



REGULATION NO. 2001/15

ON THE ESTABLISHMENT OF AN AUTHORITY

FOR THE REGULATION OF TELECOMMUNICATIONS IN EAST TIMOR

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council Resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

After consultation in the National Council, and in recognition that the Constituent Assembly may propose future amendment hereof,

For the purpose of regulating telecommunications in East Timor,

Promulgates the following:

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(1) In this Regulation, unless the context indicates otherwise,

“Authority” means the Communications Regulatory Authority (CRA) established by section 3 of the present Regulation;

“broadcasting” means any form of unidirectional telecommunication intended for the public or sections of the public or subscribers to any broadcasting service having appropriate receiving facilities, whether carried out by means of radio or any other means of telecommunication or any combination of the aforementioned, and “broadcast” shall be construed accordingly;

“broadcasting licence” means a licence granted and issued by CRA under the present Regulation to a person for the purpose of providing a defined category of broadcasting service, or deemed to have been so granted and issued;

“broadcasting licensee” means the holder of a broadcasting licence;

“broadcasting service” means a single, defined service which consists in the broadcasting of television or sound material to the public or sections of the public or to the subscribers to such service;

“broadcasting services frequency bands” means that part of the electromagnetic radio frequency spectrum which is assigned for the use of broadcasting services by the International Telecommunications Union (ITU), in so far as such assignment has been agreed to or adopted by East Timor, as well as any other additional part of the electromagnetic radio frequency spectrum determined for the use of broadcasting services;

“broadcasting signal distribution” means the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any geographical broadcast target area by means of a telecommunications process, but excluding the use of facilities which operate on frequencies outside the broadcasting services frequency bands;

“broadcasting signal distribution licence” means a licence granted and issued by CRA under the present Regulation to a person for the purpose of providing signal distribution for broadcasting purposes, or deemed by this Regulation to have been so granted and issued;

“broadcasting signal distribution licensee” means the holder of a broadcasting signal distribution licence;

“Council” means the Council of the Authority (CRA);

“Councillor” means any member of the Council;

“CRA” means the Authority established by section 3 of the present Regulation;

“family member” or “member of the family”, in relation to any person, means his or her parent, child or spouse, including a person living with that person as if they were married to each other;

“fixed line operator” means any person who provides a licensed telecommunication service by means of a telecommunication system consisting mainly of fixed lines;

“frequency band” means a specified range of frequencies for use by one or more radio communication services;

“frequency band plan” means a table setting out the allocations of various frequency bands for use by one or more radio communication services under specified conditions;

“interconnect” means to link two telecommunications systems so that users of either system may communicate with users of, or utilize services provided by means of, the other system or any other telecommunication system, and “interconnection” has a corresponding meaning;

“Minister” means Cabinet Officer appointed pursuant to Section 2 of the UNTAET Regulation No. 2000/23 on the Establishment of the Cabinet of the Transitional Government in East Timor. Unless indicated to the contrary, it means Cabinet Officer with responsibility for telecommunications;

“National Assembly” means the Constituent Assembly established pursuant to UNTAET Regulation No. 2001/2 on the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor, or the subsequent legislature of democratically elected institutions of East Timor;

“prescribed”, unless specified to the contrary, means, prescribed by directive or administrative instruction;

“radio” means electromagnetic waves which are propagated in space without artificial guide and having frequencies of lower than 3 000 Ghz;

“radio apparatus” means a telecommunication facility which is capable of transmitting or receiving any signal by radio, other than,

(a) an audio radio set or other device capable of receiving broadcasting by radio in the form of sound but not also in the form of images or any other visible signal, if such set or device is used only for the reception of broadcasting; and

(b) a television set, being any apparatus designed or adapted to be capable of receiving transmissions broadcast in the course of a television broadcasting service;

“radio broadcasting licence” means a licence to transmit broadcasts by radio in the form of sound only for reception by an audio radio set;

“television broadcasting licence” means a licence to transmit broadcasts in the form of images for reception by a television set;

“signal” includes signs, sounds, writing or information of any kind;

“station” means any separate radio apparatus or a combination thereof;

“telecommunication” means the emission, transmission or reception of a signal from one point to another by means of electricity, magnetism, radio or other electromagnetic waves, or any agency of a like nature, whether with or without the aid of tangible conductors;

“telecommunication facility” includes any wire, cable, antenna, mast or other thing which is or may be used for or in connection with telecommunication;

“telecommunication service” means any service provided by means of a telecommunication system;

“telecommunication system” means any system or series of telecommunication facilities or radio, optical or other electromagnetic apparatus or any similar technical system used for the purpose of telecommunication, whether or not such telecommunication is subject to re-arrangement, composition or other processes by any means in the course of their transmission or emission or reception;

“the present Regulation” includes directives, administrative instructions and any other subordinate legislation duly made thereunder;

(2) In interpreting any provision of this Regulation regard must be had to the Radio Regulations of the International Telecommunication Union.

PART I
Introductory provisions

Section 1
Short title

The present Regulation shall be called the *Telecommunications Law*.

Section 2
Principles of Telecommunications Policy

(1) The telecommunication policy objectives enshrined in the present Regulation are that:

- (a) all persons in East Timor shall have access to basic telecommunication services;
- (b) any user of a public telecommunication service in East Timor shall have unrestricted access by means of that service to any other such user; the interests of all users of public telecommunication services shall be protected in respect of the availability of such services, their quality and the prices charged for them;
- (c) the telecommunications sector is a priority sector for the enhancement of the international competitiveness of the economy of East Timor;
- (d) technical standards for telecommunication equipment and the provision of public telecommunication services shall be compatible with the relevant international standards;
- (e) telecommunication operators and authorised providers of broadcasting services shall have the access they require to radio frequencies;
- (f) tariffs charged for public telecommunication services by operators shall be cost-orientated and transparent;
- (g) subject to meeting their obligations to provide public telecommunication services, telecommunication operators shall be permitted to function on normal, commercial lines.

(2) Within the framework of the general policy, the Ministry may, from time to time, give directions to CRA as to the manner in which it shall carry out its functions

PART II
East Timor Telecommunications Regulatory Authority

Section 3

Establishment of Communications Regulatory Authority

(1) For the purposes of ensuring that the telecommunication systems and services, including the distribution of broadcasting services, are operated in a manner that will best serve and contribute to the economic and social development of East Timor, there is hereby established a juridical person to be known as the Communications Regulatory Authority (hereinafter, CRA).

(2)(a) CRA shall have legal capacity:

- to institute and be subject to legal proceedings of whatever nature;
- to purchase or otherwise acquire, hold and alienate or otherwise dispose of movable or immovable property or any other real right or other right or interest;
- to enter into contracts and conclude agreements; and,
- to perform such other acts and do such other things as juridical persons may by law perform and do, subject to the provisions of the present Regulation.

(b) CRA shall exercise all powers specifically granted to it, and shall exercise such incidental powers as are necessary to carry out any of its functions and responsibilities, including any matter contemplated in paragraph (a) herein;

(3) In the performance of its functions under the present Regulation, CRA shall have regard to:

- (a) any general policies notified to it by the Minister;
- (b) East Timor's obligations under international law.

