

**LAW N° 44/2001 OF 30/11/2001 GOVERNING TELECOMMUNICATIONS**

We, Paul KAGAME,  
President of the Republic,

**THE TRANSITIONAL NATIONAL ASSEMBLY HAS ADOPTED AND WE SANCTION, PROMULGATE THE LAW, AS DECLARED BY THE SUPREME COURT, SECTION OF CONSTITUTIONAL COURT TO BE IN HARMONY WITH THE FUNDAMENTAL LAW IN THE RULING N°053/11.02/01 PASSED ON 19/11/2001 AND ORDER IT TO BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.**

The Transitional National Assembly, meeting in its session of March 13, 2001;

Given the Fundamental Law of the Republic of Rwanda, as modified and complemented to date, especially the Constitution of June 10, 1991 in its articles 69 and 97, and the Arusha Peace Agreement on Power Sharing, in its articles 6-d , 16-3°, 40, 72 and 73;

Given Law n° 3/1986 of 16 May 1986 ratifying the Intergovernmental Accord relating to the International Organization of Telecommunications by Satellite signed in Washington on 20 August 1971;

Given Law n° 4/86 of 16 May 1986 ratifying the Convention of the International Union of Telecommunications signed in Nairobi on 6 November 1982;

Given Law-Decree n° 21/79 of July 23, 1979 on expropriation due to public utility services confirmed by Law n° 01/82 of January 26, 1982;

Given Law-Decree n° 23/79 of August 31, 1979 on State Accounts confirmed by Law n°01/82 of January 26, 1982;

Given Law n° 06/1988 of February 12, 1988 on organization of Trade Organizations;

Given Law n° 39/2001 of September 13, 2001 establishing an agency for the regulation of public utilities;

Revisited the Law of 27/05/1964 relating to the annual payments charged to holders of radio receiver equipment;

Revisited the Law-Decree of 17/6/1974 relating to Telecommunications confirmed by Law n° 01/82 of January 26, 1982;

Revisited Law n° 8/92 of 19/11/1992 relating to institutional reform of telecommunications;

**ADOPTS:****CHAPTER ONE. DEFINITIONS****Article One**

In this law :

1° “**Law**” refers to the law governing telecommunications

2° “**Catastrophic conditions**” refers to any unforeseen catastrophic network breakdown howsoever caused. This includes failure of switching and transmission equipment, destruction of part of the network by reason of industrial action by employees, riot, civil or international war, insurrection, vandalism, weather conditions judged to be extreme, earthquake, flood, lightning or fire, or theft.

3° “**Consumer equipment**” refers to terminal equipment which can be installed and rendered operational by a user without special instruction and includes telephone handsets, facsimile machines and telephone answering machines and any other similar equipment which may be so designated by the Regulatory Board.

4° “**Court**” refers to mean the competent judicial tribunal designated to hear telecommunications cases.

5° “**Dominant organizations**” refers to an individual or organization providing public networks and/or public telephone services who has been designated as a dominant organization by this law.

6° “**Individual licence**” refers to a licence granted by an individual decision of the competent Minister to an individual granting authority for the provision of a public network and/or public telecommunications service which may have specific rights or obligations attached to it supplementing the terms of a standard licence as set out in Article 6 of this law.

7° “**Infrastructure**” refers to pipes, ducts, tunnels, aerials, masts and pylons as well as all other structures fixed to the ground or attached to buildings.

8° “**Interception of communications**” refers to listening, tapping, recording, storing, decrypting, intercepting, interfering with, or carrying out any other type of surveillance over voice and data communications without the knowledge of the user, unless that user has given explicit permission.

9° “**Interconnection**” refers to reciprocal services (but not necessarily the same services) offered by two operators providing a public telephone service in order to allow all users to communicate freely amongst themselves, regardless of the telecommunications networks to which they are connected or the telecommunications services they use.

10° “**Leased lines**” refers to the telecommunications facilities which provide for transparent transmission capacity between network termination points and which do not include on demand switching (switching functions which the user can control as part of the leased line provision). They may include systems which allow flexible use of the leased line bandwidth including certain routing and management capabilities.

11° **“Minister”** refers to the Government Minister who is responsible for telecommunications policy and law in the Republic.

12° **“Network termination point”** refers to the point at which a user can make physical and logical connection with a telecommunications network and includes its technical access specification.

13° **“Public telecommunications operator”** refers to a telecommunications service provider who is providing a public telephone service and/or a public network and/or a telecommunications service using leased lines under the terms of an individual licence.

14° **“Public fixed telephone network”** refers to a switched telecommunications network which can support the transfer between fixed network termination points at fixed locations of speech, facsimile communications and voice band data transmission via modem and where access to the network is through a number in the Republic’s numbering plan.

15° **“Public mobile telephone network”** refers to a telecommunications network for the provision of a public telephone service where access to the network is through a number in the Republic’s numbering plan but where the network termination points are not at fixed locations.

