;
  - f) Is, or was within the last three years, bankrupt or insolvent in any country;
  - g) Is a public servant or otherwise an employee of the Government; or
  - h) Is an ascendant, descendant, sibling or spouse of a person described in subparagraphs a), b) or c) of this paragraph.

Article 8  
Procedures of the Board of Administration

1. The Board of Administration shall meet at least once a month and otherwise whenever convened by the Chairperson.
2. At a meeting of the Board:
  - a) A quorum shall be constituted by a majority of the sitting Administrators, irrespective of the number of sitting Administrators;
  - b) The Chairperson shall preside or, in his or her absence, shall be replaced by the longest serving Administrator;
  - c) Decisions shall be made by a majority of the votes of the Administrators present and voting; and

- d) In the event of an equality of votes on any matter, the presiding Administrator shall have a casting vote.
3. Meetings may be held by telephone conference or video conference or by any other means of communication enabling all those attending the meeting to communicate with each other in real time.
4. A decision may be made in writing in lieu of in a meeting if it is signed by every Administrator entitled to vote on the matter.
5. A decision may consist of several documents having the same form, with each document signed in any number of copies.
6. An Administrator shall, as soon as reasonably practicable after the relevant facts have been ascertained, inform the other Administrators of any conflict of interest that such Administrator may have relating to a matter being considered or about to be considered by the Board of Administration, and such Administrator shall not take part in any decision or resolution of the Board of Administration relating to that matter.
7. The Board of Administration may delegate its functions and powers (except the power to delegate) to any authorised person who shall work under its direction.

#### Article 9 Appointment of Administrators

1. The Minister shall appoint Administrators to the Board, to be published in Series II of the Official Gazette, upon approval by the Council of Ministers.
2. Prior to appointing any Administrators pursuant to this Article, the Minister shall:
  - a) Invite nominations for candidates from the public;
  - b) Take into account remarks from interested parties on the nominated candidates; and
  - c) Confirm the availability of the candidates and their acceptance of the terms of appointment.
3. The term of office of an Administrator shall be five years; however, with respect to the initial appointments:
  - a) The term of office of the Chairperson shall be five years;
  - b) The term of office of one full-time executive Administrator and of one part-time non-executive Administrator shall be four years; and



- c) The term of office for the other full-time executive Administrator and the other part-time non-executive Administrator shall be three years.
4. The term of office of an Administrator may be renewed twice.
5. A full-time executive Administrator shall not directly or indirectly engage in any paid employment outside the duties of his or her office as an Administrator.
6. Administrators shall not be considered to be civil servants for the purposes of the Statute of the Civil Service.
7. Where the office of the Chairperson becomes vacant, then the longest-serving Administrator shall act as Chairperson until a replacement is appointed.

#### Article 10 Interim Chairperson

Where the office of the Chairperson becomes vacant and no Administrator exists to act as Chairperson pursuant to paragraph 7 of the preceding article, and where the Minister is of the opinion that selection process of a candidate for such office will require more than 90 days before he or she can take on their duties, then:

- a) The Minister may, without undertaking the selection process required by the preceding article, recommend to the Prime Minister an individual who he or she considers to be suitable to act as interim Chairperson taking into account the functions of such position pursuant to the present Decree-Law as well as such individual's qualifications and experience;
- b) The Prime Minister may appoint such individual as interim Chairperson;
- c) Such interim Chairperson shall have all of the functions assigned to the Chairperson pursuant to the present Decree-Law, even though any regulatory measure issued by the Authority under such interim Chairperson requires the approval of the Minister; and
- d) The term of office of such interim Chairperson shall terminate upon the commencement of duties by the Chairperson appointed pursuant to the preceding article.

#### Article 11 Cessation of functions of the Administrators

1. An Administrator shall cease his or her functions where:
  - a) He or she dies;
  - b) Is removed from office pursuant to paragraph 3 of this article;
  - c) Resigns; or

- d) Is not re-appointed following the end of the respective term of office.
- 2. In the event of cessation of functions, the Administrator shall be replaced as soon as reasonably practicable and, in any event, within 90 days from the date of cessation of functions of the previous Administrator.
- 3. Upon proposal by the Minister, the Council of Ministers may remove or suspend an Administrator prior to the expiry of his or her term of office if that person:
  - a) Has committed a serious breach of the terms of his or her appointment, of the present Decree-Law or of any other applicable law of Timor-Leste;
  - b) Fails to perform his or her functions and duties for a significant period of time; or
  - c) Becomes subsequently not eligible pursuant to paragraph 4 of Article 7.
- 4. Any decision to remove or suspend an Administrator shall be made only after such Administrator has been given a reasonable opportunity to be heard on the matter.
- 5. An Administrator may resign from office upon providing 90 days written advance notice to the Minister.
- 6. A regulatory decision by the Authority shall not be invalid by reason only of:
  - a) A defect or irregularity in, or in connection with, the appointment or removal of an Administrator; or
  - b) Cessation of functions by an Administrator.

Article 12  
Employment of staff and hiring of consultants

- 1. The Authority may employ such staff and engage such consultants as it deems fit and necessary to ensure it has sufficient legal, economic, technical and other resources to perform its functions and responsibilities and exercise its powers pursuant to the present Decree-Law.
- 2. The contractual conditions of employment shall be agreed upon between the Authority and each employee within the limits of the Civil Code and the Labor Code, and with due observance of the administrative and financial autonomy of the Authority.
- 3. The staff and consultants of the Authority shall not be considered to be civil servants for the purposes of the Statute of the Civil Service.

Article 13  
Funding

1. The revenue of the Authority shall comprise the following:
  - a) Any grants and donations made to or for the benefit of the Authority;
  - b) Sums appropriated from the Consolidated Fund for Timor-Leste;
  - c) Fees and levies payable to the Authority pursuant to the present Decree-Law;
  - d) Moneys received in the framework of a competitive selection process for a radio-frequency spectrum licence;
  - e) Moneys received in the exercise of a bank guarantee, bond or any other form of surety issued in favour of the Authority; and
  - f) All other moneys and property which may in any manner whatsoever become payable to, or fully vested in, the Authority in respect of any matter related to its functions, responsibilities and powers.
2. The Authority shall use its revenue for the performance of its functions and responsibilities and the exercise of its powers pursuant to the present Decree-Law, and shall not use such revenue for any other purpose.
3. The Authority may prescribe a regulatory fee payable by registered service providers as a percentage of their gross revenues, which percentage shall, if necessary, be adjusted each year to meet the budgetary requirements of the Authority for the following year, but shall in no event exceed 2% of the respective gross revenues.
4. Any regulatory fee applicable pursuant to the preceding paragraph shall:
  - a) Reflect the costs incurred by the Authority in the performance of its functions and responsibilities and in the exercise of its powers, including a reasonable provision; and
  - b) Be set at a minimum amount of \$200,000 (two hundred thousand United States dollars) in the case of registered service providers operating a mobile network and/or providing mobile telephony services.
5. The Authority may require payments of the regulatory fee applicable pursuant to paragraph 3 annually or in installments, and prescribe such other procedures, rules and guidelines as necessary for the efficient and effective collection thereof.
6. The Authority may exempt any service provider from paying the regulatory fee set out in paragraph 3 where its gross revenues earned from the provision of telecommunications services are below \$20,000 (twenty thousand United States dollars).

7. The Authority may prescribe a supplementary regulatory fee payable by registered service providers as a percentage of their gross revenues, which percentage shall in no event exceed 0.5% of such revenues, to make up any funding deficit resulting from the factors listed below:
  - a) Any judicial review process relating to any regulatory measure of the Authority or recommendation of the Review Panel;
  - b) Any review conducted by the Review Panel under Chapter IV;
  - c) Any dispute resolution process conducted by the Authority under Chapter XI; or
  - d) Any price modeling exercise pursuant to a tariff regulation proceeding conducted by the Authority pursuant to Article 47.
8. No supplementary regulatory fee shall take effect until it is approved by the Minister of Finance, duly justified in the light of the objectives provided for in article 2 of the present Decree-Law and the circumstances giving rise to the prescription of such fee.
9. The Authority shall notify the Minister of Finance of:
  - a) The amount of any costs that the Authority has incurred or reasonably expects to incur in connection with the relevant proceedings pursuant to paragraph 7;
  - b) The amount of any actual funding deficit and an estimate of the reasonably expected funding deficit; and
  - c) A revised and updated budget of the Authority relating to the period for which the supplementary regulatory fee is requested.
10. The Authority shall, at the same time as providing the notice to the Minister of Finance in accordance with the preceding paragraph, provide a copy of such notice to the Minister and all registered service providers, and thereafter publish it on its website.
11. All fees and levies payable under the present Decree-Law shall be imposed in an objective, transparent, non-discriminatory and proportionate manner.
12. The Authority may not prescribe any fee or levy that is not authorised by the present Decree-Law.
13. Notwithstanding paragraph 7, where, during any particular financial year, the revenue of the Authority is not sufficient to cover the costs or expenses of performing its functions and responsibilities or exercising its powers pursuant to the present Decree-Law, or enable it to pay its debts as they fall due, then the Authority may request further funding from the Minister of Finance and, in such circumstance, the Minister of Finance must

consider such request, taking into account the object of the present Decree-Law and the circumstances of such request.

#### Article 14 Budget

1. The Authority shall prepare and present to the Minister of Finance a budget for each financial year in accordance with:
  - a) The principles of transparency, efficiency, cost recovery and appropriate provisioning set forth in the Budget and Financial Management Law; and
  - b) The laws governing public entities vested with administrative and financial autonomy.
2. The Minister of Finance shall submit such budget to the National Parliament together with the national budget.

#### Article 15 Audit

1. The Authority shall keep accounts of its revenues and expenditures and shall prepare financial statements of its activities and the Universal Access Fund established pursuant to article 58 at the end of each financial year.
2. The Authority's financial statements and those of the Universal Access Fund shall be subject to audit under such audit process as required under the laws of Timor-Leste governing public entities vested with administrative and financial autonomy, aiming at completing such audit within 60 days from the end of each financial year.
3. The financial statements shall itemise revenues, expenditures and any surplus or deficit, and shall:
  - a) Justify any large non-recurring revenue or expenditure; and
  - b) Justify large differences between the budget and its financial statements for the respective period.
4. The Authority shall publish the audited financial statements together with any auditor's report on its website.

#### Article 16 Reporting

1. The Authority shall prepare and publish an annual report for each financial year.
2. Each annual report shall include:

- a) A description of the Authority's activities for that financial year, including:
    - (i) Significant contracts entered into, including those related to procurement;
    - (ii) Regulatory measures approved in accordance with this Decree-Law;
    - (iii) Significant disputes brought before the Authority and their settlement pursuant to the present this Decree-Law;
    - (iv) A listing of all interconnection, cell site sharing and access agreements filed with the Authority;
    - (v) A summary of the radio spectrum allocated or assigned;
    - (vi) Any notices issued by the Authority related to significant infringements;
    - (vii) Any significant law enforcement action taken;
    - (viii) Any reviews by the Review Panel, judicial review processes or other relevant disputes involving the Authority; and
    - (ix) Any other matters the Authority considers relevant;
  - b) A report on the telecommunications sector, including operational and financial statistics and other information on the service providers, the level of competition and investment made;
  - c) An assessment of the activities taken to further the objectives provided for in article of the present Decree-Law, and an implementation plan for the following year;
  - d) A summary of all Authority's revenues and expenditures for that financial year, including details of the amounts collected from fees and levies pursuant to the present Decree-Law; and
  - e) A statement of the Authority's financial position as at the end of the financial year.
3. The Authority shall publish each annual report on its website and provide each annual report to the Minister within 90 days from the end of the financial year to which it relates.
  4. The Authority shall, upon reasonable written notice, appear before the Minister to respond to questions relating to the annual report.
  5. After receiving the report, the Minister shall present it to the Council of Ministers and the National Parliament.

Article 17  
Independence of the Authority

1. The Authority shall perform its responsibilities pursuant to the present Decree-Law in a manner that is independent of and separate from any person, including:
  - a) Any service provider; and
  - b) Any person with a direct or indirect financial or other interest in any service provider, including the Government.
2. The Government shall ensure that any direct or indirect financial or other interest it holds in any service provider, telecommunications network or infrastructure is held in a manner that is structurally and operationally separate from, and independent of, the Authority.

Article 18  
Electronic submission

The Authority may allow the electronic presentation of all representations made pursuant to the present Decree-Law provided that it employs adequate methods to ensure:

- a) The necessary confidentiality;
- b) The security of information; and
- c) The keeping of proper paper and electronic records.

CHAPTER III  
REGULATORY MEASURES

Article 19  
Regulatory measures

1. In performing its functions and responsibilities and in exercising its powers pursuant to the present Decree-Law, the Authority may impose regulatory measures to secure the implementation of, and give effect to, any provision of the present Decree-Law, and service providers and any other persons shall comply with such regulatory measures.
2. The Authority may adopt regulatory measures either on its own initiative or pursuant to a request by any interested person after due consideration thereof.
3. The Authority shall establish and operate an up-to-date website on which it will publish the present Decree-Law, regulatory measures and other information required to be published pursuant to the present Decree-Law.