Section 4

Functions and Responsibilities of CRA

(1) CRA shall perform the following functions:

- (a) regulate and manage the radio frequency spectrum;
- (b) establish and maintain the frequency database, and maintain and publish a table of frequency allocations for East Timor;
- (c) issue licences for the use of frequencies on such conditions as CRA shall determine;
- (d) ensure that telecommunication services are provided at just and reasonable rates consistent with efficient service and the financial viability of operators;
- (e) facilitate the development of a broadcasting industry in East Timor that is efficient, competitive and responsive to audience needs;
- (f) ensure that the provisions of the present Regulation are carried out with due regard to the public interest, including protecting consumers and other users from the unfair practices of operators and other persons engaged in the provision of telecommunication services;
- (g) supervise and enforce compliance with the conditions of any licence issued;
- (h) monitor the quality and level of services provided by operators to ensure that such services conform to standards and guidelines concerning quality and tariffs specified by CRA or under applicable law;

- (i) monitor the use of the radio frequency spectrum to ensure compliance with the present Regulation;
- (j) establish technical requirements and technical standards in relation to radio apparatus and interference-causing equipment, or any class thereof;
- (k) regulate the installation, wiring, cabling and other types of works to be carried out in connection with the establishment and operation of licensed telecommunication systems;
- (l) co-ordinate international frequencies;
- (m) establish the terms and conditions that will be included in any frequency licence to be granted to a telecommunications operator or provider of broadcasting services, including but not limited to,
 - (i) the radio spectrum frequencies that may be used;
 - (ii) the purpose for which the radio spectrum frequency may be used;
 - (iii) the place at which radio transmission may take place;
 - (iv) conditions as to the technical parameters of any transmissions made;
 - (v) the period for which the licence is valid;
 - (vi) other requirements that the issuing authority considers necessary in the light of its duties under the present Regulation or other applicable laws;
 - (vii) any fees payable for the licence;
- (n) request the Transitional Administrator to make directives and any other subordinate legislation necessary for the implementation of the present Regulation; and,
- (o) issue such administrative instructions, notifications and guidelines in respect of any issue within its competence.

(2) Without prejudice to the generality of Subsection 4.1(o) herein, CRA shall issue administrative instructions for or with respect to the terms and conditions that will be included in any license to be granted to telecommunications operators and broadcasting providers, including at least the following:

- (a) the international telecommunication services that may be provided by the licensee;
- (b) any obligations of the licensee as regards the provision of international telecommunication services;
- (c) any restrictions which may be attached to the licensee in joining international organisations concerned with telecommunications;
- (d) the arrangements for interconnection of the licensee's services with other domestic services and services in other countries;
- (e) any conditions necessary to ensure the unrestricted conveyance of telecommunication traffic between entities;
- (f) the cost-orientated and transparent pricing of international telecommunication services when provided by the dominant operator(s);
- (g) the manner in which charges, and other applicable terms and conditions, for services which may be provided by the licensee are to be published;
- (h) Codes of Conduct for Broadcasting Services
- (i) other requirements that CRA considers necessary in the light of its duties under the provisions of the present Regulation; and
- (j) the fees payable to the Agency when the licence is first issued and annually while it remains in force.

(3) CRA may also issue administrative instructions or guidelines in respect of the following issues:

- (a) the technical standards to ensure the interoperability of public telecommunications and networks; and,
- (b) the types or standards of telecommunication equipment which may be connected to any network used to provide public telecommunications services in East Timor.

(4) Where CRA considers it necessary to ensure efficient use of the radio frequency spectrum, it may prepare and issue a public tender or auction for a radio frequency permit that grants exclusive rights to the use of particular radio frequencies or to their use for a particular purpose.

(a) A tender issued by virtue of Section 4 (4) shall be transparent and non-discriminatory and shall specify at least:

- the terms and conditions of the radio frequency permit that it is proposed to issue as a result of the tender;
- the qualifications that bidders must demonstrate to be eligible to enter the tender;
- the timetable for the tender and for issuing the radio frequency permit;
- the criteria by which the result of the tender will be determined; and
- any fees that may be payable at any stage by bidders participating in the tender.

(5) No person shall manufacture, import, distribute, lease, offer for sale or any radio apparatus or interference-causing equipment for which standards have been specified or established under Section 4 (1) unless the equipment complies with those standards.

Section 5

Autonomy

(1) Except as otherwise provided in the present Regulation, CRA shall be independent and impartial in the performance of its functions.

(2) In the performance of its functions under the present Regulation, CRA shall have regard to:

- (a) any general policies notified to it by the Minister
- (b) East Timor's obligations under international law.

(3) (a) The Minister may from time to time by notice in the Official Gazette issue to CRA policy directions consistent with the objects specified in Section 2 of the present Regulation.

Section 6

Representation by Council

- (1) CRA shall be governed and represented by its Council.
- (2) The Council shall consist of—
 - (a) the Chair; and
 - (b) no fewer than three and no more than five other Councillors.
- (3) All acts of the Council shall in law be regarded as the acts of CRA.

Section 7
Appointment of Councillors

The Chair and all other members of the Council shall be appointed by the Transitional Administrator.

Section 8
Remuneration and allowances of Councillors

The Chair and other Councillors shall be paid such remuneration and allowances and be entitled to such benefits as the Minister may determine by directive with the concurrence of the Minister responsible for Finance and of the Public Service Commission.

Section 9
Personal requirements in respect of Councillors

Councillors shall be persons who—

- (a) are committed to—
 - (i) fairness, openness and accountability on the part of those entrusted with the governance of a public service;
 - (ii) the objects and principles of this Regulation;
- (b) when viewed collectively—
 - (i) represent a broad cross-section of the population of East Timor;
 - (ii) possess qualifications, expertise and experience in the fields of, amongst others, telecommunications policy and technology, frequency band planning, law, broadcasting, economics, business practice and finance.

Section 10
Disqualification of Councillors

- (1) A person shall not be appointed or continue as a Councillor if such person
- (a) is a member of the National Assembly, or any provincial or local authority;
 - (b) is an office-bearer or employee of any party, movement, organization or body of a party-political nature;
 - (c) or a member of the family of such person has a controlling interest or any substantial financial interest in the telecommunications or broadcasting industry;
 - (d) or his or her business partner holds an office in or with or is employed by any person, company, organization or other body, whether corporate or unincorporated, which has an interest contemplated in paragraph (d) herein;
 - (e) is an undischarged bankrupt;
 - (f) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or disordered;
 - (g) has at any time been convicted, whether in East Timor or elsewhere, of—
 - (i) theft, fraud, forgery or uttering a forged document, perjury, or any other offence involving dishonesty;
 - (ii) an offence under the present Regulation; or
 - (iii) any offence corresponding materially to any offence referred to in subparagraph (i) or (ii); or
 - (iv) has at any time been removed from an office of trust on account of misconduct.
- (2) A person who is subject to a disqualification under subsection (1) herein may be nominated for appointment and may be appointed as a Councillor if at the time of such appointment he or she is no longer subject to that disqualification.

Section 11
Duration of Appointment of Councillors

- (1) A Councillor shall hold office for three (3) years. Such term shall be renewable not more than once.
- (2) Notwithstanding subsection (1) herein, the Chair and additional Councillors may remain in office after expiry of their term of office until the commencement of the term of office of their successors: Provided that such increased term of office shall not exceed 45 days.

(3) A Councillor may serve in a part-time or full-time capacity. Where a Councillor serves in a full-time capacity he or she shall do so to the exclusion of any other remunerative employment, occupation or office.

(4) A Councillor may at any time, upon at least three months' written notice tendered to the Transitional Administrator, resign from office.

Section 12 Removal from office

Notwithstanding Section 11, a Councillor may be removed from office by the Transitional Administrator on account of—

- (a) conviction, subsequent to appointment, for a criminal offence involving moral turpitude, carrying a penalty of imprisonment in excess of 3 years;
- (b) inability to perform the duties of his or her office effectively;
- (c) absence from three consecutive meetings of the Council without the prior permission of the chairperson, except on good cause shown;
- (d) his or her having performed other remunerative work in contravention of section 11; or
- (e) failure to disclose an interest, or attendance at or participation in proceedings of the Council while having an interest as contemplated in Section 16 of the present Regulation.

Section 13 Vacancies in Council

(1) There shall be a vacancy in the Council if a Councillor

- (a) becomes subject to a disqualification referred to in Section 10 of the present Regulation;
- (b) tenders his or her resignation as contemplated in section 11 of the present Regulation and such resignation takes effect;
- (c) is removed from office under section 12 of the present Regulation; or
- (d) dies or becomes incapacitated.

