

Council of Ministers Resolution No. 993 for the Year 2015
Issuing the Executive Regulations of Law No. 37 of 2014 regulating the
establishment of the
Communication and Information Technology Regulatory Authority

The Council of Ministers

- Having reviewed the Constitution,
- The Amiri Decree No. 12 of 1960, enacting the Law regulating the Legal Opinion (“Fatwa”) and Legislation Department of the Government of Kuwait,
- Law No. 30 of 1964 on the Establishment of the State Audit Bureau, and the amending laws thereof,
- Law No. 37 of 1964 on the Public Tenders, and the amending laws thereof,
- Decree-Law No. 31 of 1978, on the Rules for the Preparation of the Public Budgets and Monitoring their Implementation and the State's Final Account, and the amending laws thereof,
- The Decree Law No. 15 of 1979, concerning the Civil Service, and the amending laws thereof,
- Decree-Law No. 23 of 1990 on the Regulation of the Law of the Judiciary, and the amending laws thereof
- Decree-Law No. 116 of 1992, on the Administrative Scheme, Determination of Competencies and Delegation thereof,
- Law No. 37 of 2014 on the Establishment of the Communication and Information Technology Regulatory Authority
- Decree issued on April 4, 1979, on the civil service system and decrees amending it,
- The Decree issued on August 12, 1986, Concerning the Competencies of the Ministry of Communications,
- The Council of Ministers Resolution No. 806 of 2014 Determining Competent the Minister for the Communication and Information Technology Regulatory Authority

- Based on the presentation of the Minister of State for Cabinet Affairs,
and
- Following the Approval of the Council of Ministers,

Hereby decides:

Article One

To apply the provisions of the Executive Regulations of Law No. 37 of 2014 referred to, and which texts accompany this decision.

Article Two

The ministers, each within his field of jurisdiction, shall enforce this decision, and it shall become effective from the date of its publication in the Official Gazette.

Signature

Prime Minister

Jaber Mubarak Al-Hamad Al-Sabah

Issued on 26 Ramadan 1436 AH

Corresponding to 13 July 2015 AD

The Executive Regulations
of the Law No. 37 of 2014 on
The Establishment of the Communication and Information Technology
Regulatory Authority

<u>Chapter One</u>
Competencies of Chairman of the Board

Article No. (1)

The Chairman of the Board of the Authority shall manage its business and conduct its affairs and represent it in its relations with third parties and before the Judiciary, and may take whatever decisions he deems necessary to achieve the purpose for which it was created and in particular the following:

1. To take the necessary actions to organize the networks services of all communications in the State of Kuwait in accordance with the general policy set by the Board of Directors.
2. To issue the detailed list of technical terms used in the sectors of Communications and Information Technology and to show their meaning as approved and adopted in the State of Kuwait, and to keep updating them on annual basis, after being approved by the Board of Directors and after being published.
3. To issue the Regulations with regard to regulating the sectors of Communications and Information Technology
4. To issue a decision that determines the necessary mechanisms for the management of radio frequency spectrum and monitors interference and the quality of the frequency spectrum and to regulate the use of all land, sea, air and space frequencies, according to the schedule of the National Plan for the distribution of frequencies and updating them in the manner approved by the Board of Directors.
5. To issue the technical rules and standards for communications equipment and communications peripheral equipment to ensure that no damage would come upon the communications networks or services, as well as the public health and safety and environment.