4. Without prejudice to the applicability of this article to all regulatory measures, the Authority shall consult with persons who may be affected by a regulatory measure in those cases expressly set forth in the present Decree-Law, and it shall:
  - a) Provide prior written notice of the proposed regulatory measure, explaining the reasons for the proposed regulatory measure and setting out the procedure for making any representations;
  - b) Grant a reasonable period which, save in duly justified exceptional circumstances, shall be no less than 30 days, to present representations to the Authority;
  - c) Consider any representations made;
  - d) Provide reasons for the proposed significant changes to the regulatory measure when such are made; and
  - e) Where such regulatory measure involves various service providers or significant public interest, apply the requirements of this provision through a public consultation process in which any person may participate.
5. The Authority shall ensure that all regulatory measures:
  - a) Are made in writing and substantiated and supported by the reasons provided for making the regulatory measure;
  - b) Are based on, and give effect to, the provisions of the present Decree-Law, and refer to the provisions on which they are based;
  - c) Are objective;
  - d) Are transparent;
  - e) Do not discriminate against affected persons unduly;
  - f) Constitute an adequate solution to the problem they seek to address;
  - g) Are proportionate to, and justified by, their specific purpose pursuant to the present Decree-Law and, generally, the objective provided for in Article 2; and
  - h) Set a reasonable time for compliance.
6. The Authority shall resort to a legal counselor to ensure that regulatory measures fall within its functions, responsibilities and powers pursuant to the present Decree-Law and such consultation shall be subject to secrecy and to the rules governing protection of confidentiality and attorney-client privilege.



7. The Authority may not approve regulatory measures:
  - a) Applicable to retail telecommunications services where the objective of ensuring effective competition is guaranteed through regulatory measures applicable to relevant wholesale markets; and
  - b) In telecommunications markets in which it is reasonable to expect that effective competition or self-regulation by service providers is sufficient to allow for the existence of effective competition.

Article 20  
Reconsideration of regulatory measures

1. A service provider may request that the Authority reconsider a regulatory measure within 14 days after the Authority has issued it and where the Authority considers that such reconsideration is appropriate under the circumstances it shall reconsider the regulatory measure.
2. Unless otherwise decided by the Authority, where any regulatory measure is under reconsideration pursuant to the preceding paragraph, it shall remain in full force pending the conclusion of such reconsideration.

Article 21  
Interim regulatory measures

1. The Authority may adopt interim regulatory measures, omitting such steps as provided for in paragraph 4 of Article 19, where performing such steps is not possible due to the urgency of the relevant regulatory measure and reasonable grounds exist to believe that a person has committed or is likely to commit an infringement of the present Decree-Law or of any regulatory measures hereunder resulting in a serious and immediate threat:
  - a) To national security, public order, public health or public security; or
  - b) Of interrupting a service provider's telecommunications services, damaging a service provider's facilities, network resources and/or equipment or causing substantial loss of a service provider's revenues or increase in costs.
2. In adopting an interim regulatory measure, the Authority must state that it is an interim regulatory measure subject to the requirements of this article and state why it has not carried out the relevant steps set forth in paragraph 4 of Article 19.
3. An interim regulatory measure shall come into effect upon signature of the Chairperson of the Authority, and the Authority shall immediately provide written notice of it to any person that is subject thereto.

4. The Authority shall consider representations made by a person who has been, or reasonably expects to be, adversely affected by an interim regulatory measure, and may change such regulatory measure in light of such representations.
5. As soon as reasonably practicable and within 45 days from approving an interim regulatory measure, the Authority shall:
  - a) Expressly revoke the interim regulatory measure; or
  - b) Initiate the steps set forth in paragraph 4 of article 19 in order to determine what, if any, regulatory measure should replace the interim regulatory measure.
6. An interim regulatory measure shall automatically expire four months after it has been approved unless revoked earlier by the Authority.

Article 22  
Provision of information

1. The Authority may require service providers to file with the Authority, at annual or quarterly intervals and in connection with any review, investigation or other regulatory proceeding, reports and documents containing financial and operating data, statistics and other information about their activities necessary and proportionate for the Authority to perform its functions and responsibilities and exercise its powers pursuant to the present Decree-Law.
2. A request for information made pursuant to the preceding paragraph shall prescribe the level of detail, form, time limits, periodicity, and objective pursuant to the Decree-Law for which it is required and define a reasonable and adequate electronic format for reports and documents to enable the Authority to analyse and maintain a database of such information.

Article 23  
Confidential information

1. Without prejudice to the provisions set forth in paragraph 4 of this article, the Authority and/or any expert, consultant, arbitrator, mediator and/or any other person included in the List of Experts referred to in article 25 below, appointed to the Review Panel pursuant to article 26, taking part in a dispute resolution, mediation or administrative settlement of disputes pursuant to articles 54 to 56, or even where he/she intervenes as an expert pursuant to paragraph 10 of article 40, shall:
  - a) Not disclose confidential information without the written consent of the person who has provided such information; and
  - b) Implement appropriate technical and administrative procedures to prevent the unauthorised disclosure of confidential information.

2. A person providing information to the Authority pursuant to the present Decree-Law or any regulatory measure approved hereunder may request that the information provided be treated as confidential.
3. The Authority shall treat information as if it were confidential if:
  - a) The information is not already available to the public; and
  - b) The provider of the information has demonstrated that disclosure of the information will cause harm because:
    - (i) Of the commercially confidential nature of the information;
    - (ii) Its confidentiality is necessary to ensure effective competition; or
    - (iii) A risk exists of reprisals from third parties if the information or its source is disclosed; or
    - (iv) Of the existence of a legal obligation to keep it secret.
4. Subparagraph a) of paragraph 1 does not apply to the disclosure of information made by the Authority:
  - a) To a Review Panel under Chapter IV; or
  - b) As required by any law of Timor-Leste or order of a competent court.

## CHAPTER IV REVIEW

### Article 24 Right of review

A service provider aggrieved by any regulatory measure, including any interim regulatory measure, approved by the Authority may request its review by a Review Panel formed and held in accordance with this Chapter.

### Article 25 List of Experts for Review Panels

1. For the purposes of appointment to a Review Panel, the Authority shall maintain a List of Experts consisting of at least three members appointed in accordance with this article, one of whom at least must be a lawyer.
2. Periodically, and in any event within 90 days from the effective date, the Minister shall appoint members to the List of Experts upon approval of the Council of Ministers, specifying who shall be the Secretary.

3. Prior to making any appointments pursuant to this article, the Minister shall:
  - a) Publish a public announcement at the national or international level, requesting nominations for candidates to discharge such duties;
  - b) Take into account remarks from interested parties on the nominated candidates; and
  - c) Confirm the availability of the candidates and their agreement to the terms of appointment.
4. A person shall not be eligible to be appointed to, or remain on, the List of Experts:
  - a) Unless he or she is a person of integrity, independence of mind and good reputation and has knowledge and international experience in the regulation of competitive telecommunications markets;
  - b) Where the person is an employee, consultant or Administrator of the Authority; or
  - c) Where the person would be ineligible pursuant to paragraph 4 of Article 7.
5. Members of the List of Experts shall be appointed for a term of four years on the conditions specified by the Minister in the order of appointment.
6. A member of the List of Experts ceases to be a member if he or she:
  - a) Dies;
  - b) Resigns;
  - c) Is not re-appointed at the end of a term; or
  - d) Is removed from the List of Experts pursuant to the following paragraph.
7. The Minister may remove or suspend a member of the List of Experts prior to the expiry of his or her term on the grounds set forth in paragraph 3 of article 11.
8. The Secretary shall be entitled to reasonable fees and expenses in respect of his or her administration of the List of Experts, appointments to Review Panels and related activities, which shall be payable from the funds of the Authority.
9. Members of the List of Experts shall be entitled to reasonable fees and expenses in respect of their participation, if any, in a Review Panel established to conduct a review pursuant to article 26.
10. The Authority shall publish the List of Experts and contact details of the Secretary on its website.

Article 26  
Constitution of a Review Panel

1. A service provider aggrieved by a regulatory measure of the Authority may, within 30 days of issuance of the notice of such regulatory measure, submit to the Authority a request for review of such regulatory measure.
2. A Review Panel may be constituted in accordance with the process described in paragraph 4 or 5 of this article as selected by the service provider requesting review.
3. A request for review shall identify the relevant regulatory measure, summarise the grounds for review and indicate the selected Review Panel constitution process.
4. Within 7 days from the Authority's receipt of a request for review selecting the constitution of a Review Panel in accordance with this paragraph, the Authority shall transmit such request to the Secretary who shall, within 21 days from receiving such request from the Authority, appoint a Review Panel consisting of one or three members of the List of Experts, which may include himself or herself, to undertake a review.
5. Within 14 days from the Authority's receipt of a request for review, if it has not been possible to establish the Review Panel from the List of Experts, the Authority and the service provider requesting review shall each nominate a person and the two nominated persons shall, within 14 days from their appointment, nominate a third person to chair the Review Panel, provided there is no incompatibility among all such persons pursuant to paragraph 4 of article 25.
6. A Review Panel comprising three members shall decide by majority of its members.
7. Before appointment to the Review Panel, each member proposed for appointment to the Review Panel shall sign and deliver to the Authority and any interested service providers a statement confirming his or her independence from the Authority and service providers and his or her eligibility pursuant to paragraph 4 of article 25, and disclose any facts or circumstances which are of such nature as to call into question his or her independence.

Article 27  
Review Process

1. The Review Panel shall determine the procedure for the review and may issue procedural instructions, and the Authority and service providers shall comply with such procedural instructions.
2. The Review Panel may, for the sake of ensuring a good procedural order, adapt the time periods provided for in this article where under the circumstances it considers it necessary in order to ensure the parties' right to be heard and contest the other's arguments.

3. Within 14 days from the constitution of the Review Panel pursuant to the preceding article, the service provider seeking review shall submit to the Review Panel, with a copy to the Authority, a complete claim comprising:
  - a) A copy of the application for review submitted pursuant to paragraph 1 of the preceding article;
  - b) A copy of the regulatory measure to be reviewed;
  - c) A statement of the grounds for reviewing;
  - d) Arguments based on the relevant provisions of the present Decree-Law and any relevant regulatory measure;
  - e) A statement of any remedies it seeks through the review process; and
  - f) Copies of relevant documents on which it bases its request.
4. The Authority shall:
  - a) Within 7 days of receipt of its copy of the complete claim and subject to the provisions set forth in article 23, publish a notice regarding the filing of such claim on its website inviting interested persons to make submissions to the Review Panel addressing the claim;
  - b) Subject to the provisions set forth in Article 23, provide a copy of the claim to such persons; and
  - c) Within 30 days of receipt of its copy of the complete claim, submit to the Review Panel, with a copy to the service provider seeking review, its response also comprising:
    - (i) The Authority's response addressing the representations and documents submitted by the service provider seeking review; and
    - (ii) A copy of the record of the proceeding related to the regulatory measure under review which includes notices, representations, draft determinations, orders or regulations, grounds and any other documents taken into account in issuing the regulatory measure under review.
5. An interested person may, within 14 days from the publication of the copy of the complete claim pursuant to paragraph 4 a), present to the Review Panel, with copies to the Authority and the service provider seeking review, its opinion based on the relevant provisions of the present Decree-Law and any relevant regulatory measure addressing the claim.

6. The service provider seeking review may, within 14 days upon receipt of the response from the Authority or representations from interested persons, submit a reply addressing the matters raised in such response and representations.
7. The Review Panel shall conduct the review in accordance with the documents of the review process and no new evidence may be introduced except with the authorisation of the Authority, which shall be granted only in special circumstances.
8. The Review Panel:
  - a) May require the Authority and the service provider, and other relevant service providers, to provide information deemed relevant for reviewing the regulatory measure, which information shall be treated in accordance with the provisions set forth in article 23;
  - b) May inform itself of any relevant matter in any way it deems appropriate;
  - c) Shall give due regard to relevant evidence; and
  - d) Shall not be bound by minor technical issues, legal forms, or rules on evidence.
9. After conducting the review, the Review Panel shall provide the parties with a substantiated opinion in writing that shall either:
  - a) Confirm the regulatory measure under review, or any part thereof; or
  - b) Refer the whole or any specified part of the matter to which the review relates back to the Authority for reconsideration, with such recommendations to the Authority as the Review Panel considers appropriate.
10. The Authority shall, within 45 days or such longer period as may be required in duly justified exceptional circumstances, reconsider any matter referred back pursuant to paragraph 9 b) hereof, in accordance with the Review Panel's recommendations and render its reconsideration in writing, revoking or amending the regulatory measure accordingly.
11. Subject to article 23, the Authority shall promptly publish the Review Panel's written opinion on its website.
12. Unless otherwise directed by the Review Panel, where any regulatory measure is subject to a review process before the Review Panel, it shall remain in full force pending the conclusion of such process.
13. Where the Review Panel refers any matter back to the Authority for reconsideration pursuant to paragraph 9 b) of this article, the regulatory measure under review (or any relevant part thereof as the case may be) shall be suspended pending such reconsideration.

14. Save in duly justified exceptional circumstances, the Review Panel shall render its opinion within 60 days of its receipt of the Authority's response pursuant to paragraph 4 of this article.

#### Article 28 Costs of the review

1. Upon completion of the review of a regulatory measure, even where the request is withdrawn, the Review Panel may issue such instructions as it may deem appropriate regarding the allocation of costs incurred among the service provider seeking review, the interested parties that have joined the process, and the Authority.
2. The costs of the review process shall include the reasonable fees and expenses of the Review Panel and the parties to the review.
3. The Review Panel may require the service provider seeking review, any interested party that may have participated in the review process, including the Authority, to make payments on account, it being that:
  - a) If the service provider seeking review fails to comply with a requirement for payments on account, the Review Panel may suspend the review process and set a time limit for compliance, which shall not be less than 14 days, and if the service provider seeking review has not complied by the expiry of such time limit, the application for review shall be deemed to have been withdrawn; and
  - b) Where any other party who is joined to the process fails to comply with a requirement for payments on account, they shall not be permitted to continue in the process.
4. Any payments on account in excess of the amount ordered by the Review Panel pursuant to paragraph 1 shall be refunded.