(2) A vacancy in the Council shall be filled by the appointment of another Councillor under Section 7 of the present Regulation as soon as may be reasonably practicable after the occurrence of such vacancy, and any Councillor so appointed shall hold office for the unexpired period of his or her predecessor's term of office.

Section 14
Meetings of Council

- (1) Meetings of the Council shall be held whenever necessary for the expeditious conduct of its business, at such times and places as may be determined by the Council: Provided that the first meeting shall be held at such time and place as the Transitional Administrator may determine.
- (2) Rules and procedures in respect of the operations of the Council shall be prescribed by directive.
- (3) The quorum for any meeting of the Council shall be a majority of the Councillors.
- (4) Subject to subsection (3), a decision of the Council shall be taken by resolution agreed to by the majority of Councillors at any meeting of the Council and, in the event of an equality of votes regarding any matter, the Chair shall have a casting vote in addition to his or her deliberative vote.
- (5) The Council may allow members of the public to attend any of its meetings.
- (6) The seat of the Council shall be determined by the Minister.

Section 15
Proceedings of Council not invalid in certain circumstances

A decision taken by the Council or an act performed under the authority of such a decision shall not be invalid merely by reason of—

- (a) any irregularity in the appointment of a Councillor;
- (b) a vacancy in the Council;
- (c) the fact that a Councillor is guilty of an act or omission justifying his or her removal from office; or
- (d) the fact that any person who is disqualified from being a Councillor or who was removed from that office sat as such in the Council at the time when such decision was taken, if such decision was taken by a majority of the Councillors lawfully entitled to vote and present at the time, and the said Councillors at the time constituted a quorum.

Section 16
Disclosure of Conflicting Interests

- (1) A Councillor shall not vote at, attend or in any other manner participate in the proceedings at any meeting or hearing of the Council if—

(a) in relation to an application relating to a license, he or she or his or her family member or partner is a director, member or business partner of or has an interest in the business of the applicant or of any person who made representations in relation to the application; or

(b) in relation to any matter before the Council, he or she has any interest which may preclude him or her from performing his or her functions as a Councillor in a fair, unbiased and proper manner.

(2) If at any stage during the course of any proceedings before the Council there is reason to believe that a Councillor has any interest contemplated in Subsection (1) herein

(a) that Councillor shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing in question so as to enable the remaining Councillors to discuss the matter and determine whether that Councillor is to be precluded from participating in such proceedings by reason of a conflict of interests; and

(b) such disclosure and the decision taken by the remaining Councillors regarding such determination, shall be recorded in the minutes of the proceedings in question.

Section 17

Staff of CRA and delegations of authority

(1) The Council shall, in consultation with the Public Service Commission, establish its own administration to assist CRA in the performance of its functions and to this end the Council shall appoint—

(a) a Chief Executive Officer; and

(b) such other staff as the Council may deem necessary.

(2) CRA may pay to the persons in its employ such remuneration and other benefits as CRA may determine with the approval of the Minister with the concurrence of the Minister with responsibility for Finance and of the Public Service Commission.

(3) The Council may in writing delegate any power or duty of CRA under the present Regulation to any Councillor or any committee of the Council or to the Chief Executive Officer referred to in Subsection (1) herein.

(4) The power to make administrative instructions and notifications shall not be delegated.

(5) A power or duty duly delegated to the Chief Executive Officer may be exercised or performed by any other staff member of CRA authorized thereto by the Chief Executive Officer, except where precluded by the terms of such delegation.

(6) Any delegation or authorization under Subsections (3) or (5) herein -

(a) shall be subject to such conditions and restrictions as may be determined by the Council or Chief Executive Officer, as the case may be; and,

(b) may at any time be amended or revoked.

(7) The Council shall not be divested of any power or function or relieved of any duty which it may have delegated in terms of Subsection (3) herein, and may amend or rescind any decision made in terms of such a delegation, except where any licence, approval, certification or registration will be affected thereby.

Section 18 Financing of CRA

(1) The operating and capital costs of CRA shall be financed from money duly appropriated from consolidated revenue from time to time for that purpose in accordance with budget processes as provided in UNTAET Regulation No. 2000/20 on Budget and Financial Management.

(2) CRA shall utilize any money contemplated in Subsection (1) herein in accordance with the statement of estimated expenditure referred to in Subsection (3) herein.

(3) CRA -

(a) shall in each financial year, at a time determined by the Minister, submit a statement of estimated income and expenditure for the following financial year to the Minister; and

(b) may in any financial year submit adjusted statements of estimated income and expenditure to the Minister.

Section 19 Bank Account

The Council shall, with the approval of the Central Fiscal Authority, open and maintain in the name of CRA with a bank registered under UNTAET Regulation No. 2000/6 on the Establishment of a Central Payments Office of East Timor.

Section 20 Annual and other reports

(1) The Council shall furnish to the Minister such information and particulars as the Minister may from time to time in writing require in connection with the activities of CRA, and shall annually, as soon as may be reasonably practicable after the end of each financial year, furnish to the Minister a report in regard to the functions, affairs, activities and financial position of CRA in respect of such financial year.

(2) Without derogating from the generality of the provisions of Subsection (1) herein, the annual report referred to in that Subsection shall include -

- (a) information regarding licences granted, renewed, amended, transferred, suspended or revoked;
- (b) such other information as the Minister may determine.

(3) The Minister shall table a copy of the annual report before the *National Assembly* of East Timor within 30 days after it has been received by him or her if such body is then in ordinary session or, if it is not then in ordinary session, within 30 days after the commencement of its next ordinary session.

Section 21

Financial year and auditing of accounts of CRA

- (1) The financial year of CRA shall commence on 1 April in any year and end on 31 March in the next year.
- (2) The accounts of CRA shall be audited by the Inspector-General.

PART III

Committees, appointment of experts and inquiries

Section 22

Establishment of Committees of Council

- (1) The Council may establish such standing or special committees for such purposes as it may deem necessary in order to assist in the effective performance of its functions and may at any time extend, limit or dissolve any such committee.
- (2) Any rules relating to the composition, functions, meetings or remuneration of the membership of such committees shall be made by CRA by administrative instruction.
- (3) Without limiting the scope of the authority of Council to appoint such other committees as it may deem necessary, the Council shall establish the Broadcasting and Monitoring and Complaints Committee as described and with the functions specified in Section 62 herein.

Section 23

Appointment of experts

- (1) CRA may appoint as many experts as may be necessary, including experts from other countries, with a view to assisting CRA in the performance of its functions.
- (2) The terms, conditions, remuneration and allowances applicable in respect of any expert by virtue of his or her appointment in terms of Subsection (1) herein, and the work to be

performed or service to be rendered by virtue of such appointment, shall be determined in a written agreement entered into for that purpose between CRA and the expert concerned.

Section 24
Inquiries by CRA

- (1) CRA may from time to time conduct an inquiry into any matter relevant to
- (a) the achievement of the objectives mentioned in Section 2 of the present Regulation;
 - (b) the performance of its functions under the present Regulation.

PART IV

Section 25
Radio frequency spectrum

- (1) CRA shall be vested with the control, planning, administration, management and licensing of the radio frequency spectrum.
- (2) In controlling, planning, administering, managing and licensing the use of the radio frequency spectrum including the broadcasting services frequency bands, CRA shall comply with the applicable standards and requirements of the International Telecommunication Union and its Radio Regulations, as agreed to or adopted by East Timor.
- (3) CRA shall honour UNTAET international commitments entered into on behalf of East Timor in respect of radio-communication and telecommunication matters.