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6. To issue the qualitative approvals and to regulate the process of entry of the communications equipment and communications peripheral equipment to the State of Kuwait, and to use, maintain, and trade in them, and to take the necessary measures to control the use of their frequencies by observing that their frequencies would not overlap with the frequencies of other operating companies and bodies.
7. To determine the procedures and mechanisms required for collecting information in the sectors of Communications and Information Technology, and to issue reports and publications and instructions for the users, and to adopt the media programs necessary to increase public awareness of the importance of these two sectors and the extent of their positive impact on the economic and social development in the State of Kuwait.
8. To develop the mechanisms needed to track the source of any radio waves and to verify that such source is licensed without any prejudice to the confidentiality of messages according to the Law.
9. To develop an annual report describing the Authority's activities and achievements, as well as any variables in the prescribed general policy for Communications and Information Technology services and the future plans of the Authority, and to present the same to the Board of Directors and to publish this report.
10. To issue decisions of the mechanisms necessary to review and assess the need to adjust the level of regulation for each service of the Communications and Information Technology services or any type or category thereof taking into consideration the factors of competition, provided that the auditing process and the nature of the evaluation would be based on a research study of the mechanisms.
11. To propose draft laws to keep up with the rapid development in the sectors of Communications and Information Technology and to submit them to the Council of Ministers through the competent minister after the approval of the Board of Directors and the preparation of laws and regulations and instructions related thereto.
12. To take the necessary actions to ensure compliance with the provisions of international, regional and bilateral conventions in effect which are

related to the sectors of Communications and Information Technology as approved by the State.

13. To issue a decision to investigate the complaints and disputes that may arise between the users and licensees, which are referred to the Authority by either of – or all – the parties to the dispute.
14. To propose standards to solve the disputes related to the International Information Network (the Internet).
15. To adopt the technical and operational requirements and specifications related to national security that must be adhered to.
16. To represent the Authority at the meetings, conferences, seminars and other international forums pertaining to communications and information technology, which the Authority is competent in.
17. To chair the Board of Directors and to call it to convene at least once every month and whenever deemed necessary or upon a written request from three of its members, given that a Secretary to the Board shall be appointed from the staff of the Authority, and all in accordance with the provisions of the Regulations of the Board of Directors.
18. To examine notifications from the Board members regarding the existence or emergence of any benefit or interest, either directly or indirectly for them or any of their first of kin relatives in relation to the investment in the sectors of telecommunications or any other interest that is in conflict with their positions and to take necessary action in this respect.
19. To authorize the employees of the Authority to engage in any work or consulting service or any similar service for their own account or to third party's account in relation to the communications sector inside the State and that extend beyond the scope of the tasks and duties they perform to the Authority, or to carry out such work or service within one year from the date of quitting employment at the Authority.
20. To issue the necessary approval for the importer or any party who has the desire to introduce communications equipment if their particular specifications were not published, in accordance with the rules to be established by the Board of Directors.

21. To issue a decision to organize the investigation mechanism into the complaints submitted to the Authority regarding the existence of negligence by a licensee or a dispute between the licensee and the beneficiaries with regard to the level of service or breach of license and the procedures for filing the complaint or notifying the licensee to remove the violation within 90 days of the date of notification.
22. To examine and consider the annual reports presented by the licensees on the technical, administrative and financial aspects which guarantee that the available licensed service is offered to the beneficiaries at the required level and to present the same to the Board of Directors.
23. To issue the rules and procedures that must be adopted when a licensee receives complaints of annoyance, and the procedures to investigate such complaints and the rules necessary to minimize the annoyance calls in general, in agreement with the licensee and after presentation to the Board of Directors.
24. To take the necessary measures to verify the licensee's level of abidance with the terms and provisions of the Law.
25. To issue a decision to form a committee or more from outside the Authority to settle disputes, and such committee would be responsible for determining all disputes arising between the Authority and any licensed operator, or between the operators themselves, and decide on the grievances filed by the operators or others against the decisions and actions taken by the Authority or which are directly related to its work, as prescribed under Article 55 of the Law.
26. To nominate the employees who would be given the status of law enforcement officers, and to refer the matter to the concerned minister to issue the necessary decision in accordance with the provisions of the Law.
27. To prepare the necessary studies and proposals so that the Board of Directors would implement the competencies and the tasks set forth under Article (8) of the Law and to have such studies presented to the Board and to implement its decisions.
28. To contract with specialized bodies, entities, institutions or companies - either scientific, technical or legal - in order to implement the

functions and tasks entrusted to them by the Authority, in conformity with the rules and conditions set by the Board of Directors.