#### Article 29 Judicial review

1. All regulatory measures adopted by the Authority may be appealed to the competent courts.
2. No provision in the present Decree-Law shall affect the right of service providers to, at any time, apply to a competent court for judicial review.
3. In any request for reconsideration of a regulatory measure filed pursuant to article 27, the time limit applicable for bringing such review before the courts shall be extended by a period equivalent to that between the date of approval of the regulatory measure under review and the date the Authority renders its reconsideration pursuant to paragraph 10 of that Article.



4. Unless otherwise decided by a competent court, any regulatory measure that is the subject of a judicial review process shall remain in full force pending the conclusion of such process.

## CHAPTER V REGISTRATION

### Article 30 Registration

1. A person shall not supply a telecommunications service or operate a telecommunications network unless:
  - a) That person is registered with the Authority to supply such service and operate such telecommunications network in accordance with this Chapter; or
  - b) Is exempt pursuant to this Chapter.
2. A person may register to supply a telecommunications service and operate a telecommunications network by filing with the Authority a complete, correct and signed registration statement in accordance with Annex 1 to the present Decree-Law.
3. The Authority shall publish the registration statement requirements contained in Annex 1 to the present Decree-Law on its website.
4. A person shall not be eligible for registration where:
  - a) That person is not a corporate body incorporated in Timor-Leste or an entity that has been awarded a radio-frequency spectrum licence even where it is still in the process of incorporation as a legal entity in Timor-Leste for which it has undertaken to transfer such licence;
  - b) It has entered into liquidation, taken any action for its voluntary winding-up or dissolution, or is the subject of any order by a competent court for its compulsory winding-up or dissolution;
  - c) It has previously been registered pursuant to this Chapter and its existing registration has been and remains suspended;
  - d) It has previously been registered pursuant to this Chapter and the Authority has revoked its registration or declared its registration non-effective pursuant to paragraph 9 of this article, and the Authority has not confirmed that it may register again; or
  - e) Any of its Administrators have been convicted of any offence involving the exercise of public duties or the unlawful taking of property in Timor-Leste or in any other country.

5. The Authority shall provide written confirmation of receipt of a registration statement within 14 days after its receipt.
6. Subject to the provisions of the present Decree-Law or regulatory measures issued thereunder relating to use of radio-frequency spectrum, numbers, equipment, use of the land and/or any other matter, a company shall be entitled to supply any telecommunications services and operate any telecommunications networks from the date its registration takes effect.
7. Registration shall take automatic effect with no further administrative requirement on the forty-fifth day after the Authority receives the registration statement unless the Authority requests additional information pursuant to the following paragraph or provides notice of non-effective registration pursuant to paragraph 9 of this article.
8. The Authority may, within 45 days from receiving a registration statement, provide written notice to the person requiring additional information in order to verify its eligibility and compliance with the present Decree-Law and any regulatory measure under it, in which case registration shall not take effect until such time as the Authority declares it effective.
9. The Authority shall, within 45 days from receiving a registration statement, provide written notice of non-effective registration to the person if:
  - a) The person is ineligible pursuant to paragraph 4 of this article;
  - b) The registration statement is materially incomplete or incorrect; or
  - c) Registration of such person poses a risk to national security, public order, public health or public safety.
10. The Authority shall, within 14 days after registration takes effect, deliver to that person:
  - a) A written certificate of effective registration;
  - b) A summary of the obligations relevant to registered service providers pursuant to the present Decree-Law; and
  - c) Without prejudice to article 22, an indication of any obligation regarding the preparation and delivery of reports.
11. A person may transfer its registration to another person provided that:
  - a) Such transferee is eligible for registration pursuant to paragraph 4 of this article;
  - b) Such transferee shall file with the Authority a complete, correct and signed registration statement pursuant to paragraph 2; and

- c) The registration of such transferee is effected in accordance with paragraphs 7, 8, 9 and 10 of this article.
- 12. The Authority shall not restrict the number of persons that may register pursuant to this article.
- 13. On or before every anniversary of the date on which its registration took effect, a registered service provider shall file with the Authority an update of any change made in its registration statement provided it has not yet submitted such information to the Authority pursuant to paragraph 10 c) of this article or of article 22.
- 14. A person registered pursuant to this Chapter shall notify the Authority upon ceasing supply of telecommunications services or operation of telecommunications networks.

#### Article 31 Exemptions

- 1. The Authority may exempt the supply of particular telecommunications services or the operation of particular telecommunications networks from the requirements provided for in the preceding article if such services or networks are, or are likely to remain, so insignificant that there is no reasonably anticipated benefit from requiring compliance with the provisions relating to registered service providers pursuant to this Decree-Law.
- 2. The Authority may withdraw any exemption previously established pursuant to the preceding paragraph.
- 3. The granting, modifying and withdrawal of exemptions shall be subject to paragraph 4 of article 19.

#### Article 32 Suspension and revocation

- 1. The Authority may, without right to compensation, suspend or revoke a service provider's registration or apply specific conditions to its supply of telecommunications services or operation of telecommunications networks where:
  - a) The service provider has entered into liquidation, taken any action for its voluntary liquidation or dissolution, or is the subject of any order by a competent court for its compulsory liquidation or dissolution;
  - b) In its registration statement, the service provider misled the Authority by making a false statement in relation to a relevant fact or by omitting to state such fact to the Authority's consideration of the person's eligibility to be a service provider;
  - c) The service provider has breached an essential requirement for payment of fees, levies or penalties required to be paid pursuant to this Decree-Law;

- d) The service provider has failed without reasonable justification to produce relevant information or documents to the Authority required pursuant to this Decree-Law or any regulatory measure made under it; or
  - e) The service provider has failed to comply with a requirement set forth in Chapters VI, VII, VIII, IX, X, XI or XIII of the present Decree-Law or any regulatory measures made under those provisions.
2. The Authority may only suspend or revoke a service provider's registration in the case of subparagraphs c), d) and e) of the preceding paragraph where:
- a) The service provider has failed to rectify the situation of non-compliance within a reasonable period of time after being requested to do so by the Authority;
  - b) The relevant non-compliance has occurred repeatedly and, along with other repeated incidences of material non-compliance, shows an accumulated pattern of serious disrespect for the present Decree-Law and regulatory measures made under it;
  - c) The relevant non-compliance has or is likely to have a material adverse effect on other service providers, consumers or competition, or significantly hinders the Authority from performing its functions or responsibilities or exercising its powers pursuant to the present Decree-Law;
  - d) The suspension or revocation of a service provider's registration is proportionate to the seriousness of the non-compliance; and
  - e) All other effective remedies have been exhausted including any imposition of administrative penalties.
3. The revocation of a service provider's registration and the application of specific conditions shall be subject to paragraph 4 of Article 19.

#### Article 33

#### Database of registered service providers

The Authority shall maintain on its website an up-to-date database of all names and contact information of persons registered pursuant to this Chapter.

### CHAPTER VI COMPETITION

#### Article 34

#### Anti-competitive practices

1. Service providers shall not enter into any formal contract or informal agreement, or engage in conduct that has the purpose or effect of preventing, restricting or distorting competition in any appreciable manner in any telecommunications market.

2. A contract or an agreement may be deemed to infringe the preceding paragraph if it:
  - a) Consists in arrangements between or among service providers to fix their prices or other conditions of trading;
  - b) Provides for service providers to share or allocate between or among them telecommunications markets or sources of supply or otherwise not to compete in certain areas or over certain customers or customer groups; or
  - c) Unduly prevents a supplier of products, services or resources inside or outside of Timor-Leste from providing products, services or resources that are essential for the provision of telecommunications services by other service providers.
3. A service provider may be deemed to have engaged in conduct that infringes paragraph 1 of this article where it:
  - a) Supplies, without a verifiable justification, a telecommunications service at prices below cost for a sustained period of time such that competitors are reasonably likely to leave or be deterred from entering the market;
  - b) Holds an essential ‘upstream’ input on which competitors depend to provide a related product in a ‘downstream’ telecommunications market, and charges such competitors a price for the use of such infrastructure resulting in a margin between the upstream cost and the price for downstream customers that prevents a service provider from competing effectively;
  - c) Makes the execution of contracts for products and/or services, in a telecommunications market in which it has a dominant position, conditional upon the acceptance of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts, without any objective justification for imposing such conditions;
  - d) Bundles a product or service with a product or service in a telecommunications market in which it is dominant in a manner that provides an implicit discount or any other benefit in respect of the former product or service that cannot practicably be replicated by other service providers;
  - e) Refuses without objective justification to supply to other service providers, on reasonable terms and conditions, a product, service or resource that is essential for such service providers to provide telecommunications services and that, for technical, legal, economic or other reasons, such service providers cannot practicably produce or supply;
  - f) Prevents, without objective justification, customers from moving to other service providers, in a telecommunications market in which it is dominant, by requiring excessive exit payments for the termination of contracts or excessively long contracts or other similar means; or

- g) Improperly uses, as a dominant service provider, information supplied by a competitor, for purposes related to the supply of products or services, in order to compete with such competitors.
- 4. The earlier designation of a service provider with significant market power shall not be a pre-requisite for finding that a service provider is dominant in a telecommunications market pursuant to this article.
- 5. Subject to paragraph 4 of Article 19, the Authority may exempt a formal contract, informal agreement or conduct from the prohibition provided for in paragraph 1 of this article where such contract, agreement or conduct furthers the objective provided for in article 2 of the present Decree-Law.
- 6. A formal contract or informal agreement among two or more competing service providers that provides for ownership, leasing of shared use of facilities shall not contravene paragraph 1 of this article so long as its purpose is to improve efficiency or avoid unnecessary duplication of costs, provided that the terms of such contract or agreement do not unreasonably preclude sharing such facilities with other service providers on non-discriminatory terms.

Article 35  
Mergers and acquisitions

- 1. Any interested person shall request the approval of the Authority before it acquires, through merger or acquisition, an ownership interest in the capital of a company or any assets of a company or of any other person which would result in, or be likely to result in, the control or an increase in control over one or more service providers with:
  - a) A combined share of over 25% of the revenues or subscribers in any given telecommunications market; or
  - b) Combined annual revenue exceeding \$10 million (ten million United States dollars).
- 2. Where such merger or acquisition would result in, or be likely to result in, a substantial lessening of competition in any given telecommunications market, the Authority may:
  - a) Refuse to grant approval; or
  - b) Grant approval if the commitments undertaken by the person requesting approval are adequate to address the concerns over competition raised by the merger or acquisition.
- 3. The Authority may order the cancellation or reversal of a merger or acquisition which, being subject to approval by the Authority pursuant to paragraph 1 of this article, such approval has not been requested and the relevant merger or acquisition would result in a substantial lessening of competition in any telecommunications market.

4. The Authority may establish procedures, rules and guidelines specifying the content of such notifications and any requirements, procedures and conditions related to the approval of a merger or acquisition described in paragraph 1 of this article.
5. An approval or refusal pursuant to this article shall be subject to paragraph 4 of article 19.

## CHAPTER VII SIGNIFICANT MARKET POWER

### Article 36 Significant market power and market review

1. Subject to paragraph 3 of this article, the Authority shall at least every two years review the relevant telecommunications markets listed in Annex 2 of the present Decree-Law, following which it may:
  - a) Designate any service provider as having significant market power in accordance with paragraph 3 of this article in the relevant telecommunications market or markets reviewed; and
  - b) Remove the significant market power designation from a given service provider in a relevant telecommunications market.
2. The Authority may add new or remove existing relevant telecommunications markets to or from the list in Annex 2.
3. The Authority may designate a service provider as having significant market power in a telecommunications market if the service provider, individually or together with others, enjoys a position of economic strength enabling it to behave to an appreciable extent independently of competitors and users in that telecommunications market.
4. In conducting any review pursuant to paragraph 1 of this article, the Authority shall review such markets taking into account:
  - a) Existing competition, including market shares of relevant service providers and barriers to their expansion;
  - b) Potential competition, including the market quotas of the relevant service providers and the barriers to its expansion;
  - c) The bargaining power of consumers and/or users; and
  - d) The evolution of effective competition in Timor-Leste and other countries, including, without limitation, those comparable to Timor-Leste in terms of population, geography, income and other relevant features.

5. In conducting any review pursuant to paragraph 1 of this article, the Authority shall consult the service providers in question and take into account representations and information presented by them.
6. Unless otherwise decided by the Authority in the framework of a review of the relevant markets pursuant to this article, every service provider shall be deemed as having significant market power in the telecommunications market for:
  - a) The wholesale call termination and short message service (SMS) markets in individual networks; and
  - b) Wholesale international data and voice transmission services markets if the service provider controls substantially all of the capacity on international fibre-optic cables connecting Timor-Leste.
7. Where the Authority finds that a certain service provider holds significant market power in a telecommunications market pursuant to this article, it may only impose on such service provider the measures set forth in Articles 37, 41, 43 and 47, and only in cases where such regulatory measures are adequate, justified and proportionate for addressing such significant market power.
8. The Authority shall carry out the first review pursuant to this article within two years from the date on which any new service providers licensed pursuant to paragraph 3 of article 83 starts providing commercial services in Timor-Leste.
9. A market review and the regulatory measures adopted pursuant to this article shall be subject to paragraph 4 of Article 19.