Section 26
Frequency band plans

- (1) CRA may, from time to time, prepare a frequency band plan in respect of any part of the radio frequency spectrum.
- (2) A frequency band plan shall -
- (a) define how the radio spectrum shall be used including which parts of the radio frequency spectrum shall form part of the broadcasting services frequency bands from time to time;
 - (b) aim at ensuring that the radio frequency spectrum is utilized and managed in an orderly, efficient and effective manner;

(c) aim at reducing congestion in the use of frequencies and at protecting frequency users from any interference or other inability to make use of the frequencies assigned to them;

(d) avoid obstacles to the introduction of new technologies and telecommunication services;

(e) aim at providing opportunities for the introduction of the widest range of telecommunication services and the maximum number of users thereof as is practically feasible.

(3) In preparing a frequency band plan in terms of this Section, CRA -

(a) shall have due regard to the reports of experts in the field of spectrum or frequency band planning and to internationally accepted methods for preparing such plans; and,

(b) shall take into account existing uses of the radio frequency spectrum and any frequency band plans in existence or in the course of preparation.

(4) CRA shall give notice in the Official Gazette of its intention to prepare a plan and in such notice invite interested parties to submit their written representations to CRA within such period as may be specified in such notice.

(5) CRA shall, after the period referred to in Subsection (4) herein has passed, hold a public hearing in respect of the proposed plan.

(6) After the hearing and after due consideration of any representations received pursuant to the notice mentioned in Subsection (4) herein or tendered at the hearing, CRA shall adopt a frequency band plan and cause such plan to be published in the Official Gazette.

(7) (a) Any frequency band plan adopted under this Section and all such comments, representations and other documents as have been received in response to the notice contemplated in Subsection (4) herein or tendered at the hearing, shall be kept at the offices of CRA and shall, subject to Paragraph (b) herein, be open to public inspection by interested persons during the normal office hours of CRA, and CRA shall at the request of any person and on payment of such fee as may be prescribed, furnish him or her with a copy thereof.

(b) CRA may, at the request of an applicant or person who lodged representations, determine that any document or information relating to the financial capacity or business plans of any person or to any other matter reasonably justifying confidentiality, shall not be open to public inspection, if such document or information can be separated from the application, representations or other documents in question.

(8) (a) CRA may review a frequency band plan adopted in terms of this Section.

(b) The provisions of Subsections (2) to (7) herein shall apply, with the necessary changes, in relation to any amendment contemplated in Paragraph (a) herein.

Section 27

Prohibition on unlicensed use of radio frequency spectrum

(1) No person shall transmit any signal by radio or use radio apparatus to receive any signal by radio, or do or permit to be done anything for which a license is required under this Section, except under and in accordance with a license, granted under the present Regulation, conferring on the licensee the right to use, or to cause any person in his or her employ or under his or her control to use, a station for any prescribed purpose or to use any radio frequency or group of radio frequencies for any purpose and in the manner prescribed;

(2) Subsection (1) shall not apply to a person who utilizes radio -

(a) in the course of making due and proper use of a telecommunication service, the provision of which is duly licensed under this Section, as part of his or her duties in the service of military, police or traffic force; or

(b) in accordance with the administrative instructions contemplated in Subsection (3) herein.

(3) CRA may prescribe by administrative instruction -

(i) categories of radio apparatus, the use or possession of which; or

(ii) the circumstances in which the use or possession of radio apparatus, that shall not require a license under this Section.

Section 28

Radio frequency spectrum licences

(1) Any licenses referred to in Section 27 of the present Regulation shall be issued by CRA.

(2) The categories of all radio spectrum frequency licences which may be granted, shall be as prescribed by CRA administrative instruction.

(3) The procedures in relation to applications for the granting, issuing, amendment, renewal or transfer of radio spectrum licences and the information to be supplied for the consideration of such applications shall be as prescribed by CRA by administrative instruction.

Section 29

Decisions on applications for radio spectrum licences

(1) (a) CRA shall, after having duly considered any application for a licence made under this Part of the present Regulation and any representations and further information and evidence tendered,

(i) notify the applicant of its intended decision or recommendation, including conditions contemplated in Subsections (2) (b) and (3) herein;

(ii) on request made by the applicant within such period as prescribed by administrative instruction, furnish him or her with its reasons for such decision or recommendation.

(b) The applicant may, within such period as prescribed by administrative instruction, make representations to CRA in relation to the intended decision or recommendation, and CRA may adjust or alter such decision or recommendation in any manner in the light of such representations.

(2) CRA shall, after the provisions of Subsection (1) herein have been complied with—

- (a) refuse the application; or
- (b) grant the application conditionally; or
- (c) grant the application.

(3) A license shall be granted on such conditions appropriate to the license and consistent with the objects referred to in section 2 and the other provisions of the present Regulation and stated in the license, as CRA may determine.

(4) CRA shall, where the application has been granted, issue the license in question to the applicant.

(5) CRA shall on request furnish written reasons for the decision -

- (a) to the applicant, where the application has been refused or has been granted subject to conditions; and
- (b) to any person who lodged representations, where the application was granted.

Section 30

Amendment of radio spectrum licence

(1) CRA may amend a frequency spectrum license or station license

(a) to implement any frequency band plan or in the interest of orderly frequency management, if the amendment will not cause substantial prejudice to the licensee;

(b) if requested thereto by the licensee concerned.

(2) The procedures in relation to the amendment, renewal or transfer of a frequency spectrum license contemplated in this Section shall be as prescribed by CRA by administrative instruction.

PART V

Telecommunication services

Section 31

Prohibition on provision of telecommunication service without licence

(1) No person shall provide a telecommunication service except under and in accordance with a telecommunication service licence issued to that person under the present Regulation.

(2) A licence shall confer on the holder the privileges and subject him or her to the obligations provided in the present Regulation or specified in the license.

Section 32

Decisions on applications for telecommunications service licences

(1) (a) CRA shall, after having duly considered any application for a licence made under this Part of the present Regulation and any representations and further information and evidence tendered,

(i) notify the applicant of its intended decision or recommendation, including conditions contemplated in Subsections (2) (b) and (3) herein;

(ii) on request made by the applicant within such period as prescribed by administrative instruction, furnish him or her with its reasons for such decision or recommendation.

(b) The applicant may, within such period as prescribed by administrative instruction, make representations to CRA in relation to the intended decision or recommendation, and CRA may adjust or alter such decision or recommendation in any manner in the light of such representations.

(2) CRA shall, after the provisions of Subsection (1) herein have been complied with—

- (a) refuse the application; or
- (b) grant the application conditionally; or
- (c) grant the application.

(3) A license shall be granted on such conditions appropriate to the license and consistent with the objects referred to in section 2 and the other provisions of the present Regulation and stated in the license, as CRA may determine.

(4) CRA shall, where the application has been granted, issue the license in question to the applicant.

(5) CRA shall on request furnish written reasons for the decision

- (a) to the applicant, where the application has been refused or has been granted subject to conditions; and
- (b) to any person who lodged representations, where the application was granted.

Section 33

Categories of licences

The categories of licences which may be granted, and the telecommunication services authorized by such licenses shall be as prescribed by CRA by administrative instruction.

Section 34
Applications and consideration thereof

(1) Any person may, subject to the provisions of the present Regulation, make application for a licence in the manner prescribed by CRA by administrative instruction.

(2) CRA shall specify by administrative instruction published in the Official Gazette -

- (a) the kind of telecommunications service in respect of which applications are invited;
- (b) the form in which applications shall be submitted and the manner in which it is contemplated that the service shall be provided, or the place where and times when a document in that regard may be obtained;
- (c) the period within and manner in which such applications shall be lodged; and,
- (d) in the same or a subsequent such administrative instruction, make known the conditions contemplated on which it is proposed the licence shall be granted.

(3) (a) Except as provided in Subsection (3) (b) herein, all applications, representations and other documents relating to an application which are lodged with CRA shall be open to public inspection during the normal office hours of CRA, and CRA shall at the request of any person and on payment of such fee as may be prescribed by notification, furnish him or her with a copy thereof.