29. To prepare the Employment Affairs Bylaws for the Authority that includes the rules of recruitment, promotion and disciplinary actions, salary, and bonuses scheme, the financial benefits and the benefits in kind, as well as all other job-related affairs to be presented to the Board to be approved and issued.
30. To propose the Board of Directors Bylaws and present the same to the Board for approval.
31. To refer the users to the Public Prosecution if it were proven that they have made inroads into frequencies without a license.
32. To prepare the Financial Draft Bylaws of the Authority and to have the same approved by the competent authority.

Article No. (2)

The Chairman of the Board – in case a violation of the provisions of the Law, bylaws or the orders to implement the same is verified – shall be entitled to take one of the following actions –or all of them – in proportion to the severity of the offense:

- a. To warn the offender to remove the violation within 30 days from the date of warning.
- b. To stop the license granted to the licensee for a period of three months.
- c. To remove the violation on the expense of the offender.
- d. To reduce the licensed services to the offender, provided that the reduction would not exceed one service per each violation.
- e. To reduce the duration of the license granted to the licensee for a period not exceeding half of the license period.
- f. To establish and collect a fine not exceeding one million Kuwaiti Dinars for each violation.
- g. To hold the equipment, devices and machines seized and maintain the same in custody pending a final and definitive decision on the dispute.
- h. To cancel the License.

The fine shall be doubled in case an offense is reattempted or the offender would pay twice the value of the damage, whichever is greater. None of the penalties or fines stipulated under items (d) and thereafter shall be imposed except after the approval of the Board of Directors.

Article No. (3)

The Chairman of the Board shall assume the administrative, technical and financial competencies of the Authority as provided for by the Laws and bylaws, as well as the rules, regulations, and decisions issued in implementation of this Law, and in particular the following:

First: General Competencies:

- To issue regulatory decisions for the distribution of work within the Authority.
- To issue the instructions and circulars to ensure the implementation of the provisions of the Authority's budget in accordance with the provisions of the Laws and bylaws.
- To sign the procurement contracts for public works and consulting services related to the Authority in conformity to the provisions rules and procedures contained in the list of purchases and to assign the works set by the Board of Directors, taking into consideration the principles of transparency, openness, and equality.
- To issue the decisions regarding the formation of committees and task teams needed by the Authority to perform its tasks, to ratify its minutes of meetings, and to decide the payment of the allowances or bonuses payable for the attendance at and the engagements of such committees and teams and such individuals whose experiences are sought apart from Authority staff as well as to engage others to perform actions or tasks related to the Authority inside or outside the country and to pay out the allowances and bonuses due to them - all in accordance with the rules and conditions set by the Board of Directors.
- To propose the organizational structure and its amendments.

Second: Re the Affairs of the Authority Personnel:

- To issue the decisions of appointment and re-appointment, promotion, transfer, assignment and engagement of services within, to and from the Authority, grant the bonuses and adopt the performance assessment, carry out adjustments and amend job status and authorize the financial rewards for endeavors and excellent services, all in accordance with the functional system as set by the Board of Directors and in accordance with the Employment Affairs Bylaws developed by the Board of Directors.
- Referral to the investigation, suspension from work for the interest of the investigation or for considerations bearing on of public interest, and imposing disciplinary penalties in accordance with the Employment Affairs Bylaws.
- Referral to retirement, termination of service and confirmation of employment and adoption of the non-adequacy report of the probation period.
- Granting all kinds of holidays, whether with full or reduced pay or without pay in accordance with bylaws and schemes in place.
- Referral to a competent investigation authority if it is proven, according to investigation findings, that there is a suspicion of a criminal offense.
- To issue the decisions to change the job titles, and decisions for occupying the leading, supervisory positions, and those at such level.
- To grant permission for an employee to perform work for a third party outside working hours.
- To sign the contracts with non-Kuwaiti employees.
- To issue the necessary decisions to implement the provisions, rules, and controls on official working hours at the Authority.
- To allow exemptions from certain the health fitness conditions required for appointment, having sought the opinion of the competent medical body.
- To issue the rules which pertain to qualifying and training the Authority staff to enable them to perform their duties according to the system prescribed by the Board of Directors.