16° **“Public networks”** refers to public fixed telephone networks and public mobile telephone networks .

17° **“Public payphone”** refers to a telephone in a public place which is available for use by the general public using coins and/or credit or debit cards and/or prepayment cards, and which is provided by a public telecommunications operator as part of an individual licence.

18° **“Public telephone service”** refers to a real time voice telephony service through public networks to which natural persons or organizations may be admitted or subscribe (either by means of prepayment or under a written contract for a defined period of time) and which includes the services set out in Chapter 5 of this law.

19° **“Radiocommunications”** refers to the transmission and/or reception of signals by the use of radio waves but excluding radio and television broadcasting.

20° **“Regulatory Agency”** refers to the public autonomous body created by the law establishing an agency for the regulation of public utilities.

21° **“Regulatory Board”** refers to the board of 7 individual of some persons responsible for the regulation of public utilities in the Republic and for the management of the Regulatory Agency.

22° **“Republic”** refers to the Republic of Rwanda.

23° **“Standard license”** refers to a license granted in accordance with Article 18 which contains standard terms allowing the licensee to provide a particular type of telecommunications network and/or telecommunications service.

**24° “Telecommunications network”** refers to technical equipment or systems utilized for telecommunications (whether for transmission, emission or reception of signs, signals, writing, images and sounds or intelligence) of any nature by wire, radio, optical or other electromagnetic.

**25° “Telecommunications service”** refers to services whose provision consists wholly or partly in the transmission and/or routing of signals on telecommunication networks but excluding radio and television broadcasting.

**26° “Public Utilities”** refers to oil, gas, electricity, water and telecommunications and such other utilities as may be designated by Prime Ministerial Decree.

**27° “Terminal equipment”** means any product or relevant component of a product which is intended to be connected by any means whatsoever to the interfaces of public networks.

**28° “Interfaces”** means a network termination point being a physical connection point at which a user is provided with access to a public network and/or an air interface specifying the radio path between radio equipment, both together with their technical specifications.

**29° “User”** means a natural person or organization using a telecommunications network and/or service.

**30° “Utility suppliers”** means Telecommunications services suppliers within the Republic.

**31° “Universal Access”** carries the meaning in Article 28 of this law.

## **CHAPTER II. TELECOMMUNICATIONS REGULATION**

### **Article 2**

Telecommunications networks and telecommunications services in the Republic are subject to regulation by the Regulatory Board in accordance with the provisions of this law.

### **Article 3**

With respect to telecommunications, the Regulatory Board should :

1° ensure that telecommunications networks and telecommunications services are provided throughout the Republic to meet all reasonable demands and needs of natural persons and organizations;

2° promote the interests of users and potential users of telecommunications services, whether they be natural persons or organizations, in respect of the price, quality and variety of telecommunications networks and services in the Republic;

3° ensure that all providers of telecommunications networks and telecommunications services have adequate means to finance the provision of such networks and services;

4° maintain and promote effective competition in the provision of telecommunications services throughout the Republic in the interests of those wishing to use such services;

- 5° facilitate and encourage private sector participation in telecommunications investment;
- 6° ensure compliance with the provisions of this law;
- 7° have due regard to the security of the Republic and national defence when carrying out its work when this is required;
- 8° do anything reasonably incidental to the objectives of the Regulatory Board as set out in this Article.

#### **Article 4**

The President of the Republic, by Presidential decree determines the specific duties to be carried out by the Regulatory Board in order to give effect to Article 3 of this law.

### **CHAPTER III. LICENSES**

#### **Article 5**

Except as required by the provisions of Article 10 of this law, every natural person and organization which wishes to install a telecommunications network and/or provide a telecommunications service within, to or from the Republic, should:

- 1° fulfill the conditions required by law for the carrying out of trade within the Republic;
- 2° first obtain a telecommunications license.

Applications for the grant of a license are made to the Regulatory Board as required by law and should include all requirements in the correct and due form and set out the information required by the Regulatory Board.

Applications are accompanied by the fee prescribed by the Regulatory Board. The Regulatory Board then considers the application.

Standard licenses will be issued by the Regulatory Board. Individual licenses are granted by the competent authority on advice from the Regulatory Board. The competent authority may delegate the responsibility for issuing individual licenses to the Regulatory Board.

All licenses are granted on an open and objective basis, without discrimination against any applicant for a license. Licenses are only refused for the reasons set out in Article 8 of this law.

The Minister acting on advice from the Regulatory Board determines the conditions which should be incorporated in licenses and issues these by Ministerial decree. Licenses granted to dominant organizations are subject to more onerous conditions than those granted to other providers of telecommunications networks and telecommunications services .