(b) CRA may, at the request of an applicant or person who lodged representations, determine that any document or information relating to the financial capacity or business plans of any person or to any other matter reasonably justifying confidentiality, shall not be open to public inspection, if such document or information can be separated from the application, representations or other documents in question.

(c) If CRA refuses a request contemplated in paragraph (b), the applicant or person concerned shall be allowed to withdraw the document or information in question.

Section 35
Interconnection of Network Facilities

(1) In order that public telecommunication services in East Timor be open, efficient and non-discriminatory, CRA may issue guidelines in accordance with which telecommunication operators may negotiate interconnection agreements.

(2) A telecommunication operator may enter into an agreement with another operator or other operators for the purpose of connecting its network facilities with the network facilities of the other operator or operators on such terms and conditions as the first operator and the other operator or operators agree.

(3) If the operators referred in Subsection (1) herein fail to agree on terms for interconnecting network facilities, CRA shall, at the request of any of them, determine such terms and conditions by administrative instruction.

Section 36
Numbering Plan

- (1) CRA shall be responsible for the development and application of a numbering plan in respect of telecommunication services in East Timor.
- (2) A numbering plan shall consist of a scheme of identification so as to ensure that telecommunication is correctly and efficiently directed to the point of reception for which it was intended.
- (3) Any change in the numbering plan for telephone services shall be designed to ensure that:
 - (a) sufficient numbers can be made available for use without delay;
 - (b) numbers include as few digits as practicable;
 - (c) no undue advantage is conferred on any telecommunication operator
 - (d) the cost and inconvenience to the public and to telecommunication operators of changing numbers are minimized;
 - (e) the country code for East Timor shall be in accordance with the relevant decision of the International Telecommunications Union.

Section 37
Fees and charges for telecommunication services

- (1) The fees and charges which may be levied by a licensee in respect of the provision of a telecommunication service shall be determined in such manner as may, subject to subsection (2), be prescribed by CRA by administrative instruction.
- (2) The manner of determining fees and charges shall be prescribed only in respect of fields where no or insufficient competition exists:

Section 38
Accounts and records to be kept by licensee

A telecommunication service licensee shall keep such accounts and records relating to the provision of the telecommunication service as may be prescribed by CRA by administrative instruction.

Section 39
Duration of telecommunication service licences

- (1) The period of validity of a telecommunication service licence shall be stipulated in the licence.
- (2) The validity of a licence shall terminate with the consent of the licensee if another licence in replacement of the licence in question is granted.

Section 40
Amendment of telecommunication service licences

- (1) A telecommunication service licence may be amended, only -
- (a) in the case of a licence to provide a public switched telecommunication network service, if the amendment relates to universal access or universal service obligations and is necessary, in the opinion of CRA, as a result of changed circumstances or an amendment of the definition of universal access or universal service;
 - (b) to make the conditions of the licence consistent with conditions being imposed generally in respect of all licences issued in the same category, for the purpose of ensuring fair competition between licensees in that category;
 - (c) to the extent necessitated by technological change;
 - (d) to the extent requested by the licensee.
- (2) CRA shall give the licensee concerned written notice of a proposed amendment contemplated in Subsection (1) herein and an opportunity to be heard.

Section 41
Renewal of telecommunication service licences

- (1) A licensee may apply for the renewal of its licence during such period as is prescribed by CRA by administrative instruction.
- (2) An application for the renewal of a licence shall be refused only if -
- (a) the licensee has failed to comply materially with the licence conditions or the provisions of this Regulation during the term of the licence; and,
 - (b) CRA is satisfied that the applicant would not so comply if the licence were to be renewed.
- (3) A licence shall continue to be valid until such time as a decision has been made regarding the application for its renewal.

Section 42
Limitations on control of telecommunication services

- (1) CRA may, by administrative instruction restrict or prohibit the ownership or control of or the holding of any financial or voting interest in—
- (a) a telecommunication service of any category or kind;
 - (b) two or more telecommunication services of the same category or kind;
 - (c) a telecommunication service of one category or kind and another telecommunication service of a different category or kind.

(2) No administrative instruction referred to in Subsection (1) herein shall be made until CRA has conducted an inquiry under Section 22 of the present Regulation.

PART VI
Broadcasting

Section 43
Broadcasting frequency spectrum

- (1) All powers, functions and duties in relation to the administration, management, planning and use of the broadcasting services frequency bands shall vest in CRA.
- (2) In administering, managing, planning and granting permission to use the broadcasting services frequency bands devolving upon CRA under Subsection (1) herein, CRA shall comply with the applicable standards and requirements of the International Telecommunications Union as agreed to or adopted by East Timor.
- (3) CRA shall, in exercising its powers, functions and duties under Subsections (1) and (2) herein, ensure that in the use of the broadcasting services frequency bands interference does not exceed acceptable interference levels.

Section 44
CRA responsibilities for broadcasting frequency spectrum

CRA shall be responsible for -

- (a) the administration, management and planning of the broadcasting services frequency bands in accordance with bilateral, multilateral or international regulation agreed to or adopted by East Timor, and with the provisions of the present Regulation;
- (b) the examination of all matters relevant to licence applications in order to determine the eligibility of applicants for licences;
- (c) the approval of technical parameters, signal standards, transmitters and transmission characteristics to be used by licensees;
- (d) the administration, management and planning of the inspection of the plant, installations, transmitters and other apparatus used or to be used by any licensee or prospective licensee;
- (e) the administration, management and planning of all the monitoring and investigative functions of CRA with regard to contraventions of the present Regulation;

(f) the establishment of a Broadcasting Monitoring and Complaints Committee in accordance with Section 22 and Section 62 of the present Regulation;

(g) giving effect to the provisions of Section 43 of the present Regulation;

(h) the performance of all other technical functions of CRA.

Section 45 Frequencies for Broadcasting

(1) CRA shall by reference to the frequency band plan prepared under Section 25 of the present Regulation, determine the maximum number of frequencies available for broadcasting services.

(2) By reference to the frequency band plan prepared under section 26 of the present Regulation, CRA shall:

(a) reserve frequencies on all bands for the different categories of broadcasting licences referred to in Section 52; and,

(b) publish its draft plan by notice in the Official Gazette and in such notice invite interested parties to submit their written comments and representations to CRA within such period as may be specified in such notice.

(3) After due consideration of any comments and representations received pursuant to the notice referred to in Subsection (2), CRA shall determine the frequency band plan and cause such plan to be published in the Official Gazette.

Section 46 Prohibition of broadcasting signal distribution without licence

A person shall not provide broadcasting signal distribution unless provided under and in accordance with a licence issued to that person by CRA under this Part of the present Regulation.

Section 47 Procedures in relation to granting, issuing, renewal, amendment and transfer of broadcasting signal distribution licences

The procedures in relation to any application for the granting, issuing, renewal, amendment and transfer of any broadcasting signal distribution licence shall be as prescribed by CRA by administrative instruction.

Section 48

Transmitters and transmission characteristics to be approved by CRA

(1) Broadcasting signal distribution in a licence area shall be provided only by means of transmitters the nature, number and transmission characteristics of which have been approved by CRA.

(2) A broadcasting signal distribution licensee shall not -

- (a) change any of its transmitters approved under Subsection (1) herein nor add to or reduce the number of transmitters so approved; or
- (b) effect any change in the transmission characteristics of any of its transmitters so approved,

except with the prior written permission of CRA.

(3) A broadcasting signal distribution licence to be issued shall stipulate the nature, number and transmission characteristics of the transmitters approved by CRA under Subsection (1) or Subsection (2) herein for use in providing the licensed broadcasting signal distribution.