Chapter Two

Real Estate & Financial Assets Evaluation Procedures of the Authority

Article No. (4)

The entity entrusted with evaluating the real estate and financial assets of the Authority in conformity to the provisions of Article 87 of the Law shall observe the following procedures:

1. Identify all assets and liabilities and collect all the necessary data for the evaluation process.
2. Conduct market analysis to study supply and demand levels and competition.
3. Provide a comprehensive analysis of the present value of the cash flows in order to develop the market value of assets and liabilities.
4. Analyze the historical financial data of the final accounts and statements of income and cash flow, using the financial or economic indicators established as growth ratio, profitability percentages and liquidity ratios, and effectiveness rates.
5. Define all the expenses arising from preparing the assets for use.
6. Evaluate assets and liabilities at the time of creation or acquisition on the basis of historical cost, namely the purchase price, be it the cost, market, or regular price.
7. Carry out a comprehensive and final assessment of the assets and liabilities in accordance with international standards, in line with the accounting rules adopted in the State of Kuwait.
8. Compute the consumer tables on the long range for all assets of all kinds on the basis of their consumer ratios.

Article No. (5)

The Assets which are subject to the evaluation shall include all *in-kind* and financial assets of the Authority, including in particular the following:

1. Real Estate properties (i.e. land and buildings).

2. Decors and fittings.
3. Tools, equipment, and vehicles.
4. Goods.
5. Cash balances (current accounts - deposits - payments account).
6. Securities (stocks - bonds and instruments - investment shares - units in investment funds).
7. Commercial papers (promissory notes - order bonds - checks - documentary letters of credit - letters of guarantee)
8. Future rights (Futures)
9. Patents - drawings and designs - industrial designs - integrated circuits.
10. Trademarks - service marks - trade names and attributes.
11. Computer works (systems - software - databases).

Article No. (6)

The Authority may delegate whoever it deems appropriate to attend the evaluation procedures and to express its observations in this respect.

Article No. (7)

The entity entrusted with evaluation is bound to perform the assigned mission in full on the date specified under the contracts concluded therewith, and the Authority shall be entitled to impose the penalties established under such contracts in case of delay.

Article No. (8)

The entity entrusted with evaluation shall develop a detailed report on its activities in both Arabic and English. Such report shall include the evaluation grounds and procedures and the results of the evaluation and its value quoted in Kuwaiti dinars, and whatever recommendations you may consider necessary in this regard.

Article No. (9)

The entity entrusted with evaluation, referred to in the preceding Article, shall submit such evaluation to the Authority, which in turn would present it to the State Audit Bureau in order to study it and offer its comments thereon as a preliminary step towards submitting it to the Council of Ministers for approval.

<u>Chapter Three</u>
Fees & Revenues

Article No. (10)

The Board of Directors shall determine the fees and revenues charged by the Authority for the services to be offered and in particular the following:

First: Fees for the use of frequency spectrum, band numbers and Internet as follows:

- a. Air and space frequencies.
- b. Radio and wireless frequencies
- c. Band numbers
- d. Internet Bands

Second: Returns due from licenses related to providing the following services:

- a. Creation of a public communications network
- b. Operation or management of a public communications network
- c. Operation or management of a virtual public communications network
- d. Provision of public communication services
- e. Provision of virtual public communication services
- f. Fixed communications structure
- g. Fixed communications service
- h. Provision of Internet services
- i. Creation and operation of international communications structure

- j. Provision of fixed international communication services
- k. Establishment and operation of an international access structure
- l. International access services
- m. Acquisition and use of a radio station on State land or on board of a ship or an aircraft registered in the State.
- n. Radio services, including Radio and TV and satellites and receivers, broadcast.
- o. The percentage to be determined by the Board of Directors of the total annual revenue from any operator of any of the licenses referred to.
- p. Any other licenses to be offered by the Authority in the future

Third: Interconnection fees between public communications networks owned by the private sector or the Ministry of communications or any other Government Agency other than the Security Authorities, and linking the wired and wireless communications devices with such networks.