#### Article 36 Accounting separation

1. The Authority may require a service provider to account separately for its revenues from and costs of the supply of telecommunications services in telecommunications markets in which it has significant market power from its revenues from and costs of the supply of telecommunications services in telecommunications markets in which it does not have significant market power, and to comply with procedures, rules and directives of the Authority regulating the allocation of joint costs and transactions and other related matters.
2. The requirement for accounting separation pursuant to this article shall be subject to paragraph 4 of article 19.



CHAPTER VIII  
INTERCONNECTION, CELL SITE SHARING AND ACCESS

Article 38

Negotiation of interconnection, cell site sharing and access agreements

1. Without prejudice to the present Decree-Law and the Authority's functions, responsibilities and powers thereunder, service providers are at liberty to negotiate interconnection, cell site sharing and access agreements on a commercial basis.
2. When requested by another registered service provider in writing for the purpose of providing telecommunications services to the public, a service provider shall negotiate and endeavour to reach an agreement on:
  - a) Interconnection, pursuant to article 39;
  - b) Cell site sharing, pursuant to article 40; and
  - c) Forms of access, pursuant to article 41.
3. In negotiating such agreements, service providers shall:
  - a) Respond to any request for negotiation;
  - b) Meet all reasonable requests for interconnection, cell site sharing or the requested form of access;
  - c) Propose reasonable conditions, including those related to pricing, timing, quality, technical specifications and fault handling;
  - d) Supply interconnection, cell site sharing or the required form of access in a manner that is sufficiently unbundled to enable the requesting service provider to have the interconnection, cell site sharing or access it reasonably requested;
  - e) Make available information, including technical specifications and commercially relevant information, which is reasonably required by the requesting service provider for the purposes of negotiation and implementation of the agreement;
  - f) Comply with technical or operational conditions required by the Authority to ensure normal operation of the network; and
  - g) Ensure that such interconnection, cell site sharing or requested form of access is achieved within a reasonable period of time in accordance with this Chapter.
4. Service providers shall negotiate such agreements on a non-discriminatory basis, applying equivalent conditions in equivalent circumstances to other service providers

providing equivalent services, and providing services and information to others under the same conditions and of the same quality as they provide for their own services or those of their affiliates.

5. A service provider shall not be required to enter into any agreement for interconnection, cell site sharing or other form of access on terms that:
  - a) Are not technically, legally or economically feasible;
  - b) Are not permitted under the service provider's obligations to third parties where such obligations cannot reasonably be renegotiated;
  - c) Are reasonably likely to endanger, damage or injure any person or property; or
  - d) Materially interfere with the operation, provision, security, quality of service or integrity of its telecommunications network or supply of its telecommunications services.
6. The Authority may issue regulatory measures to secure the implementation of, and compliance with, the provisions in this Chapter, and the issuance of such regulatory measures shall be subject to the provisions set forth in paragraph 4 of article 19.

#### Article 39 Interconnection

1. Within 30 days from receiving a written request to interconnect from a requesting service provider, a service provider shall:
  - a) Propose an interconnection agreement that meets all reasonable requests for interconnection at any economically and technically feasible point of its telecommunications network; and
  - b) Enter into negotiations with the requesting service provider on the basis of such a proposed interconnection agreement.
2. An interconnection agreement proposed by a service provider under subparagraph a) of the preceding paragraph shall permit access to its facilities, network elements, operational support systems, software and services as are reasonably required by the requesting service provider to ensure effective end-to-end interconnection.

#### Article 40 Cell site sharing

1. Cell site sharing shall be carried out pursuant to this article, unless otherwise agreed to by the parties.

2. The service provider from whom cell site sharing is requested shall ask the requesting service provider to enter into a framework agreement governing the general terms and conditions applicable in that area.
3. After entering into a framework cell site sharing agreement pursuant to the preceding paragraph, a requesting service provider shall notify the owner service provider of the number and locations of cell sites it wishes to share and inform the owner service provider of:
  - a) The number, type, size and weight and any other technical feature or specification of the equipment it seeks to install at each site;
  - b) The space it estimates it will occupy on each site; and
  - c) Any other information reasonably required by the owning service provider to consider the request.
4. The owner service provider shall within a reasonable period of time carry out such site survey and feasibility study as are reasonably necessary to determine the feasibility of sharing the relevant cell sites and, depending on the outcome survey and feasibility study, shall provide a written communication to the requesting service provider in order to either:
  - a) Confirm the availability of the relevant cell sites; or
  - b) Refuse the sharing request, providing reasons for the refusal.
5. Where the owner service provider confirms the availability of cell sites pursuant to paragraph a) of the preceding paragraph, it shall at the same time:
  - a) Propose terms and conditions for the sharing of such cell sites, including identifying the available frequency and antenna height, the estimated adaptations required to be made, the estimated applicable rent and other costs arising from the requesting service provider's request and required to make such sharing technically, legally and contractually feasible, as well as the date on which the cell site may be made available for the installation of the requesting service provider's equipment; and
  - b) Provide the technical information in its possession relevant to the sharing of such cell sites, such as drawings, surveys, technical data, engineering information, future requirements, and lease provisions.
6. The owner service provider shall permit the requesting service provider to have access, accompanied by a representative of the owner service provider, to the cell sites so that the requesting service provider may assess the feasibility of sharing the sites under the terms proposed.

7. The owner service provider may reserve space in its cell sites to meet future needs in accordance with its development plan for the next two years.
8. All reasonable costs of site surveys, feasibility studies and necessary adaptations and changes to install the requesting service provider's equipment, including costs incurred by the owner service provider, will be borne in full by the requesting service provider.
9. Service providers intending to install one or more cell sites after the date on which the new service providers licensed pursuant to paragraph 3 of article 81 commence commercial services in Timor-Leste shall:
  - a) Notify the other registered service providers licensed to provide mobile services of their intention and identify the specific location where the cell site is to be installed, and give 30 days notice to:
    - i) State their interest in sharing the site(s); and
    - ii) Make information available on the equipment to be installed as well as the space(s) to be occupied and/or any other information that the service provider to whom the communication is addressed may deem relevant;
  - b) The service provider expressing an interest in sharing the sites in question, referred to as the interested service provider, must provide the service provider intending to build with the technical specifications of the planned sharing requirements, and in turn the service provider proposing the installation of the site must provide the information related to the requirements of the equipment it plans to install;
  - c) The parties shall negotiate the requirements of a shared cell site, and the reasonable terms and conditions on which it will be shared;
  - d) Unless otherwise agreed to by the parties, all reasonable costs of feasibility studies, planning, permissions, cell site facilities and installation shall be borne by the service providers in proportion to their use and reservation of the cell site's capacity; and
  - e) Where a service provider does not express an interest in following up the notification mentioned in subparagraph a) of this paragraph, this shall not hinder its right to, at any time, exercise its right to request sharing the cell site pursuant to this article.
10. Without prejudice to or limiting in any way service providers' right to resort to dispute resolution mechanisms under Chapter XI, where the parties fail to agree on a technical matter relating to a denial of a request for sharing a cell site, already installed or to be installed, either party may call on the Authority to appoint an expert in cell site sharing to provide an opinion on this matter after reviewing the technical submissions of each involved party.
11. In order to promote the development of sites and the reciprocal sharing thereof, an owner service provider and/or a service provider intending to install a new site has the right to

require, in consideration for a sharing request from another service provider, that such service provider make available for sharing a substantial number of cell sites of its own, whether installed or to be installed, by entering into a bilateral framework agreement regulating the relations between the parties regarding site sharing.

12. For the purposes of this article, an “owner service provider” shall refer to a service provider having the ownership, lease or other right to use a cell site.

#### Article 41 Access

1. The Authority may impose on service providers with significant market power in a particular telecommunications market obligations to respond to reasonable access requests made in writing in situations where the denial of access, or the setting of unreasonable conditions that have an effect equivalent to a denial of access, would hinder the emergence of a sustainable competitive retail market or harm the interests of end users.
2. The Authority may request that the agreements pursuant to the preceding paragraph provide for:
  - a) Access to specified network resources and/or facilities;
  - b) Specified services on a wholesale basis for resale by third parties;
  - c) Co-location or other forms of associated facilities sharing; and
  - d) Access to operational support systems or similar software systems necessary to ensure the effective provision of the forms of access referred to in the preceding paragraphs.
3. In considering matters related to this article, the Authority shall take into account:
  - a) The relevant capacity, technical and/or operational constraints;
  - b) The technical and economic viability of using or installing alternative facilities or services;
  - c) Any relevant intellectual property rights; and
  - d) The objective provided for in article 2 of the present Decree-Law.
4. The Authority shall not, before a period of two years has elapsed from the date of entry into force of the present Decree-Law, impose any obligation on any service provider to provide:
  - a) National roaming services; or

- b) Any other telecommunications services used for the purpose of providing Mobile Virtual Network Operator (MVNO) services.
- 5. The Authority shall adopt regulatory measures related to the access and use of the capacity of international fibre-optic cables reaching Timor-Leste, if necessary to advance the objective provided for in article 2 and/or to remedy anticompetitive effects that arise or are likely to arise from the ownership and operation of such network assets, equipment and infrastructure.
- 6. Any service provider or providers controlling the capacity of international fiber-optic cables to access Timor-Leste shall provide access to licensed service providers in Timor-Leste, on conditions of equality, non-discriminations and cost-oriented prices.

#### Article 42 Confidentiality

- 1. A service provider shall adopt the necessary measures to ensure the confidentiality of any confidential information supplied by another service provider in the course of negotiating or implementing an agreement pursuant to this Chapter and shall use such information only for the purpose for which it was supplied.
- 2. Protection from disclosure pursuant to the preceding paragraph shall include not passing information on to any subsidiaries, parent companies, partners or any other party for whom such information could represent a competitive advantage.
- 3. This article shall not prejudice the functions, responsibilities and powers of the Authority pursuant to the present Decree-Law in relation to requests for information from service providers.

#### Article 43 Reference offers

- 1. Subject to paragraph 3 of this article, the Authority may require a service provider, in relation to wholesale telecommunications markets in which it has significant market power, to:
  - a) Prepare, periodically update and revise a reference offer for interconnection or access, or any combination thereof, to be approved by the Authority;
  - b) Include in its reference offer such matters as the Authority considers necessary pursuant to this Chapter for the effective implementation of the reference offer; and
  - c) Publish its approved reference offer on its website and send a copy thereof to any service provider on request.
- 2. For the purposes of this article, a reference offer shall be a model agreement, or a group of model agreements, which includes the conditions proposed by the service provider to

supply the requesting service providers with interconnection or access, or any combination thereof.

3. In assessing the need to impose on a service provider the making available of reference offers, the Authority shall consider:
  - a) Existing obligations applicable to the service provider pursuant to the present Decree-Law or regulatory measures issued thereunder;
  - b) The relative bargaining power of the service provider subject to the obligation and that of the other service providers requesting interconnection or access therefrom; and
  - c) Whether such an imposition is essential to facilitate and assist the reaching of reasonable and fair agreements with other service providers.
4. If approved by the Authority, the reference offer may consist, in whole or in part, of an existing framework agreement.
5. If a service provider fails to comply with paragraph 1 of this article within a reasonable period of time set by the Authority, which shall, save in duly justified exceptional circumstances, be no less than 60 days, the Authority may, after consultation with the service provider, determine reference terms of interconnection or access, as applicable, in accordance with this Chapter.

#### Article 44 Amendment of agreements

Parties to an agreement entered into pursuant to this Chapter shall from time to time renegotiate in order to, if necessary, make amendments to their agreements for the purpose of incorporating such amendments as introduced into the present Decree-Law and the regulatory measures issued thereunder.

#### Article 45 Filing of agreements

1. A service provider shall, within 14 days from the date of entering into an agreement pursuant to this Chapter or any amendment thereto, file a copy thereof with the Authority.
2. Subject to the provisions set forth in Article 23, the Authority shall publish a copy of all agreements filed with it on its website.

CHAPTER IX  
PRICE REGULATION

Article 46  
Tariff filing

1. A service provider shall file with the Authority the standard wholesale and retail prices of telecommunications services it supplies within fourteen days of setting or changing such prices.
2. The Authority may prescribe the manner in which tariffs are to be filed pursuant to the preceding paragraph.

Article 47  
Tariff regulation

1. The Authority may regulate the prices charged by a service provider in a telecommunications market in which it has significant market power:
  - a) By referring to relevant benchmarks in accordance with paragraph 3; or
  - b) Where the Authority considers it more appropriate under the circumstances, or where requested by the service provider, on the basis of an economically efficient cost model.
2. In performing its functions and responsibilities and exercising its powers pursuant to this article, the Authority shall take into account:
  - a) Any need to protect consumers from excessive prices;
  - b) The development of competition in the relevant telecommunications market; and
  - c) Any need to prevent pricing practices that hinder, restrict or distort competition in such telecommunications market.
3. Relevant benchmarks shall be identified by reviewing prices of services substantially similar to those services being assessed, derived from countries in which:
  - a) A reasonable level of competition exists in the provision of the services in question; or
  - b) Prices of the services in question are set on the basis of economically efficient costs.
4. The regulation of tariffs pursuant to this article shall be subject to paragraph 4 of Article 19.