Section 49

General obligations of broadcasting signal distribution licensees

A broadcasting signal distribution licensee shall -

- (a) comply with the provisions of the present Regulation and the frequency band plan of CRA;
- (b) provide broadcasting signal distribution only to broadcasting services provided under an appropriate and valid broadcasting licence; and,
- (c) take due cognizance of the environmental impact of its operational activities and comply with all applicable rules of law relating to the protection of the environment.

Section 50

Terms of broadcasting signal distribution licences

The term of validity of a broadcasting signal distribution licence shall be as determined by CRA by administrative instruction.

Section 51

Prohibition on provision of broadcasting service without broadcasting licence

A person shall not provide a broadcasting service unless such service is provided under and in accordance with a broadcasting licence issued to that person by CRA under this Part of the present Regulation.

Section 52

Categories of broadcasting licences

(1) Subject to the provisions of the present Regulation, CRA may on such conditions as it may in any case determine, issue an applicant with a broadcasting licence to provide within a specified licence area -

(a) a radio broadcasting service falling within any of the following categories, namely -

- (i) a public radio broadcasting service;
- (ii) a private radio broadcasting service;
- (iii) a community radio broadcasting service;

(b) a television broadcasting service falling within any of the following categories, namely

- (i) a public television broadcasting service;
- (ii) a private television broadcasting service;
- (iii) a community television broadcasting service.

Section 53

Application procedure in relation to broadcasting licences

(1) CRA shall, when it intends inviting applications for a broadcasting licence, cause a notice to that effect to be published in the Official Gazette.

(2) Such notice shall state the following:

(a) the licence category, the frequency available, and, where applicable, the licence area and technical parameters, relevant to the broadcasting licence in respect of which application may be made;

(b) the person with whom and the period within which such an application has to be lodged; and

(c) the application fee payable, which shall be as prescribed by administrative instruction.

(3) Every application made pursuant to such notice shall be in the form prescribed by CRA.

Section 54

Hearings in relation to applications for broadcasting licences

(1) In respect of every application for a broadcasting licence received by CRA, CRA shall hold a hearing as provided for in this Section.

(2) A hearing in terms of Subsection (1) herein shall be held as soon as may be reasonably practicable, and at such date, time and place as shall be determined by CRA by notice in the Official Gazette.

(3) At any hearing in terms of Subsection (1) herein -

(a) the applicant and any other interested party with leave to make representations shall be afforded an opportunity to be heard;

(b) the parties referred to in Paragraph (a) of this Subsection may be assisted and represented by any person of their choice and no interested party shall be unreasonably denied leave to make representations;

(c) CRA, after having duly considered the application, any representations made in accordance with this Subsection, the applicant's written response thereto (if any), any further information furnished or any other evidence tendered to CRA, shall grant or refuse the application and provide written reasons for its ruling.

(4) Hearings held under this Section shall be open to the public.

(5) (a) CRA shall keep a record of all applications and other documentation received by it and of all its proceedings, findings and rulings at any hearing under this Section.

(b) The records contemplated in Paragraph (a) of this Subsection shall be open to public inspection by interested persons during the normal office hours of CRA: Provided that CRA may, before, at or after any hearing in terms of this section at the request of an applicant, if it is in the public interest, treat as confidential the following material or information if such material or information can be separated from the application and is marked "confidential":

(i) financial statements of an applicant who holds a broadcasting licence;

(ii) evidence of the financial capacity of any person participating in an application; and

(iii) the names of prospective employees and business plans of an applicant.

(6) Upon having reached a decision on any application, CRA shall by notice in the Official Gazette and by written notice addressed to the applicant make known the outcome thereof.

Section 55

Entitlements under and conditions pertaining to broadcasting licences

(1) (a) A licence granted and issued under this Part shall of itself entitle the licensee concerned to use the radio frequency or frequencies and the station or stations as specified in its licence for the purpose of providing the broadcasting service to which such licence relates.

(b) For the purposes of paragraph (a), "station" shall mean any separate radio receiving or transmitting apparatus or any combination thereof, including any accessory equipment.

(2) Subject to the provisions of the present Regulation, CRA, in granting any broadcasting licence pursuant to a ruling in terms of Section 54 (3) (c), may impose such terms, conditions

and obligations appropriate to such licence and consistent with the objects and principles as enunciated in Section 2 of the present Regulation, as it deems fit.

(3) Any term, condition or obligation imposed in terms of Subsection (2) herein, shall be specified in the licence to which it pertains and shall upon the issue of such licence acquire the force of law.

(4) A broadcasting licensee shall commence with the broadcasting service to which the licence relates within such period as shall be determined by CRA or within any extension of that period granted by CRA on good cause shown, and, upon failure by the broadcasting licensee so to commence with the said broadcasting service, the licence relating thereto shall lapse.

Section 56

Public broadcasting licences

(1) In considering the granting of a public broadcasting licence, CRA shall, with due regard to the objects and principles as enunciated in section 2 of the present Regulation, inter alia, take into account -

- (a) the need for the proposed broadcasting service within the proposed licence area;
- (b) the need for the proposed service within such area, having regard to broadcasting services already existing therein; and
- (c) the technical quality of the proposed service, having regard to developments in broadcasting technology.

Section 57

Private broadcasting licences.

(1) In considering any application for a private broadcasting licence, CRA shall, with due regard to the objects and principles enunciated in section 2 of the present Regulation, inter alia, take into account—

- (a) the need for the proposed broadcasting service within the proposed licence area;
- (b) the need for the proposed service within such licence area, having regard to the broadcasting services already existing therein;
- (c) the expected technical quality of the proposed service, having regard to developments in broadcasting technology;
- (d) the capability, expertise and experience of the applicant;

- (e) the financial means and business record of the applicant;
- (f) the business record of each person who, if a licence were granted to the applicant, is or would be in a position to control the operations of the applicant either in his or her individual capacity or as a member of the board of directors or top management structure;
- (g) the applicant's record and the record of each person referred to in Paragraph (f) herein, in relation to situations requiring trust and candour;
- (h) whether the applicant is precluded under the present Regulation from holding a broadcasting licence; and
- (i) whether either the applicant or the person referred to in Paragraph (f) herein has been convicted of an offence under the present Regulation.

Section 58
Community broadcasting licences

(1) In considering any application for a community broadcasting licence, CRA shall, with due regard to the objects and principles enunciated in section 2 of the present Regulation, inter alia, take into account—

- (a) whether the applicant is fully controlled by a non-profit entity and carried on or to be carried on for non-profitable purposes;
- (b) whether the applicant proposes to serve the interests of the relevant community;
- (c) whether, as regards the provision of the proposed broadcasting service, the applicant has the support of the relevant community or of those associated with or promoting the interests of such community, which support shall be measured according to such criteria as shall be prescribed; and
- (d) whether the applicant proposes to encourage members of the relevant community or those associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service.

Section 59
Prohibition on granting of broadcasting licences to party political entities

No broadcasting licence shall be granted to any party, movement, organization, body or alliance which is of a party political nature.

Section 60
Amendment of broadcasting licences.

(1) A broadcasting licence may be amended by CRA only—

(a) to such extent as may be necessary in the interest of orderly frequency management, provided the amendment will not cause substantial prejudice to the licensee; or

(b) to such extent as may be necessitated by virtue of any bilateral, multilateral or international agreement or convention relating to broadcasting by which UNTAET is bound on behalf of East Timor; or

(c) if requested thereto by the broadcasting licensee, and then only if and in so far as the proposed amendment -

(i) does not militate against orderly frequency management;

(ii) will not prejudice any other broadcasting licensee; and

(iii) will not be inconsistent with the provisions of the present Regulation or with any agreement or convention contemplated in Paragraph (b) herein; or

(d) to ensure fair competition between licensees, to comply with such of the terms, conditions and obligations as CRA may at that time be generally applying to all licences issued in the same category.

(2) Whenever CRA considers amending a broadcasting licence in terms of Subsection (1) herein, it shall cause notice of the proposed amendment and the date upon which the proposed amendment is to take effect to be published in the Official Gazette and invite interested persons to make their representations to CRA within a period of 21 days.