Fourth: The equivalent for using the international operation capacities.

Fifth: The equivalent for the Authority's service of matching the communications devices and the communications peripheral equipment to the standard specifications and the technical rules as specified by the Authority.

Sixth: Equivalent fee for the Authority's management of the operation of the licensed communications network in case of violation of Licensee's to the terms and conditions of the license or failing to provide the service.

Seventh: Renewal of the licenses referred to in the previous Articles.

Eighth: The announcement of anything mentioned herein.

Ninth: Any returns or financial rights as a lump sum or on periodic basis which the licensee has to pay to the Authority in exchange for having access to any service performed, other than what is already mentioned.

Article No. (11)

The Authority has the right to reconsider the price categories of the services which it provides in the light of its review of the market and without prejudice to the provisions of competition.

Article No. (12)

Subject to the provisions of Article No. 12 of the Law, the following items shall be included in the revenues of the Authority:

- a. The items to be determined by the Board of Directors in exchange of reconciliation with regard to any violation of the provisions of the Law establishing the Authority - with the exception of the items set forth in Articles (67 to 80) of the Law - before they are referred to the competent court, not less than two-fold the fine prescribed in the Law.
- b. The financial fines or compensations collected by the Authority in accordance with the Law
- c. The value of the compensations adjudicated for the Authority in exchange of what it has lost in terms of the fees for having access to the services contained in Articles No. (74 - 75) of the Law without a license
- d. The resources as determined by the Council of Ministers
- e. The grants and donations approved by the Council of Ministers upon the proposal of the Authority's Board of Directors.

Chapter Four

Interconnection Rules and Principles

Article No. (13)

Upon receiving a written request from another service provider, the communications service provider shall, in good faith, enter with him in negotiations to reach an interconnection agreement with the aim to:

- a. Connect or maintain the interconnection of both parties' communications networks connected at specific points of contact.
- b. Provide access to the communications facilities if the request for access were reasonable to enable licensed service providers to provide the service for which they are licensed by providing the communication services to their users.

Article No. (14)

The following acts or practices, in particular, shall be considered as a violation to the good faith in negotiations:

- a. Hinder or delay negotiations or stall in resolving the differences
- b. Refuse to provide necessary information on the communications or communication facilities of a service provider which are necessary for the arrangements for interconnection
- c. Fraud or exerting pressure on one of the parties to reach an agreement which such party would not have agreed to if such fraud or pressure were not exercised
- d. Obligating another service provider to sign an on-disclosure agreement that prevents him from providing any information required by the Authority.

Article No. (15)

A Licensee shall, within (60) days from the date of a request submitted to him from another licensee, conclude a deal therewith as per the scope of controls provided for in the Regulations in order to connect the systems of the other licensee with the systems licensed at technically appropriate points, and to provide other communication services which are essential to the licensed operator so that he would provide the communication services to his subscribers. Should both parties fail to reach an agreement within the prescribed time limit, the concerned party shall refer the matter to the Authority to intervene for mediation or arbitration.

Article No. (16)

Upon concluding interconnection agreements, the transparency, objectivity, and reasonableness of the conditions shall be taken into consideration, especially that:

- a. Any interconnection agreement shall ensure the possibility to terminate any communications service provided by a telecom system of a licensee who provides the interconnectivity at any point within the communications system of any other licensee of communications services.
- b. Calls transmission over and through communications systems should be clear without any hindrance for both the calling party and the recipient party.
- c. Systems used for interconnection must have enough operational capacities that allow transmission of signals efficiently between the interconnected communications systems.
- d. Method required for building and maintenance of connections and requisite transmission capacity to allow effective interconnection shall be satisfactorily indicated for both parties.
- e. Indicate the number of access points required to complete the connection.
- f. Indicate the dates and durations required for interconnection.
- g. Commitment to provide access to communications facilities, including - but not limited to - the main offices and any other sites for equipment, locations of masts, towers, pipes and columns and subscriber lines and facilities located underground, whenever that is reasonably required, in order to enable the service providers to offer communications services to their customers in a smooth and easy manner.
- h. Commitment to maintain the quality of service levels and to provide treatment for any impediments that they might encounter in order to meet a level of service mutually acceptable by both parties.
- i. Determine the connection fees and the terms of payment