CHAPTER X  
CONSUMER PROTECTION

Article 48  
Dealing in good faith

1. A service provider shall not engage in any conduct that is misleading or deceptive, or is likely to mislead or deceive.
2. A service provider shall not make a false or misleading representation related to the type, quality, price or grade of their telecommunications services.
3. A service provider shall only charge a subscriber for the specific telecommunications services that the subscriber has ordered.
4. A service provider's invoice for post-paid or prepaid services must be readily understandable.
5. A service provider shall, in a manner that is readily understandable, publish on its website and make available at its points of sale the retail prices in effect and the general terms and conditions applicable to the provision of services.
6. The Authority may adopt regulatory measures to ensure the implementation of, and compliance with, this article and the issuance of such regulatory measures shall be subject to paragraph 4 of article 19.

Article 49  
Providing information and communications to subscribers

1. Subject to the following paragraph, service providers:
  - a) Shall not, without a subscriber's consent, collect, use, retain or disclose information about a subscriber, including call and billing information, except as necessary to provide the services to a subscriber; and
  - b) Shall employ appropriate security safeguards and administrative procedures to prevent the unauthorised collection, use, retention or disclosure of such information.
2. A service provider may disclose a subscriber's name, address and listed telephone number in a printed or electronic telephone list, provided that any subscriber may request a service provider in writing not to disclose their name, address and listed telephone number and the service provider shall comply with such request.
3. A service provider shall ensure that any subscriber information it collects, uses, retains or discloses is accurate and proportionate to the purposes for which it is to be used.

4. The Authority may adopt regulatory measures in relation to the collection, use, retention and disclosure of subscriber information and communications including, but not limited to, requiring service providers to retain or prohibiting service providers from retaining certain information relating to subscribers, including information on billing, for or after a specified period of time.
5. A service provider shall not intercept, monitor, alter or modify the contents of a communication, except as provided in the present Decree-Law or in any other law.
6. Nothing in the present Decree-Law shall be interpreted to prohibit or limit the rights vested by the laws of Timor-Leste in the competent law enforcement bodies and the courts related to the access of confidential information or communications of subscribers.
7. The making of regulatory measures pursuant to this article shall be subject to paragraph 4 of article 19.

Article 50  
Standard terms and conditions

1. A service provider supplying public telecommunications services shall:
  - a) Establish standard terms and conditions that are reasonable and readily understandable for the provision of public telecommunications services;
  - b) Establish complaint and dispute procedures that are simple, fair and reasonable and allow for an impartial and quick treatment and resolution of complaints, and that also define the applicable conditions for refunds and compensation;
  - c) Publish such terms and conditions, procedures and remedies on its website and make them available at points of sale;
  - d) Submit such terms and conditions, procedures and remedies to the Authority upon request;
  - e) Make such changes to the terms and conditions, procedures and remedies as the Authority requires; and
  - f) Comply with such terms and conditions, implement such procedures and establish the conditions for reimbursement and compensation as required by the Authority.
2. The imposition by the Authority of requirements pursuant to subparagraphs e) and f) of the preceding paragraph shall be subject to paragraph 4 of Article 19.

Article 51  
Emergency numbers and operator assistance

1. All service providers referred to in paragraph 2 of this article shall make available:
  - a) Free-of-charge emergency call services enabling the direct dialing of emergency telephone numbers to contact the medical, police, fire brigade and such other emergency services as the Authority may require;
  - b) Operator assistance services, including assistance with call setup, information services on conditions of access to operator services, and fault remedy services; and
  - c) A customer service call centre to receive complaints and provide prompt assistance with subscription, billing and collection.
2. This article shall apply to:
  - a) All service providers operating and providing retail public mobile communications services; and
  - b) All service providers operating and providing retail access to public telephone networks at a fixed location.
3. The Authority may require service providers mentioned in the preceding paragraph to introduce a shared directory, setting the obligations of each service provider in this area, the methods of inclusion and update of the numbers of the service providers' subscribers in such shared directory, and responsibility of the service providers for the costs of maintaining, updating and providing the shared directory.
4. The Authority may issue regulatory measures to secure implementation of, and compliance with, this article, and the making of such regulatory measures shall be subject to paragraph 4 of article 19.

Article 52  
Subscriber complaints and disputes

1. A subscriber whose complaint or dispute has not been treated by a service provider in accordance with subparagraph b) of paragraph 1 of article 50 may apply to the Authority for an order requiring the service provider to either:
  - a) Reconsider and properly address the complaint or dispute in accordance with subparagraph b) of paragraph 1 of article 50; or
  - b) Provide a specific remedy for the complaint or dispute.
2. The Authority may require service providers to:

- a) Report to the Authority regarding the types and volumes of complaints and requests for dispute resolution as well as information related to the procedures adopted in this matter; and
  - b) Take such other measures as the Authority considers appropriate to ensure that complaints of and disputes with subscribers are satisfactorily addressed and that subscribers obtain prompt assistance with subscription, billing, collection, and such other matters as the Authority may require.
3. The imposition by the Authority of requirements pursuant to article shall be subject to paragraph 4 of article 19.

Article 53  
Quality of service

1. The Authority may:
  - a) Require service providers to publish on their websites and points of sale comparable, adequate and up-to-date information on the quality of their services;
  - b) Specify the quality of service parameters to be assessed and the content, form and manner of the information to be published in order to ensure that consumers have access to comprehensive, comparable, reliable and readily understandable information; and
  - c) Set minimum quality of service requirements on service providers operating public telecommunications networks in order to ensure effective communications and prevent the blocking or slowing down of traffic.
2. The imposition by the Authority of requirements pursuant to this article shall be subject to paragraph 4 of article 19.

CHAPTER XI  
DISPUTE RESOLUTION AMONG SERVICE PROVIDERS

Article 54  
Dispute resolution procedure

1. Any service provider that, after making a reasonable effort, fails to agree on the resolution of any dispute relating to any provision of the present Decree-Law or any regulatory measure approved thereunder, including any disputes relating to any anti-competitive acts pursuant to Chapter VI or to matters contained in Chapter VIII, may apply to the Authority for assistance in resolving the dispute.
2. After receipt of a request pursuant to the preceding paragraph, the Authority may:

- a) Conduct or arrange mediation of the dispute pursuant to the following article, where all the parties accept such mediation and the payment of the costs associated therewith, in order to reach a negotiated solution to the dispute;
  - b) Hear the case pursuant to article 56, resolving the matter by decision of the Authority; or
  - c) Deny the request for assistance in resolving the dispute.
3. The Authority may, in writing and stating its reasons, deny a request made pursuant to paragraph 1 where:
- a) Reasonable efforts have not been made to reach a settlement;
  - b) A lengthy period of time has elapsed since the dispute originally arose;
  - c) There are more appropriate means available for resolving the dispute consistent with the present Decree-Law; or
  - d) The dispute is frivolous or vexatious.
4. The Authority may establish procedures, rules and guidelines relating to the dispute resolution proceedings initiated under this article, including setting out the manner in which requests are to be made pursuant to paragraph 1 of this article.
5. The Authority has the power to issue procedural directives in connection with dispute resolution proceedings pursuant to this Chapter, and the parties to the dispute shall comply with such procedural directives.
6. The Authority shall administer all organisational matters relating to a dispute resolution proceeding.
7. Unless otherwise decided by the Authority, each party shall bear its own costs in any dispute resolution proceeding initiated pursuant to the following article.

#### Article 55 Mediation

1. Where the Authority refers the dispute to mediation pursuant to subparagraph a) of paragraph 2 of the preceding article, the Authority may appoint any one or more of its employees, consultants or professional mediators with experience in mediation and telecommunications to conduct the mediation.
2. Without prejudice to the following two paragraphs, the Authority shall offer the parties the opportunity to reach an agreement with one another, with the facilitation of the Authority, to:

- a) Select the mediator or mediators;
  - b) Set the terms of engagement of the mediator or mediators;
  - c) Set the date, time and venue of any mediation meetings; and
  - d) Choose the procedure for the mediation.
3. Where the parties fail to agree on any matter pursuant to the preceding paragraph, the Authority shall take a position on such matter.
  4. The Authority may, pursuant to the present Decree-Law, reject any mediator selected by the parties and the agreed terms of engagement.
  5. A mediation proceeding shall not result in a resolution of the dispute but rather shall promote the negotiation of an agreement, including:
    - a) Consultation with the parties, together or separately, to facilitate communication between them;
    - b) Assistance to the parties to understand their respective perspectives, objectives and constraints, and the relevant facts;
    - c) Guidance in the negotiation process and pursuit of a mutually acceptable resolution to the dispute; and
    - d) Where full resolution cannot be achieved, clarification of the remaining unresolved issues.
  6. The Authority may terminate the mediation and issue a decision on the dispute in accordance with the following article if at any time it is of the opinion that the parties are unlikely to reach agreement within a reasonable period of time.

Article 56  
Administrative dispute resolution

1. Where the Authority refers the dispute to administrative dispute resolution pursuant to subparagraph b) of paragraph 2 of article 54 or paragraph 6 of the preceding article, it shall hear the dispute and issue a determination in a reasoned written decision resolving the matter on which the parties failed to agree.
2. The Authority shall determine the procedure for the administrative dispute resolution.
3. Each party to the dispute shall have an opportunity to respond to the other's submissions.

4. The Authority may reasonably request any party to submit any information at any time during the course of the administrative dispute resolution.
5. Unless it is impracticable to do so, the Authority shall, prior to rendering its decision on the dispute, deliver a draft decision to the parties and allow them at least 14 days to make submissions on such draft.
6. The Authority:
  - a) May obtain information unofficially on any relevant matter which, in any way, it deems appropriate; and
  - b) Give due regard to relevant evidence.
7. Save in duly justified exceptional circumstances, the Authority shall render its decision on the dispute within 120 days from the date on which the dispute was submitted to the resolution procedure, pursuant to subparagraph b) of paragraph 2 of Article 54 or to paragraph 6 of the preceding article.
8. Unless otherwise decided by the Authority, its decision shall have effect as from the date of request for dispute resolution pursuant to paragraph 1 of article 54.

## CHAPTER XII UNIVERSAL SERVICE

### Article 57 Universal access programme

1. With a view to introducing a universal access programme, as soon as it is deemed possible, but never before a period of two years has elapsed from the date of the entry into force of the present Decree-Law, the Authority shall conduct a study in order to establish a universal access programme, which shall be published on its website, and thereafter periodically review it at intervals not exceeding three years.
2. Prior to publishing or reviewing a universal access programme, the Authority shall consult with service providers, the Minister, and the Government officials responsible for rural development, education, and health, and such other persons as it considers appropriate in accordance with paragraph 4 of article 19.
3. A universal access programme shall set out:
  - a) The objectives of the programme;
  - b) The geographic areas covered by the universal access programme;

- c) Any social, economic or demographic group of persons that are eligible for support by the universal access programme, taking into account their current and future demand for telecommunications services;
  - d) The telecommunications services included in the universal access programme and an assessment of their current and future availability and accessibility, taking into account any constraints on the demand for such telecommunications services; and
  - e) The competitive process for the selection of service providers that should receive universal funding and undertake universal access obligations.
4. A universal access programme shall prioritize the availability of the following:
- a) Voice telecommunications service, either fixed or mobile;
  - b) Telecommunications services accessible by users with special needs;
  - c) Internet access at appropriate speeds; and
  - d) Any other telecommunications services the Authority considers to be appropriate, taking into account:
    - (i) The regulatory objectives provided for in article 2 of the present Decree-Law;
    - (ii) New technologies and telecommunications services; and
    - (iii) Relevant international best practices on the matter, considering the conditions in Timor-Leste.

#### Article 58 Universal Access Compensation Fund

1. The Authority shall establish a Universal Access Compensation Fund for the purposes of funding the universal access programme, and it shall keep such fund separate in all respects from the funding of the Authority pursuant to article 13.
2. The Universal Access Compensation Fund shall comprise:
  - a) Levies collected pursuant to this article;
  - b) Any loans, grants and donations made to the Universal Access Compensation Fund; and
  - c) Sums appropriated from the Consolidated Fund for Timor-Leste;
3. The Authority may prescribe and collect annual universal access levies payable by registered service providers as a percentage of their gross revenues, which percentage shall, if necessary, be adjusted each year to meet the requirements of the universal access



programme for the following year, but shall in no event exceed 1% of the gross revenues of each service provider.

4. The Authority may require payments of universal access levies annually or in installments, and prescribe such other procedures, rules and guidelines as necessary for their efficient and effective collection.
5. The Authority may exempt any service provider from paying the levy set out in paragraph 3 of this article if its gross revenues earned from the provision of telecommunications services are below \$10,000 (ten thousand United States dollars).
6. All levies collected pursuant to this article shall be deposited into the Universal Access Compensation Fund.
7. Levies shall not be collected until after a period of two years has elapsed from the date of the entry into force of the present Decree-Law, and the Authority shall only determine their collection if it considers that such levies are a cost-effective means to meet the universal service objectives as defined in the approved universal access programme.
8. Moneys in the Universal Access Compensation Fund shall be used to fund:
  - a) Service providers that undertake to use such funds to fulfill specified universal access obligations in accordance with a universal access programme; and
  - b) The fees and expenses of external consultants in connection with the universal access programme.
9. The Authority shall select recipients of universal access funding in accordance with a competitive selection process.
10. No service provider shall be entitled to universal access funding for the provision of telecommunications services where access to telecommunications services or effective substitutes thereof are available or such services are expected to become available.
11. The Authority shall, after consulting with the Ministry of Finance, establish procedures, rules and guidelines for competitive selection processes and other matters for the administration of the Universal Access Compensation Fund, including in relation to:
  - a) The development and selection process for universal access projects;
  - b) The selection process for allocating funding, including lowest subsidy bidding;
  - c) The process for requesting presentation of proposals;
  - d) Eligibility criteria;
  - e) Project requirements, including ongoing monitoring;

- f) Transparency and accountability in relation to the Universal Access Compensation Fund; and
  - g) Reporting obligations.
12. In selecting a recipient of universal access funding, the Authority shall consider:
- a) A service provider's proposal for ensuring the provision of telecommunications service in the designated geographical area or to the designated social, economic or demographic group;
  - b) The amount of funding the service provider would require from the Universal Access Compensation Fund in order to implement its proposal; and
  - c) The service provider's financial, technical and operational capacity to implement its proposal.
13. Subject to the prior written approval of the Minister of Finance, the Authority may disburse funds from the Universal Access Compensation Fund at such time as it deems fit pursuant to this article and the universal access programme.
14. The prescription of universal access levies and the design of a competitive selection process for the allocation of funding pursuant to article shall be subject to paragraph 4 of article 19.