(3) After having decided to amend a broadcasting licence, CRA shall cause such amendment to be published in the Official Gazette as soon as possible.

Section 61

Terms of broadcasting licences

The term of validity of a broadcasting licence -

(a) in the case of a public and a private television broadcasting licence, shall be eight (8) years;

(b) in the case of a public and a private radio broadcasting licence, shall be four (4) years;

whereafter such licence shall, subject to the provisions of this Part of the present Regulation, be renewable for like periods.

(2) Notwithstanding Subsection (1) herein, all broadcasting licences shall be subject to annual review by CRA to assess the performance of the licensee in meeting the requirements its licence.

Section 62
Broadcasting Monitoring and Complaints Committee

- (1) The Broadcasting Monitoring and Complaints Committee shall—
- (a) monitor compliance by broadcasting licensees (including broadcasting signal distribution licencees) or their adherence to—
 - (i) the terms, conditions and obligations of their broadcasting licences;
 - (ii) any Codes of Conduct for Broadcasting Services issued by CRA
 - (b) monitor cross media control of broadcasting services with a view to advising CRA as to the need any limitation on ownership which might, from time to time be required
- (2) The Broadcasting Monitoring and Complaints Committee may inquire into any alleged or suspected noncompliance or non-adherence contemplated in subsection (1) and shall report the findings of any such inquires and any resultant recommendations to CRA.

Section 63
Record of programmes broadcast by broadcasting licensees

A broadcasting licensee shall—

- (a) retain, for a period of not less than 30 days, a recording of every programme broadcast in the course of its broadcasting service;
- (b) on demand of the Broadcasting Monitoring and Complaints Committee, produce to it any such recording for examination or reproduction;
- (c) on demand of the Broadcasting Monitoring and Complaints Committee, produce to it any script or transcript of a programme after the broadcast thereof.

PART VII
Telcommunication equipment, suppliers and technicians

Section 64
Telecommunication equipment to be of approved type

- (1) No person shall use any type of telecommunication equipment or facility, including radio apparatus, in connection with telecommunication unless that type has, subject to subsection (2), been approved by CRA.
- (2) CRA may prescribe by administrative instruction:
 - (a) types of equipment or facility the use of which shall not require such approval; and,
 - (b) circumstances in which the use of telecommunication equipment or facilities shall not require such approval.

Section 65
Technical standards for telecommunication facilities and equipment

- (1) CRA may prescribe, by administrative instruction, standards for the performance and operation of any telecommunication facility or equipment, including radio apparatus.
- (2) Any such standard shall be aimed at:
 - (a) protecting the integrity of the telecommunication services network;
 - (b) ensuring the proper functioning of connected facilities or equipment; and,
 - (c) avoiding radio or other interference with telecommunication.

Section 66
Registration of suppliers of telecommunication facilities and equipment

(1) No person shall supply telecommunication facilities or equipment unless, subject to subsection (2) herein, he or she has been registered by CRA.

(2) CRA may prescribe, by administrative instruction, types or categories of telecommunication facilities or equipment for the supply of which registration in terms of this Section shall not be required.

(3) The procedure for obtaining registration in terms of this Section shall be as prescribed by CRA by administrative instruction..

Section 67
Certification of technicians

(1) No person shall install or maintain any telecommunication facilities or equipment unless he or she has, subject to subsection (2) herein, been certified by CRA as being proficient to do so.

(2) CRA may prescribe types or categories of telecommunication facilities or equipment, the installation or maintenance of which, or certain categories of installation or maintenance of which, shall not require certification under this section.

(3) The procedure to obtain certification in terms of this Section, and the examinations to be passed or other qualifications to be held before a certificate of proficiency may be issued, shall be as prescribed by directive.

Section 68
Operators to perform functions in prescribed manner

(1) A fixed line operator shall perform its functions in accordance with the administrative instructions contemplated in subsection (2).

(2) CRA shall prescribe by administrative instruction —

(a) the manner, form and period of notice to be given by an operator to any person or authority in connection with the performance by the operator of functions contemplated in this Part of the present Regulation;

(b) the procedure to be followed and consultations to be held between an operator and any affected person or authority.

PART VIII
General provisions

Section 69
Right of appeal

Any person aggrieved by a decision of CRA concerning the granting, issuing, renewal, amendment of any licence or certification under the present Regulation shall have the right of appeal to the Court of Appeal pursuant to Section 14.2 of UNTAET Regulation No. 2000/11 on the Organization of Courts in East Timor.

Section 70

Application fees and annual fees

- (1) An application for a licence, certificate or authority under the present Regulation shall be accompanied by such application fee as prescribed by CRA.
- (2) Every holder of a frequency spectrum licence or telecommunication service licence shall, at such time prescribed by CRA by administrative instruction, pay to CRA the licence fee specified in the licence or, where no such fee is so specified, the prescribed licence fee.
- (3) A licence holder who fails to pay the licence fee contemplated in Subsection (2) herein on the due date shall be liable to pay a penalty of a prescribed amount, in addition to such fee.
- (4) (a) All fees and penalties received under this Section shall be paid into consolidated revenue.

Section 71

Register of licences and approvals

- (1) CRA shall keep a register of every licence, certificate or authority issued, renewed or amended under the present Regulation. Such register shall be open to inspection by interested persons during the normal office hours of CRA.
- (2) CRA shall, at the request of any person and on payment of such fee as may be prescribed by CRA by administrative instruction, furnish him or her with a copy of or extract from any part of that register.

Section 72

Confidentiality

No Councillor, member of a committee of the Council, expert appointed in terms of Section 23 of the present Regulation, member of the staff of CRA and inspector appointed under Section 81 of the present Regulation, shall disclose any information in regard to any matter which may come to his or her knowledge in the performance of any function under this Regulation or any work arising therefrom or by virtue of the office held by him or her, except -

- (a) in so far as the provisions of the present Regulation require or provide for the publication of or access by the public or any interested person to information relating to such matter;
- (b) in so far as may be necessary for the purpose of the due and proper performance of any functions under the present Regulation; or
- (c) on the order of a competent court of law.

Section 73
Temporary entry onto land

(1) Subject to Subsection (2) herein, it shall be lawful for the licensee, duly authorized in writing by CRA for this purpose,

- (a) at all times on reasonable notice, to enter upon any land and to put up thereon any posts which may be required for the support of any telecommunication line; and
- (b) to fasten or attach to any tree growing on such land or property thereupon a bracket or other support for such line; and
- (c) to cut down any tree or branch which may in any way injure, or which is likely to injure, impede, or interfere with any telecommunication line; and
- (d) to do and perform all other acts, and things necessary for the purpose of establishing constructing, repairing, improving, examining or altering, or removing any telecommunication line or for performing any act, matter or thing under the provisions of this Regulation.

(2) A licensee shall not exercise the powers conferred by this Section except with the consent of the owner of the land or property under, over, along, across in or upon which any telecommunication line is placed.

(3) A licensee shall not acquire any right other than that of user only in the land or property under, over, along, across, in or upon which any telecommunication line or post is placed, by reason of such exercise.

(4) An operator shall not exercise those powers in respect of any land vested in or under the control or management of local authority or other public authority without prior authorisation.

(5) An operator shall do as little damage as possible to the land or property, and to the environment and shall pay reasonable compensation to all interested persons for any damage or loss sustained by them by reason of the exercise of the powers under this Section.

Section 74
Use of private land

(1) Before entering on any private land for the purpose specified in Section 73, a licensee shall give to the owner or occupier of the land such notice as is prescribed, stating as fully and accurately as possible the nature and extent of the acts intended to be done.

(2) The owner or occupier of the land may upon receipt of the notice referred to in Subsection (1) herein, lodge, within such period prescribed by administrative instruction, a written objection with CRA and CRA shall specify a date to inquire into any such objection.