Article No. (17)

Interconnection agreements, whether directly or indirectly, may not include any of the following:

- a. Withhold the provision of communication services or interconnection by a licensee capable to do so.
- b. Collect any payments other than the fees for the approved connection or create any additional burdens on any person upon exercising any rights or privileges granted to him under the Law or any of the licenses issued.
- c. Prohibit amending an interconnection agreement in line with the changes that may arise as to the instructions and orders issued by the Authority.

Article No. (18)

An interconnection agreement shall not take effect until after the presentation to the Authority and receiving its approval. The Authority shall issue its decision within twenty days from the date of presenting the agreement, and shall notify both parties thereof in writing. In case of rejection decision, the Authority will provide reasons.

Article No. (19)

The licensee shall abide by any decisions or instructions issued by the Authority on the participation of other licensees in any facilities or infrastructure in relation to a public communications network.

Article No. (20)

Upon fixing the interconnection prices, the licensee shall commit to the following points:

- a. Interconnection service prices must be reasonable and without discrimination between the applicants after calculating the cost of the systems involved in the connection. To be considered in this regard, incentive prices and timing to be determined by the Authority for

new operators, given that other licensee who requests interconnection may not pay for services or facilities which it does not require.

- b. To be taken into consideration the relative use of the equipment of each one of the parties involved in such connection upon the distribution of the returns accruing from the movement across the systems owned by the parties.
- c. Notify the Authority in advance of the prices and comply with the market review outcomes.

Article No. (21)

Each dominant operator shall prepare a standard offer for the provision of interconnection linking its communications network, as well as access right to its communications facilities made available to any of its licensees to be approved by the Authority within the time period specified in the guidelines on interconnection.

Article No. (22)

The standard offer mentioned under the preceding Article shall fulfill the following requirements:

- a. To be compatible with the latest version of the guidelines for interconnection and access to facilities prior to the date of the offer, including guidelines on the financial consideration
- b. To include a complete list of standard services to be made available to service providers, including the fees for each service and its basic breakdown.
- c. To include a statement about the right of access and interconnection services to be made available, including providing additional points to the network terminal points available for other licensees upon request in accordance with prices based on cost and the respective conditions.

Article No. (23)

A dominant licensee shall publish the standard offer as follows:

- a. Publish the offer on its website within a maximum period of one week with effect from the date of its adoption and disclose the terms, conditions, and details of the fees for interconnection and information required to be disclosed in accordance with the guidelines established by the Authority.
- b. Coordinate with the Authority to publish it on its website in a maximum period of two weeks from the date of its adoption.
- c. Make available a copy thereof at its business headquarters for public use.
- d. Provided any other service provider with a copy of the offer upon request.

Article No. (24)

Failure by the dominant service provider to provide the standard offer to the Authority within the fixed time limit, may entitle the Authority to engage him to adopt a standard offer for interconnection that it would prepare.

Article No. (25)

Interconnection and access to facilities agreements offer provided by the dominant operator shall meet the following requirements:

- a. Be compatible with the approved standard offer
- b. Be marked with transparency, objectiveness and in conformity with Authority's regulations
- c. Satisfy all information about the quality of interconnection and access services

Article No. (26)

Where the Authority considers that interconnection and access to facilities agreements are in conflict with the Law or these Regulations, it would charge the concerned parties to amend the same.