### CHAPTER XIII RADIO-FREQUENCY SPECTRUM

#### Article 59 Radio-frequency spectrum plan

1. The Authority shall proceed:
- a) Within two years from the date of the entry into force of the present Decree-Law, to prepare, issue and publish on its website, and thereafter periodically review at intervals not exceeding three years, a national radio-frequency spectrum plan for the allocation, assignment and use of radio-frequency spectrum; and
  - b) To establish procedures, rules and guidelines for the allocation, assignment and use of radio-frequency spectrum, including technical specifications, in accordance with such national radio spectrum plan.
2. Prior to issuing or reviewing a national radio-frequency spectrum plan, the Authority shall consult with service providers, representatives of relevant Government ministries and authorities and other interested persons in Timor-Leste in accordance with paragraph 4 of article 19.

3. Any review of a national radio-frequency spectrum plan pursuant to paragraph 1 of this article shall be subject to the rights of radio-frequency spectrum licencees pursuant to article 65.

Article 60  
Management of the radio-frequency spectrum

1. The Authority shall have the exclusive right to manage, allocate and assign radio-frequency spectrum, including the radio-frequency spectrum used for broadcasting in Timor-Leste.
2. No person may use the radio-frequency spectrum, including the transmission of radio communications, or operate radio equipment in a manner that is inconsistent with or in violation of the present Decree-Law or any regulatory measure issued thereunder.
3. The Authority shall ensure that radio-frequency spectrum is managed and used in a manner that:
  - a) Is objective, transparent, non-discriminatory and proportionate;
  - b) Promotes access to services in areas not served by telecommunications services;
  - c) Guarantees the development of broadband Internet access;
  - d) Relies, where reasonable, on standards normally used in the respective industry and on self-regulation;
  - e) Promotes the efficient use of the radio-frequency spectrum;
  - f) Does not impose unnecessary costs on radio-frequency spectrum users;
  - g) Is technologically neutral, in particular permitting evolution to new technologies and services;
  - h) Is consistent with any applicable international treaties, commitments, recommendations or standards legally binding upon Timor-Leste, including those of the International Telecommunications Union; and
  - i) Meets the needs of radio-frequency spectrum users in Timor-Leste including, without limitation:
    - (i) Telecommunications services;
    - (ii) Radio and television broadcasting services;
    - (iii) Military, defence and security services;

- (iv) Police, fire brigade, ambulance and other emergency services;
  - (v) Maritime safety and civil aviation services;
  - (vi) Public services of other Government ministries and authorities; and
  - (vii) Amateur use.
4. The Authority should establish a coordination committee comprising representatives of relevant authorities and departments to advise it on its functions and responsibilities pursuant to subparagraph i) of the preceding paragraph.
  5. The Authority shall maintain and publish on its website a database of current allocations and usage of radio-frequency spectrum in Timor-Leste.

Article 61  
Radio spectrum licensing

1. No person may use radio-frequency spectrum or operate radio equipment in Timor-Leste, unless that person:
  - a) Is licensed to do so under a radio-frequency spectrum licence; or
  - b) Is exempt pursuant to this Chapter.
2. In accordance with a national radio-frequency spectrum plan, the Authority shall:
  - a) Issue radio-frequency spectrum licences on the basis of frequencies, geography, equipment or other characteristic, or a combination thereof;
  - b) Establish class licences setting out standard terms and conditions, any applicable qualification criteria and other requirements for the operation of specified classes of radio equipment within specified frequency bands at or below specified power levels; and
  - c) Establish procedures, rules and guidelines relating to radio-frequency spectrum licensing, including setting out the manner in which licence applications are to be made, processed and approved.
3. The Authority shall restrict the number of radio-frequency spectrum licences available for any particular frequency band only to the extent deemed necessary to ensure efficient use of radio-frequency spectrum taking into account supply and demand for frequencies in the particular frequency band.
4. If the Authority intends to restrict the number of radio-frequency spectrum licences for a radio-frequency spectrum in particular frequency bands, it:
  - a) Shall issue such licences pursuant to a competitive selection process; and

- b) Shall impose restrictions to the cross-ownership of service providers holding such licences.
5. A radio-frequency spectrum licence issued by the Authority shall have a maximum term of 15 years subject to renewal pursuant to the following paragraphs.
  6. During a time period set by the Authority, prior to its expiration, a radio-frequency spectrum licensee may request that the Authority renew a radio-frequency spectrum licence.
  7. The Authority shall renew a radio-frequency spectrum licence unless such renewal would not further the objective provided for in article 2 of the present Decree-Law, taking into account the following factors:
    - a) The licensee's compliance with the present Decree-Law and any regulatory measures issued thereunder, as well as with any other applicable laws of Timor-Leste;
    - b) The need for continuity of the activities that depend upon the relevant radio-frequency spectrum;
    - c) The level and nature of the demand for the relevant radio-frequency spectrum;
    - d) Potential alternative usages of the relevant radio-frequency spectrum, including those using alternative technologies;
    - e) The appropriate period of renewal; and
    - f) The national radio-frequency spectrum plan of the Authority.
  8. The granting or denying of renewal of a radio-frequency spectrum licence pursuant to this article shall be subject to paragraph 4 of Article 19.

#### Article 62

##### Transfer of radio-frequency spectrum

1. Without prejudice to the following paragraph, a radio-frequency spectrum licence cannot be transferred to another person.
2. The Authority may establish procedures, rules and guidelines permitting the transfer of radio-frequency spectrum licences on a permanent or temporary basis, including for the purpose of posting it as security with a reputable financial institution in order to finance investments in telecommunications networks and services in Timor-Leste.
3. The establishment of procedures, rules and guidelines pursuant to article shall be subject to paragraph 4 of Article 19.

Article 63  
Radio-frequency spectrum fees

1. The Authority may require licensees to pay fees for the right to use radio spectrum:
  - a) In connection with the award of a licence pursuant to a competitive selection process or an assignment made pursuant to paragraph 6 of article 65;
  - b) Periodically during the term of a licence; and
  - c) In connection with the renewal of a licence.
2. Subject to the following paragraph, the Authority shall prescribe fees under the preceding paragraph in order to:
  - a) Reflect the economic value of the radio-frequency spectrum; and
  - b) Ensure the efficient use of radio-frequency spectrum resources, including the rationing of the use of radio-frequency spectrum in frequency bands, in particular the frequency bands for which the Authority expects demand to exceed supply.
3. The Authority may not prescribe fees for the right to use radio spectrum:
  - a) Under subparagraphs b) and c) of paragraph 1 of this article before a period of five years has elapsed from the date of the entry into force of the present Decree-law; and
  - b) Notwithstanding any other article of the present Decree-law, in the case of radio-frequency spectrum licences issued pursuant to article 81 during the term of such licences.
4. The Authority may prescribe procedures, rules and guidelines for the payment of fees pursuant to this article.
5. The imposition by the Authority of requirements pursuant to this article shall be subject to paragraph 4 of article 19.

Article 64  
Radio-frequency spectrum licensing exemptions

1. The Authority may set parameters within which the use of frequencies and the operation of radio equipment shall be exempt from the licensing requirement set forth in article 61.
2. In considering establishing any exemptions pursuant to the preceding paragraph, the Authority shall take into account:

- a) Any applicable international treaties, commitments, recommendations or standards legally binding upon Timor-Leste, including those of the International Telecommunications Union;
  - b) The likelihood of significant interference; and
  - c) The objective provided for in article 2 of the present Decree-Law.
3. The Authority may modify or withdraw any exemption previously established pursuant to paragraph 1 of this article.
  4. The making, modifying or withdrawing of exemptions pursuant to the article shall be subject to paragraph 4 of article 19.

#### Article 65

##### Suspension, revocation and amendment of licence and vacation of radio-frequency spectrum

1. The Authority may, without compensation, amend the conditions for a radio-frequency spectrum licence or declare vacant any radio-frequency spectrum that has been assigned to the extent necessary to comply with international treaties and other international commitments undertaken by the Democratic Republic of Timor-Leste.
2. The Authority may, without compensation, suspend, revoke or amend the conditions for a radio-frequency spectrum licence or declare vacant any radio-frequency spectrum that has been assigned if:
  - a) The licensee has entered into liquidation, taken any action for its voluntary liquidation or dissolution, or is the subject of any order by a competent court for its compulsory liquidation or dissolution;
  - b) The licensee misled the Authority by making a false statement of a material fact or omitting to state a material fact of relevance to the Authority in connection with the award to it of its licence for such radio-frequency spectrum;
  - c) The licensee has breached a material requirement for payment of radio-frequency spectrum fees due and payable;
  - d) The licensee has failed without reasonable justification to produce material information or documents requested by the Authority as required pursuant to the present Decree-law or any regulatory measure issued thereunder in relation to such radio-frequency spectrum; or
  - e) The licensee has failed to comply with a provision under this Chapter or any regulatory measure in relation to such radio-frequency spectrum, approved pursuant to the present Decree-law.

3. The Authority may only suspend, revoke or amend the conditions for a radio-frequency spectrum licence or declare vacant any radio-frequency spectrum that has been assigned in the cases set forth in subparagraphs c), d) and e) of paragraph 2 of this article if:
  - a) The licensee has failed to rectify the non-compliance within a reasonable time after being requested to do so by the Authority in writing;
  - b) The relevant non-compliance has occurred repeatedly and, along with other repeated incidences of non-compliance, shows an accumulated pattern of serious disrespect for the present Decree-Law and regulatory measures issued thereunder;
  - c) The relevant non-compliance has or is reasonably likely to have a relevant adverse effect on other service providers, consumers or competitors, or significantly hinders the Authority from performing its functions or responsibilities or exercising its powers under the present Decree-law;
  - d) The suspension, revocation or amendment of the conditions of a radio-frequency spectrum licence or the declaration as vacant of any radio-frequency spectrum that has been assigned is proportionate to the seriousness of the non-compliance; and
  - e) All other effective remedies have been exhausted, including any imposition of administrative penalties.
4. The Authority may, with at least two months prior written notice and without compensation, declare vacant any radio-frequency spectrum that has been assigned if the relevant radio-frequency spectrum is not used effectively or has not been committed for significant use in the foreseeable future, and there is demonstrable demand from other persons for making effective use of all or part of such radio-frequency spectrum.
5. The Authority may, with appropriate compensation, require a person to vacate radio-frequency spectrum previously assigned to such person, and assign such radio-frequency spectrum to another person or persons if necessary or expedient to further the objectives of a national radio-frequency spectrum plan or the objective provided for in article 2 of the present Decree-law.
6. The obligation to compensate the person required to vacate the radio-frequency spectrum pursuant to paragraph shall be the responsibility of the Authority which may:
  - a) Recover such compensation from any new person or persons assigned the vacated radio-frequency spectrum; and
  - b) Pay such compensation in the form of cash or of, upon agreement, credits against fees and levies due, the allocation of alternative radio-frequency spectrum or some other form.
7. Where a person is required by the Authority to vacate any radio-frequency spectrum that has been assigned to it, the Authority shall allow such person a reasonable period of time



to vacate such radio-frequency spectrum taking into account the use to be given thereto as well its implications and technical requirements.

8. In the case mentioned in paragraph 5 of this article, the period set forth in the preceding paragraph shall, save in duly justified exceptional circumstances, be no less than six months after a written notice is given.
9. The suspension, revocation or amendment of a radio-frequency spectrum licence and the vacation of radio-frequency spectrum pursuant to the article as well as any compensation payable in relation thereto shall be subject to paragraph 4 of article 19.

## CHAPTER XIV NUMBERING AND DOMAINS

### Article 66 National numbering plan

1. The Authority shall:
  - a) Within two years from the date of entry into force of the present Decree-law, prepare, issue and publish on its website, and thereafter periodically review, a national numbering plan for the use, allocation and assignment of numbers and number series; and
  - b) Establish procedures, rules and guidelines relating to the allocation, assignment and use of numbers and number series in accordance with such national numbering plan.
2. The Authority shall carry out allocation and assignment of numbers in accordance with the national numbering plan and procedures, rules and guidelines established pursuant to this article.
3. The issuance and review of the national numbering plan pursuant to this article shall be subject to paragraph 4 of article 19.