(3) If no objection is lodged within such time prescribed by administrative instruction, the licensee may forthwith enter onto the land and do all or any of the acts specified in the notice given under Subsection (1) herein.

(4) If an objection is lodged and is not withdrawn before the date fixed for the hearing thereof, CRA shall hold an enquiry, giving each party an opportunity to be heard.

(5) Upon the conclusion of the inquiry, CRA may authorise, either unconditionally or subject to such terms, conditions and stipulations as it thinks fit, any of the acts mentioned in the notice given under Subsection (2) herein to be carried out.

Section 75 Use of public land

(1) Where a licensee authorised by CRA intends to enter on any land under the management or control of a public authority, it shall give to that public authority such notice as prescribed by administrative instruction, stating the nature and extent of the acts intended to be done.

(2) If no objection is lodged with CRA within such period prescribed by administrative instruction, the licensee may forthwith enter onto the land and do all or any of the acts specified in the notice given under Subsection (1) herein.

(3) Where the public authority lodges an objection with CRA, CRA may specify a date to inquire into and determine the matter.

(4) Any person aggrieved with the determination of CRA may, within seven (7) days appeal to the Minister whose decision shall be final.

Section 76 Removal or Alteration of Telecommunication Line

(1) On application by the owner of land in, on or under which a licensee has placed a telecommunication line under the present Regulation, CRA may order the licensee, subject to any conditions, to alter the position of the line or to remove it.

(2) On the application by a public authority CRA may order a licensee, subject to conditions that CRA may determine, to alter the route of any telecommunication facility situated or proposed to be situated within the jurisdiction of that public authority; or prohibit the construction or maintenance by a licensee of any telecommunication facility except as directed by CRA.

Section 77
Compensation

In the event that the parties concerned cannot reach agreement on the compensation for the use of land or property any question as to entitlement to compensation or as to the sufficiency of the amount of compensation shall be referred to and determined by the Court of Appeal.

PART IX
Enforcement

Section 78
Unfair or uncompetitive actions

If it appears to CRA that the holder of any licence is taking or intends taking any action which has or is likely to have the effect of giving an undue preference to or causing undue discrimination against any person or category of persons, CRA may, after giving the licensee concerned an opportunity to be heard, direct the licensee by written notice to cease or refrain from taking such action, as the case may be.

Section 79
Production of licensee's books and records

CRA may by notice in writing direct a licensee to produce or furnish to CRA, at the time and place specified in the notice, such accounts, records and other documents or information specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee under the present Regulation, its licence or any agreement for the interconnection of telecommunication systems or the making available of telecommunication facilities as contemplated under Section 35 of the present Regulation, respectively, as CRA may reasonably require.

Section 80
Appointment of inspectors

(1) The Council may appoint any person in the service of CRA or any other suitable person as an inspector.

(2) A person who is not in the full-time service of CRA and who is appointed as an inspector shall be paid such remuneration as the Minister may determine with the concurrence of the Minister with responsibility for Finance and the Public Service Commission.

(3) An inspector shall be provided with a certificate of appointment signed by or on behalf of the Chair of the Council in which it is stated that he or she has been appointed an inspector under the present Regulation.

(4) When an inspector performs any function under Section 81, he or she shall have such certificate of appointment in his or her possession and show it at the request of any person affected by the performance of that function.

Section 81 Powers and Functions of Inspectors

(1) An inspector appointed in terms of Section 80 may, in order to determine whether the provisions of the present Regulation or of any licence, certificate or other authority under the present Regulation or of any agreement for the interconnection of telecommunication systems or the making available of telecommunication facilities as contemplated in sections 35, respectively, are being complied with, at any reasonable time and without prior notice, on the authority of a warrant, enter the premises in question and—

- (a) inspect and make copies of or extracts from books, records or other documents;
- (b) demand the production of and inspect the relevant licence, permit, certificate or authority; and,
- (c) inspect any radio apparatus or other telecommunication facilities on the premises.

(2) A warrant contemplated in subsection (1) shall be issued by a judge who has jurisdiction in the area where the premises in question are situated, and shall only be issued if it appears from information on oath that there are reasonable grounds for believing that the provisions contemplated in Subsection (1) are being contravened on those premises.

(3) No person shall—

- (a) fail to comply with a demand contemplated in Subsection (1) (b);
- (b) hinder or obstruct an inspector in the exercise of his or her powers under this Section; or
- (c) falsely hold himself or herself out as an inspector.

Section 82 Offences by licensees

(1) CRA shall investigate and adjudicate:

(a) any alleged contravention of or failure by a licensee to comply with a provision of the present Regulation, the relevant licence, any relevant agreement for the interconnection or provision of telecommunication facilities under Sections 35, respectively; and,

(b) any failure by a provider of a telecommunication service to provide that service to or for any customer or end-user thereof, where such customer or end-user has, after complaint to the provider concerned, not obtained satisfaction.

(2) The procedure for such investigation and adjudication shall be as prescribed by administrative instruction, and CRA shall, for the purpose of such investigation and adjudication, have such powers as prescribed by directive with regard to the summoning and examination of witnesses and the production of books and objects.

(3) Where CRA, after investigation, finds that the licensee concerned has been responsible for a failure or contravention contemplated in Subsection (1), CRA may:

(a) direct the licensee to desist from any further failure or contravention;

(b) direct the licensee to pay the fine prescribed by administrative instruction;

(c) direct the licensee to take such remedial and other steps as may be determined by CRA;

(d) where the licensee has repeatedly been guilty of such failure or contraventions under the present Regulation, revoke its licence.

(4) Any person affected by an order contemplated in subsection (3) may apply to the Court of Appeal to have the order set aside.

(5) Where CRA is satisfied that the failure or contravention in question constitutes an offence, it shall refer the record of the investigation to Office of the General Prosecutor.

Section 83 Offences by persons

A person shall be guilty of an offence if he or she—

(a) in making application for a licence, certification under the present Regulation, furnishes any false or misleading information or particulars or makes any statement which is false or misleading in any material respect, or wilfully fails to disclose any information or particulars material to his or her application;

(b) contravenes the provisions of the present Regulation;

(c) fails to comply with any duly made administrative instruction of CRA.

Section 84 Penalties

(1) Any person found guilty of an offence contemplated in Section 84 shall on conviction be liable to a fine not exceeding \$100 000, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(2) The court convicting a person of any offence contemplated in Section 84 may, in addition to any fine or imprisonment which it may impose in terms of that Section, declare any

telecommunication facility or equipment and any other article, object or thing by means of which such offence was committed,
to be forfeited to East Timor: Provided that no such declaration shall be so made upon proof to the satisfaction of the court that such facility, equipment, article or thing is not the property of the person so convicted and that its owner was unable to prevent it from being used as a means to commit such offence.

PART X Transitional provisions

Section 85 Existing licences and authorities

- (1) Any licence which was issued or authority which was granted and which was valid immediately before the date of commencement of the present Regulation shall be deemed to be a licence issued in terms of the present Regulation.
- (2) Frequencies within the broadcasting services frequency bands which, at the commencement of the present Regulation are used by telecommunications users under valid agreements for that purpose shall be deemed to have been made available by CRA.
- (3) Any person who immediately prior to the entry into force of the present Regulation provides public broadcasting services in accordance with law shall be deemed to be the holder of a public broadcasting licence in respect of such service.

Section 86 Entry into force

This Regulation shall enter into force on the date fixed by the Transitional Administrator by notification in the Official Gazette.

Section 87

The Transitional Administrator shall, in recognition of the resolution of the National Council of 13 July 2001, refer the present Regulation to the Constituent Assembly for its consideration, including its possible amendment pursuant to UNTAET Regulation No. 2001/2 of 16 March 2001.

Sergio Vieira de Mello
Transitional Administrator