Article No. (27)

A dominant operator shall do the following:

- a. Upon request, provide all information and specifications necessary for the licensed service providers who apply for interconnection or access to facilities.
- b. Offer access to the network elements at terms and prices based on the cost that is nondiscriminatory and transparent.
- c. Provide leased circuits services under equitable terms and for reasonable and nondiscriminatory prices. If such services were provided for the purpose of providing public communications service, it shall be sold at prices based on cost and operating capacity.
- d. Provide other licensees with accessibility to the columns, pipes, channels, and locations of the devices which he owns or controls and which are necessary for interconnection according to equitable terms and prices based on the cost that are nondiscriminatory and transparent.
- e. Provide interconnection and access to facilities for all service providers at the same terms and quality availed to his own communications service processes or that to any of his affiliates.

Article No. (28)

A dominant operator shall allow other licensees to participate in international offshore and onshore cable station sites in accordance with the regulations and instructions issued by the Authority.

Article No. (29)

The Licensee shall adhere to the regulations and instructions, rules and technical specifications issued by the Authority for the purpose of operational compatibility of the systems and services with a licensed and communication services systems provided by other licensees in a technically and economically appropriate manner.

Chapter Five

Competition Provisions

Article No. (30)

It shall be prohibited for a licensee and others to reach an agreement or coordinate efforts in order to prevent market competition or limit or distort the same in any commercial activity connected to the communications sector in the State so as to achieve any of the following matters in the communications market:

- a. Impact the prices or conditions of goods and services subject to their respective transactions by way of increase, decrease, immovability, through sham or fictitious transactions, or any other forms of dealings contrary to the market mechanisms with the aim of causing harm to other competitors.
- b. Preselect of the person who will win a contract or a job opportunity in the telecom market.
- c. Segment telecom markets or have them allocated geographically or based distribution centers, quality of customers or service, seasonality or time periods with the intent to harm competition.
- d. Abuse by a licensee whether individually or in association with others to enforce a dominating position in the market or a major part thereof, in such a manner that would substantially preclude or restrict competition in an unfair manner.
- e. Conclude any agreement or enter into any arrangements, understandings, practices with any other person or allow potentials that would substantially inhibit, restrict or distort competition in an unfair manner.
- f. Introduce non-competitive changes to the market structure and in particular create syndicates, merge or combine the management of two or more persons in such a manner that would control or increase the existing control over the communications market.
- g. Deny or prevent another service provider to use the facilities or rare materials gained by the operator.
- h. Any act or activity which the Authority consider as effective or may become materially effective in reducing competition or causing harm to it in any of the communications markets.

Article No. (31)

The restriction provided for under the preceding Article shall not apply to any act or restraint the nature of which is to restrict the competition, if it were to lead to the provision of any goods or services in the communications market in a better manner or promote the technical or economic progress in the State aimed at achieving specific and clear benefits to consumers and that outweighs the effects of restricting competition.

Article No. (32)

The following types of actions and activities shall be considered as misuse by the service provider to his dominant position:

- a. Failure to provide basic facilities to a competitor within a reasonable time at reasonable and affordable terms, after the dominant service provider receives a request to do so provided that such facilities are available to him.
- b. Exercise discrimination in allowing the right of access or interconnection or any other services or facilities to other service providers, unless there are objective justifications based on the difference in the availability circumstances of each of them, including the cost or shortage of facilities or available resources.
- c. Require acceptance by the competitor of unneeded product or service as a prerequisite by the dominant service provider to provide product or service.
- d. Offer goods or services at lower prices than the average incremental costs on the long term, or any other cost standards specified by the Authority with the aim of causing harm to the competitors.
- e. Financial interchangeable leverage from one service to another competitive service, which aims to affect or limit competition, except when such leverage is approved by the Authority.
- f. Failure to respond to the obligations of linking the interconnection or with the dominant service provider, as shown in Chapter (4) of this Regulation.