### Section 67 Numbering management

1. The Authority shall have the exclusive right to manage, allocate and assign numbers for telecommunications in Timor-Leste.
2. The Authority shall ensure that numbers are managed and used in a manner that:
  - a) Is objective, transparent, non-discriminatory and proportionate;
  - b) Relies, where reasonable, on industry standards and self-regulation;
  - c) Promotes the efficient use of numbers;

- d) Does not impose unnecessary costs on number users;
  - e) Is technologically neutral, in particular permitting evolution to new technologies and services;
  - f) Is consistent with any applicable international treaties, commitments, recommendations or standards legally binding on Timor-Leste, including those of the International Telecommunications Union;
  - g) Meets the needs of number users in Timor-Leste; and
  - h) Takes into account number portability pursuant to the following article.
3. Service providers shall only use the numbers assigned to them by the Authority.
  4. Save in duly justified exceptional circumstances, the Authority shall grant numbering requests made in accordance with the national numbering plan within 60 days from receiving the request.
  5. Without prejudice to paragraph 4 of article 19, the Authority may, by written notice, require a service provider to vacate or migrate any numbers to facilitate the introduction of new telecommunications services or to accommodate new telecommunications service providers.
  6. Where a service provider is required by the Authority to introduce, vacate or migrate any numbers that have been assigned to it, the Authority shall allow such service provider a reasonable period of time to do so taking into account the existing usage of numbers and the technical requirements, which shall, save in duly justified exceptional circumstances, be no less than three months after the written notice.

Section 68  
Mobile number portability

1. Subject to paragraph 3 of this article, the Authority shall establish procedures, rules and guidelines for the implementation of mobile number portability following an 18 month period from the date of entry into force of the present Decree-law.
2. Prior to implementing mobile number portability under the preceding paragraph, the Authority shall consult with the service providers in question according to paragraph 4 of article 19, and consider in particular:
  - a) The costs of mobile number portability and their fair distribution among service providers and subscribers;
  - b) The availability of technology permitting mobile number portability;

- c) The viability and suitability of different forms of mobile number portability available;
  - d) The specific services to be subject to mobile number portability; and
  - e) The regulatory objectives provided for in article 2 of the present Decree-Law.
3. Where the Authority finds that the costs of implementing mobile number portability outweigh the benefits likely to result from its implementation, the Authority may decide not to implement mobile number portability and shall promptly notify the relevant service providers of its decision.
  4. For the purposes of the present Decree-law, number portability shall refer to a service enabling a subscriber to change service provider for a given telecommunications service while retaining the same number, including the leading digit.

#### Section 69 Domain names

1. Subject to consent by relevant parties and the procedures and conditions of, and agreements with, the Internet Domain Name Authority, the Authority may, after public consultation carried out in accordance with paragraph 4 of article 19, recommend to the Minister that it, or another appropriate body or entity, assume responsibility for the management, registration and allocation of all domain names under the code of Timor-Leste.
2. The Minister shall consider the Authority's recommendation, if any, under the preceding paragraph and, if he or she approves, take such steps as are required to implement it, including, if necessary, the preparation and proposal of any necessary contractual documents or legislation.

### CHAPTER XV ACCESS TO PROPERTY

#### Article 70 Access to State-owned land and property

1. For the purpose of installing, operating and maintaining telecommunications facilities, network resources and telecommunications equipment and for providing telecommunications services, service providers may, upon the authorization or decision by the Government official responsible for State-owned land and properties:
  - a) Use State-owned land;
  - b) Install, operate and maintain such telecommunications facilities on such land as needed;

- c) Carry out all necessary works in connection with such installation, operation and maintenance, notably for trimming and removing trees, shrubs and other vegetation or natural occurrences that interfere with such use; and
  - d) Request the establishment of administrative easements pursuant to the laws of Timor-Leste.
2. A service provider shall take reasonable measures at the end of the term of use to restore the State-owned land to its original condition at its own cost.
  3. Any installation of facilities, fixtures and permanent improvements not removed at the end of the term of use shall be classified as State-owned property without any compensation being due to the service provider that installed such facilities, fixtures or permanent improvements.
  4. Government services authorities responsible for the relevant property may conduct periodic inspections of State-owned property for purposes of ensuring compliance with the present Decree-Law and any other legally applicable provision.
  5. Inspections pursuant to the preceding paragraph shall be conducted after providing written notice to the relevant service provider and, where such service provider so requests, a representative of such service provider shall be present during the inspection.

#### Article 71 Permitted Uses

1. A service provider may request a Government official in charge of land and properties for permission to use State-owned property controlled by such public authority by providing all necessary information so that the request may be evaluated, including:
  - a) Information on the requesting service provider;
  - b) The proposed use, including detailed technical information and project plans;
  - c) Information regarding the feasibility of sharing the use of the property with other service providers;
  - d) The organisation and scheduling of any works to be carried out and their expected duration; and
  - e) The name, contact information and qualifications of the individuals responsible for managing the project and its ongoing maintenance.
2. The Government official responsible for State-owned land and properties may establish procedures, rules and guidelines relating to granting requests for such use, including the entering into of rights-of-use agreements, lease agreements, concession agreements,

licences and granting of public easements and other forms prescribed by such Government official in accordance with the applicable laws.

3. The requesting service provider and the relevant Government official shall provide to the Authority copies of the approval of the request as well as any applicable conditions to ensure it is duly informed of the service providers' use of State-owned land.
4. Approvals of use of State-owned land for installation of cell sites shall be conditional upon a service provider having made available to other registered mobile service providers the opportunity to share them in accordance with paragraph 9 of article 40.
5. Subject to the following paragraph, the competent government services shall not collect fees, revenues or any other charges from service providers for their use of State-owned land pursuant to this Chapter.
6. After a period of five years has elapsed from the date of the entry into force of the present Decree-Law, the Government official responsible for State-owned land and properties may prescribe reasonable fees in order to cover, but not exceed, the administrative costs resulting from collecting and maintaining information and records of State-owned property used for telecommunications, from monitoring and from enforcing compliance with applicable laws, Decree-Laws, Government decrees, resolutions or other regulatory norms other than the present Decree-Law and regulatory measures issued thereunder, for overseeing the public interest and maintenance of State-owned property to the extent that such costs result from the service provider's use of State-owned property.
7. The Minister responsible for State-owned land may adjust annually the fees prescribed in the preceding paragraph based on the increase in the Timor-Leste Consumer Price Index (2011=100) or 3%, whichever is the lesser amount.
8. Where a request to use State-owned property is denied or does not receive a response within 30 days, or where it is approved on terms and conditions that are not acceptable, then the requesting service provider may request the assistance of the Authority to resolve the matter.
9. The service provider applying for assistance from the Authority shall submit to it a copy of the request submitted, any response received and any other correspondence exchanged.
10. Following receipt of the application and the necessary documents, the Authority shall schedule meetings with the service provider and the competent public authorities in an attempt to assist the parties to arrive at a mutually acceptable solution.
11. Where no mutually acceptable solution is agreed within 45 days of the Authority receiving the relevant documents, the Authority may, if it considers that doing so would further the objective provided for in article 2 of the present Decree-Law, refer the matter to the Council of Ministers by submitting its opinion regarding the situation as well as proposals for the resolution thereof.

12. The Authority shall consult periodically all relevant entities regarding the implementation and enforcement of this Chapter, and in particular shall consider and implement ways to coordinate the processing of requests by several service providers for similar or related uses of the same land, in order to:
  - a) Minimise disputes;
  - b) Avoid the disruption of existing uses of State-owned property;
  - c) Reduce costs of repetitive works and duplicative infrastructure;
  - d) Expedite the processing and approval of service provider requests; and
  - e) Minimise any adverse impact on the environment, quality of life and the operation of government and business.

#### Article 71

##### Use of space on cell sites for public purposes

1. The Government and other public entities have the right to use space on, in or under cell sites on State-owned property and any towers or conduit systems there installed for the purpose of installing, maintaining and operating network equipment for public purposes, including emergency, coastguard, aviation, security and military activities, environmental monitoring, management of natural resources and public infrastructure, utilities, and private telecommunications among government entities.
2. The Government and other public entities may not use space pursuant to the preceding paragraph for the commercial provision of telecommunications services to the public.
3. The Government shall include, in all rights-of-use agreements with service providers for use of State-owned property, reasonable terms and conditions, applicable on an equal footing and a non-discriminatory basis in relation to use of space on cell sites, towers and conduit systems on State-owned property.
4. The terms and conditions of such rights-of-use agreements shall include provisions concerning the prevention of interference with the provision of telecommunications services, prevention of damage to network equipment, respect for technical and capacity limitations and service providers' prior legal obligations, among others.

#### Article 73

##### Access to property other than State-owned property

1. A service provider shall negotiate with the relevant persons in order to decide the terms and conditions for the use of private property to install, operate and maintain a telecommunications facility.

2. For the purposes of this article, “relevant persons” shall refer to:
  - a) In the case of registered property, the persons who are registered as owners of that property; and
  - b) In the case of unregistered property, persons exercising possession of that property.
3. The service provider shall provide written notice to the relevant persons on:
  - a) The boundaries of the property, demarcated on a map or plan;
  - b) The proposed use of the property and the nature and duration of any works to be carried out;
  - c) The service provider’s proposed terms and conditions for such use, including the amount proposed to be paid or other forms of consideration;
  - d) The service provider’s proposals for apportioning the amount proposed to be paid among relevant persons;
  - e) The procedures set out in, and relevant persons’ rights pursuant to, this Chapter; and
  - f) Contact information for the submission of representations to the Authority and relevant Government entities.
4. In the case of unregistered property, the service provider shall make public the information mentioned in the preceding paragraph, stating expressly that the information provided or any other contract entered into do not constitute an acknowledgment or evidence of any property rights.
5. Providers of public telecommunications services are eligible to request, pursuant to any applicable legislation, the expropriation or the establishment of easements required for the installation, operation and maintenance of their telecommunications networks.
6. The Authority may, for the purpose of furthering the objective provided for in article 2 of the present Decree-Law, submit its opinion regarding the relevant service provider’s need to use the relevant property.

## CHAPTER XVI TELECOMMUNICATIONS EQUIPMENT

### Article 74 Rules and standards

- 1) The Authority may impose:

- a) Technical rules and standards applicable to telecommunications equipment to prevent damage or quality degradation to telecommunications networks or services, prevent radio interference, and protect public health, public safety or the environment; and
  - b) Conditions and approval procedures necessary for the manufacture within, or importation into, Timor-Leste of telecommunications equipment.
2. For the purposes of the present Decree-Law, “telecommunications equipment” shall refer to any equipment intended to be connected directly or indirectly to a telecommunications network in order to transmit telecommunications.
  3. Any person using or supplying any telecommunications equipment shall comply with all technical rules, standards, conditions and approval procedures applicable pursuant to paragraph 1 of this article.
  4. The Authority may, for the purposes of paragraph 1 of this article, recognise and apply technical regulations, standards, conditions and approval procedures from other countries, taking into account the conditions existing in the telecommunications sector of Timor-Leste.
  5. The prescription by the Authority of rules and standards, conditions and approval procedures pursuant to this article shall be subject to paragraph 4 of article 19.

## CHAPTER XVII STATE OF EXCEPTION

### Article 75

#### State of exception, national security and public safety

On any situation of State of Exception pursuant to article 25 of the Constitution, or in the interest of national security or public safety, service providers shall take all necessary actions as required by the relevant authorities in accordance with the applicable laws of Timor-Leste.

## CHAPTER XVIII INFRINGEMENT AND ENFORCEMENT

### Article 76

#### Infringement notices

1. Without prejudice to any other law, a person commits an infringement if such person:
  - a) Contravenes or fails to comply with the present Decree-Law or any regulatory measure issued thereunder;
  - b) Fraudulently or with dishonest intent, obtains a telecommunications service without payment of the price due for that service or without the authorisation of the service provider supplying that telecommunications service, or manufactures, imports,



distributes, sells, rents, installs, maintains, possesses or uses equipment or software designed or adapted for such purpose;

- c) Intentionally and unlawfully intercepts by technical means a transmission not intended for such person;
- d) Willfully damages any telecommunications network; or
- e) Intentionally and unlawfully seriously hinders the functioning of any telecommunications network by inputting, damaging, deleting, deteriorating, altering or suppressing telecommunications data.

2. Where the Authority has reasonable grounds to believe that a person has committed an infringement, the Authority may:

- a) Issue and serve on the person a written notice of the alleged infringement; or
  - b) If such infringement also constitutes a criminal offence pursuant to the Penal Code or some other law, refer the matter to the competent police authorities pursuant to the Code of Criminal Procedure.
3. An infringement notice shall name the person suspected of having committed the offence, identify the infringement and the potential applicable administrative penalty, and provide a period during which the person may submit a defence to the Authority.
4. The Authority may refrain from issuing an infringement notice if the matter is already subject to a criminal proceeding pursuant to the Penal Code or some other law and it considers that such proceeding will provide an appropriate remedy.

#### Article 77 Decisions on infringements

- 1) Where the Authority has issued an infringement notice under the preceding article, it shall, after considering any representations made to it in relation to that infringement and any other information it considers relevant, make a decision as to whether the person committed the infringement.
- 2) Subject to the rights of an infringing person pursuant to applicable law, where the Authority determines that the person has committed an infringement, it shall:
  - a) Require the person to cease and remedy the infringement at such time and subject to such conditions as the Authority may determine; and
  - b) Impose the administrative penalty referred to in the notice, a lesser penalty or no penalty.