- g. Any of the following acts which would hinder or prevent the entry or expansion of a competitor in the market:
1. The dominant service provider reduces the prices in its standard offer adopted by the Authority, with the aim of reducing the profit margin available to a competitor that needs wholesale services from the dominant service provider, or raising the wholesale prices of such services needed by that competitor in markets where both would compete.
 2. Adopting technical specifications of its networks or systems that would prevent or hinder the alternate operation with the network or system of the competitor.
 3. Failure to provide other service providers –upon request– with the technical data related to basic facilities, technical specifications or other commercial information relevant to the services which they provide.
 4. Using information obtained from competitors, through interconnection or providing services to them, in order to damage competition.

<u>Chapter Six</u>

Dispute Resolution Committee

Article No. (33)

The Chairman of the Authority shall form a Committee or more from outside the Authority to resolve the disputes and decided the grievances. Such committee shall be presided over by a counselor of the judiciary or the Fatwa and Legislation Department to be nominated by the Supreme Judicial Council or the Head of the Fatwa and Legislation Department, as the case may be. It shall encompass among its members a number of experienced and competent members to be determined by the Chairman of the Board. The formation of the Committee shall be based on an odd number and should not exceed five.

A Secretary shall be annexed to the Committee, to be nominated by the Chairman of the Board among the staff of the Authority. The secretary shall attend to the administrative activities and implement any decisions entrusted to him by the Committee.

Article No. (34)

The Committee shall embark upon its mission in accordance with the following rules and procedures:

- a. A register shall be dedicated to record the disputes received by the Authority and another to record the grievances. The concerned person shall be notified of the number and date of the registration.
- b. Grievances shall be submitted within thirty days from the date of notification of the decision or action about which he complains.
- c. Dispute or grievance writ shall contain the following data:

The complainant or the grievant name and the respondent or the defendant against whom the case is filed, and his status as the case may be, and the address of each of them including the Civil Number, the telephone and fax, email or any other electronic approved means which he would like to declare, the subject of dispute or complaint, the number and date of issuance of the decision or action which pertains to the grievance, the date on which the complainant was notified, the reasons on which the complainant or grievant bases his complain as well as his requests and any supporting documents .

- d. The Secretary shall present to the Chairman of the Board the writ on the dispute to set a hearing date to consider it – within two weeks at the latest – and the complainant and the Defendant would be notified of such hearing in accordance with item (c/1) via any of the previous methods. He is entitled to submit his defense memorandum one week prior to such date.
- e. The Secretary shall present to the Chairman of the Board the writ of the grievance to mark it as examined and to prepare the adequate reply and the supporting documents within two weeks and give it back to the Secretary to present the Grievance - accompanied by the

reply and the documents – to the Chairman of the Authority who in turn would present it to the Authority in order to issue the adequate decision on the matter, and the Authority may hear the statements of the grievant or any other person it considers as appropriate prior to deciding on the grievance.

- f. The concerned parties may appear before the Authority and submit their memoranda, aspects of their defense and the supporting documents with regard to the disputes under consideration.

Article No. (35)

The Authority – with its full formation – shall decide the disputes or grievances presented to it by means of a reasoned decision within one month from the date of submission of the dispute or grievance writ, and the Authority shall notify the concerned parties of its reasoned decision within a week from the date of its issue.

Article No. (36)

The deliberations of the Authority shall be confidential, its decisions shall be issued by majority of opinions, and its decisions shall be final.

Article No. (37)

In case the decisions of the Authority are challenged before the judiciary, the competent department at the Authority shall prepare a technical report on the subject of the dispute or complaint to be submitted to the Chairman of the Board of Directors for approval before being submitted to the competent court.

Chapter Seven
Final Provisions

Article No. (38)

The Chairman of the Board shall issue the decisions, rules, orders, and instructions necessary to implement the provisions of these regulations.

Article No. (39)

The Licensees and users of the service must abide by the Law as well as these regulations and the terms and conditions of the licenses granted to them and all the regulations and decisions, rules and notifications issued accordingly.

Article No. (40)

The Board of Directors shall take actions and measures and decisions as it may deem appropriate to ensure the abidance by the licensees and service users to the provisions of the Law as well as these regulations.

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