Article 78  
Administrative penalties

1. A person who commits an infringement shall be liable:

- a) In the case of a natural person, to an administrative penalty not exceeding \$50,000 (fifty thousand United States dollars) and, in the case of a continuing infringement, to a mandatory pecuniary penalty not exceeding \$150 (one hundred fifty United States dollars) for every day during which the infringement continues after the Authority determines that the person has committed an infringement pursuant to paragraph 1 of the preceding article.
- b) In the case of a corporate body or legal entity, to an administrative penalty not exceeding:
  - (i) \$2,000,000 (two million United States dollars) in the case of a contravention of or failure to comply with any of the provisions under Chapters VI, VII, VIII and IX of the present Decree-Law and any regulatory measures issued under those provisions and, in the case of a continuing infringement, to a mandatory pecuniary penalty not exceeding \$5,000 (five thousand United States dollars) for every day during which the infringement continues after the Authority determines that the person has committed an infringement pursuant to paragraph 1 of the preceding article; or
  - (ii) \$250,000 (two hundred thousand US dollars) in the case of all other infringements of the present Decree-Law and regulatory measures issued thereunder and, in the case of a continuing infringement, to a mandatory pecuniary penalty not exceeding \$500 (five hundred US dollars) for every day during which the infringement continues after the Authority determines that the person has committed an infringement pursuant to paragraph (1) of the preceding article.

2. The amount of an administrative penalty to be imposed on any person pursuant to this article shall be set, taking into account:

- a) The gravity of the infringement and the harm inflicted;
- b) The frequency and duration of the conduct constituting the infringement;
- c) The financial position of the person who has committed the infringement; and
- d) Whether any compensation has been paid to any affected party.

Article 79  
Civil liability

The present Decree-Law shall not exclude the right of any person who has sustained loss or damage as a result of an infringement of the present Decree-Law to sue in court for and recover damages.

CHAPTER XIX  
MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Article 80  
Repeal and Regulatory Rules

The following are hereby repealed: UNTAET Regulation No. 2001/15 on the creation of a telecommunications regulating entity in Timor-Leste, Decree-Law No. 11/2003 of 29 July establishing the Bases for the Telecommunications Sector, and Decree-Law No. 12/2003 of 29 July establishing the Communications Regulatory Authority and approving the respective Bylaws.

Article 81  
Registration, licensing and numbering of Timor Telecom and the new service providers

1. For the purposes of registration and the issuance of licences pursuant to this article and for such purposes only, the Minister has the authority to register service providers, issue radio-frequency spectrum licences and assign numbers for the provision of mobile telephone services.
2. Under the agreement governing the early termination of the Concession Contract entered into between the Democratic Republic of Timor-Leste and Timor Telecom, the Minister:
  - a) Shall register Timor-Telecom pursuant to article 30 and deliver to Timor Telecom the documents referred to in paragraph 10 of article 30; and
  - b) Shall issue to Timor-Telecom radio-frequency spectrum licences for the use of radio-frequency spectrum required for its telecommunications activities; and
  - c) Guarantee any rights, permits and authorizations needed to use the domain of the State, to the extent needed to provide telecommunications services.
3. The Minister shall, as soon as possible after the entry into force of the present Decree-Law, evaluate and select up to two new service providers suitable to provide, among other services, nationwide mobile telecommunications services in Timor-Leste and, after the termination of Timor Telecom's exclusive rights under the Concession contract, shall:
  - a) Register the persons selected as service providers in accordance with article 30 and deliver to them the documents referred to in paragraph 10 of article 30; and

- b) Issue to such service providers radio-frequency spectrum licences for the use of radio-frequency spectrum required for their activities.
4. From 1 July 2012 and until such time as the Authority decides otherwise in the framework of a review of the national numbering plan, service providers offering mobile telephone services shall introduce and thereafter use eight digit numbers on mobile telephone networks, the leading digit of which shall be the number “7”.
5. The Minister shall ensure that necessary notifications are provided to the relevant international organisations of the change to the mobile telephone numbering referred to in the preceding paragraph.
6. The Minister shall allocate numbers for mobile telephone services to Timor Telecom and the new service providers registered and licensed pursuant to this Chapter.

#### Article 82

##### Previously allocated radio-frequency spectrum licences

1. Without prejudice to paragraph 3 of this article, radio-frequency spectrum licences issued earlier shall be deemed to be valid pursuant to the present Decree-Law until they are due to expire or are otherwise replaced by the Authority pursuant to article.
2. The Authority shall review early issued radio-frequency spectrum licences, consult with the relevant licensees and replace such early issued radio-frequency spectrum licences with new radio-frequency spectrum licences issued pursuant to the present Decree-Law in order to ensure that the every radio-frequency spectrum is allocated, assigned and used in accordance with Chapter XIII and in a manner that minimises unnecessary disruption to the legitimate use of radio-frequency spectrums.
3. Any radio-frequency spectrum licences granted previously shall expire on the date of issuance of the new licences for the same radio-frequency spectrum pursuant to the preceding article, and the right to use such frequencies shall be derived solely from the new radio-frequency spectrum licences issued.
4. Any Government entities using the radio-frequency spectrum without a licence as of the date of the entry into force of the present Decree-Law shall, within six months from that date, notify the Authority of the frequencies they are using and the purpose for which they are using them, and request a new radio-frequency spectrum licence.
5. Early numbering allocations shall be deemed to be valid pursuant to the present Decree-Law until such time as they are replaced by the Minister pursuant to preceding article or by the Authority under Chapter XIV.

### Article 83

#### Prior service and network licences

1. Subject to Article 81, all prior licences to supply a telecommunications service or operate a telecommunications network shall expire on the date appearing on the licence or on the first anniversary of the date of entry into force of the present Decree-Law.
2. Any person holding such prior licence seeking to supply telecommunications services or operate telecommunications networks after its expiration pursuant to the preceding paragraph must register with the Authority pursuant to article 30 of the present Decree-Law.

### Article 84

#### Designation of Timor Telecom as a service provider having significant market power

1. Without prejudice to the Authority's power pursuant to article 36 to review relevant telecommunications markets and designate service providers having significant market power, Timor Telecom is hereby designated as having significant market power in the relevant telecommunications markets identified in Annex 2 to the present Decree-Law, except in the following markets:
  - a) Retail mobile telephone services;
  - b) Wholesale supply of international data transmission capacity; and
  - b) Broadcasting transmission services to deliver broadcast content to consumers, until the second anniversary of the date on which any new service provider licensed pursuant to paragraph 3 of article 81 commences commercial services in Timor-Leste.
2. Without prejudice to article 36, the designation of Timor Telecom as having significant market power under the preceding paragraph, as well as any regulatory measures imposed on Timor Telecom pursuant to such designation shall automatically terminate on the second anniversary of the date on which any new service provider licensed pursuant to paragraph 3 of article 81 commences commercial services in Timor-Leste.

### Article 85

#### Treatment of Public Domain and Concession Assets

1. All assets whose possession, pursuant to Decree-Law No. 11/2003 of 29 July, was granted to Timor Telecom pursuant to and for the purpose of the Concession Contract, which constitute the public domain, are hereby classified as private domain of the State, which it may freely dispose.
2. Ownership title in the assets identified in the preceding article shall be transferred to Timor Telecom in accordance with the agreement governing the early termination of the Concession Contract entered into between the Democratic Republic of Timor-Leste and

Timor Telecom and which provides for Timor Telecom's continued operation under the registration and licences provided for in article 81.

3. For the avoidance of doubt, the assets described in paragraph 1 shall include all infrastructures, equipment and any other network resources integrating the fixed telecommunication network and the mobile telecommunication network, including but not limited to:
  - a) The assets comprising the fixed subscriber access network;
  - b) The assets comprising the transmission network;
  - c) The concentrating, switching and processing nodes for the provision of telecommunications services subject to the Concession Contract;
  - d) The infrastructures allocated to the provision of fixed and mobile telecommunication services;
  - e) The infrastructure for emission, reception and transmission of telecommunication signals;
  - f) Towers, poles and masts and any other infrastructure and assets used for performing the activities under the Concession Contract; and
  - g) Any other real estate, with the exception of the State-owned real estate mentioned in the next paragraph or part of such real estate used for the activities included in the scope of the concession and/or where Timor Telecom has installed services directly connected with the performance of the activities included under the concession, including any such assets as were previously allocated to district telecommunications services.
4. Pursuant to the agreement governing the early termination of the Concession Contract entered into between the Democratic Republic of Timor-Leste and Timor Telecom, the Government official responsible for State-owned land shall grant to Timor Telecom lease rights over State-owned land and properties whose ownership is not transferred to Timor Telecom under the aforementioned agreement, on the terms and conditions necessary for Timor Telecom to adequately provide telecommunications services and ancillary services in Timor-Leste.
5. After the execution of the aforementioned agreement governing the early termination of the Concession Contract, Timor Telecom may take all necessary steps to guarantee ownership and possession of all assets and rights transferred, and such agreement governing the early termination and the present Decree-Law shall be sufficient evidence of such right before any government entities, including notaries, registrars and officials.

Article 86  
Succession

1. Upon the Authority assuming its functions, responsibilities and powers pursuant to paragraph 3 of article 4, the Authority shall supersede ARCOM, established by Decree-Law No. 12/2003 of 29 July, as regulator of the telecommunications sector and ARCOM shall be dissolved.
2. All references in any law other than the present Decree-Law, regulation, licence or any other statutory instrument to ARCOM shall be construed as a reference to the Authority, unless otherwise required by the context.
3. The Authority shall succeed ARCOM and shall continue the legal personality thereof, assuming all of its assets, rights and obligations.
4. ARCOM, or upon its dissolution the Minister, shall deliver to the Authority all the information, data and documents belonging to ARCOM in paper, electronic and other format, as well as information on all the rights and liabilities of ARCOM.
5. It shall be lawful for the Authority to take all necessary steps to guarantee the possession of all property transferred and rights allocated pursuant to the present Decree-Law.
6. The Authority shall not be ARCOM's successor as employer.
7. The Minister shall reassign ARCOM's former employees within the Ministry of Infrastructure unless they are employed by the Authority.
8. ARCOM's former employees may be employed by the Authority by entering into new employment contracts between the Authority and each employee in accordance with article 12.
9. Within three months after the Authority assumes its functions, responsibilities and powers pursuant to paragraph 3 of article 4, the Authority shall be bound to expressly abide by the agreement governing the early termination of the Concession Contract entered into between the Democratic Republic of Timor-Leste and Timor Telecom, and the Authority shall exercise its functions, responsibilities and powers in a manner that complies with such agreement.

Article 87  
Transitional

1. The following provisions of the present Decree-Law shall not come into effect prior to 1 January 2013:
  - a) Paragraphs 4 and 5 of article 48;
  - b) Subparagraph b) of paragraph 1 of article 49 and paragraph 3 of article 49;

- c) Paragraph 1 of article 50;
  - d) Paragraph 1 and 3 of article 51;
  - e) Article 52; and
  - f) Article 53.
2. Regulatory fees payable under article 13 shall not be payable before 1 January 2013.
  3. Regulatory fees payable in 2013 shall be on the basis of gross revenues obtained by service providers in 2012.

Article 88  
Entry into force

The present Decree-Law shall enter into force on the day following the date of publication thereof in the Official Gazette.

Approved by the Council of Ministers on the 14 March, 2012.

The Prime Minister,

\_\_\_\_\_  
**Kay Rala Xanana Gusmão**

The Minister of Infrastructure,

\_\_\_\_\_  
**Pedro Lay**

Promulgated on 26 / 03 / 2012

For publication.

The President of the Republic,

\_\_\_\_\_  
**José Ramos-Horta**



ANNEX 1  
**REQUIREMENTS FOR A REGISTRATION STATEMENT**

A registration statement shall include:

- 1) The name, type of legal entity, head office address, telephone and facsimile numbers, and email address of the registrant;
- 2) Copies of the registrant's latest duly audited annual financial statements, including balance sheet, income statement and cash flow statement, prepared in accordance with generally accepted accounting principles consistently applied and audited by a reputable firm of auditors (or if audited statements are not available for such period, such statements as are available);
- 3) The date and jurisdiction of formation of the registrant;
- 4) Certified copies of the Bylaws and respective amendments;
- 5) Full names and nationalities of all administrators/managers and holders of corporate positions;
- 6) Disclosure of any criminal record or personal bankruptcy, in any country, of any person listed in Item 5);
- 7) Details of the registrant's shares as at the date of submission of the registration statement, including:
  - a) The number and associated classes of authorised securities;
  - b) The voting and dividend rights attached to each class; and
  - c) Details of any rights to securities convertible into shares; and the identities of the holders thereof and amounts of securities held;
- 8) Information of the type described in Items 1) to 3) of the person that is the ultimate parent, where "ultimate parent" means any person who is an affiliate of another person whether by ownership of shares, contract or otherwise but is not itself controlled by any other person;
- 9) Details of any shareholder or holder of other agreement relating to the control over the registrant;
- 10) A chart showing the identity of the registrant's ultimate parent and all intermediate persons and the amounts of shares held and information about any other form of control enjoyed by any such person over the other, where an "intermediate person" out of two

persons means a person that holds a majority interest in the capital of one of the other two persons and is controlled by the other person;

- 11) Details of the telecommunications services the registrant intends to supply, including the geographic scope and technologies used;
- 12) Any other information the disclosure or non-disclosure of which is materially relevant in the context of the submission of a registration statement;
- 13) An attestation that the registrant is not disqualified from registration pursuant to paragraph 4 of article 30; and
- 14) A certification that the information and documents provided in the registration statement are true and correct.

## ANNEX 2 RELEVANT TELECOMMUNICATIONS MARKETS

- 1) Retail mobile telephone services market.
- 2) Retail access to public fixed telephone networks market.
- 3) Wholesale call and short message service (SMS) termination on individual mobile telephone networks.
- 4) Wholesale call termination on public fixed telephone networks.
- 5) Wholesale supply of international data transmission capacity.
- 6) Wholesale supply of trunk leased lines.
- 7) Broadcasting transmission services to deliver broadcast content to consumers.