Licenses are issued within four weeks for the grant of a standard license and three months for the grant of an individual license from the submission of a valid and complete application for a license and provided that the applicant has first paid any initial license fee required by the Regulatory Board. If a license is not issued within that time, and the applicant has not received written notice from the Regulatory Board explaining and justifying the delay, and stating when the license will be issued, the applicant for the license should apply to the court for an order that the license should be granted.

A license granted under this Article is valid for the period stated in the license, provided that all periodic continuation fees required by the Regulatory Board are paid by the license holder. The Regulatory Board may suspend any license where the periodic fees for continuation of the license have not been paid.

The Regulatory Board is responsible for ensuring that telecommunications network or networks and telecommunications services providers comply with the terms of their licenses and may impose where necessary the enforcement provisions and sanctions set out in this law.

Individual licenses are issued in cases where:

1° operators providing public telecommunications services and public telecommunications networks request for it;

2° a request is made for access to radio frequencies or numbers in the National numbering plan;

3° particular rights are granted with regard to access to public or private land;

4° obligations are to be imposed on the proposed licensee with respect to the mandatory provision of public telecommunications services and/or public networks;

5° specific obligations have to be imposed on public network or networks and/or service providers which enjoy a dominant position in the telecommunications market they are serving, in order to ensure that competition in the market is not distorted;

6° defence and public security related conditions have to be imposed.

The Regulatory Board may revoke any individual license in the event either that the licensee does not:

1° substantially commences the implementation of the telecommunications networks and/or services which are the subject of the license up to one year after the date of its grant or,

2° having commenced the implementation without meeting the dates in its license for the implementation of the networks and/or services.

No license granted under this Law is transferred or assigned to a third party without the written consent of the Regulatory Board and the payment of any required fee. Contravention of this provision is an offence punishable in accordance with paragraph (2) of Article 57 of this law and the transfer shall be deemed to be of no effect.

All licenses other than those granted under paragraph (9) of this Article are granted as standard licenses. Unless there are objective and justifiable reasons for doing so, it is forbidden for an individual license to be issued which:

1° alters any rights given or conditions attached to a standard license;

2° restricts or complements any rights enjoyed by the licence holder under a standard license.

Any natural person or organization which:

1° fails to obtain a telecommunications licence prior to the commencement of the installation of a telecommunications network and/or the commencement of a telecommunications service is subject to a fine in accordance with paragraph 1 (i) of Article 57 of this law;

2° not having obtained a license, operates a telecommunications network and/or provides a telecommunications service, will subject additionally, to the daily fines in accordance with paragraph (1) 2° of Article 57 of this law.

### **Article 6**

License holders may apply to the Regulatory Board for renewal of a license not later than three months before the expiry of the existing license;

The procedure for the renewal of licenses is the same as that applicable to the granting of the original license;

Renewal of licenses may only be refused for the reasons set out in Articles 7 or 8 of this law;

Telecommunications networks and telecommunications services providers who fail to renew their licenses or whose application for renewal is rejected by the Regulatory Board cease to install and/or use further telecommunications networks and/or offer telecommunications services;

Failure to renew a license is subject to the sanctions in accordance with paragraph (3) of Article 57 of this law.

### **Article 7**

The Minister, after receiving advice from the Regulatory Board, may decide that the grant of some individual licenses which involve scarce resources should be subject to a tendering procedure for the allocation of those licenses.

The Regulatory Board publishes in the Official Gazette full details of the available licenses and the procedure for tendering for the award of these licenses.

Published details include tender fees, the proposed duration of the license, the criteria for the award of the license, initial and periodic continuation fees, and details of conditions which will be attached to the license.

All applicants submitting a tender are treated fairly and without discrimination. Tendering procedures are clearly described and the assessment of individual tenders is to be strictly in accordance with the code governing the criteria and timescales for the award of the license.

### **Article 8**

Natural persons and organizations may be refused a license for the following reasons:

1° in order to protect the national integrity and/or national security

2° for reasons of limitations on the frequency spectrum

3° if the Regulatory Board reasonably believes that competition in the telecommunications sector can be adversely affected

4° if the applicant has substantially failed to meet his obligations.

The Regulatory Board may delay the grant of a license to natural persons and organizations where there are limitations on available numbers. The Regulatory Board takes all appropriate actions that are required in the shortest possible time to alter the national numbering plan, such that further licenses may be granted.

The applicant must be given written reasons about refusals and delays in the granting of license as soon as the Regulatory Board has made its decision.

### **Article 9**

The Regulatory Board has the power to make alterations and additions to telecommunications licenses for the reasons set out in paragraph (2) of Article 22 of this law. Every license should specify that the Regulatory Board has such right.

Amendments and additions should reflect in an objective and non-discriminatory manner:

1° the provisions of any new telecommunications laws which are relevant to the license;

2° any regulatory changes which are intended to ensure equal opportunities and effective competition in telecommunications markets in both rural and urban areas;

3° changes necessary to respond to market circumstances;

4° changes caused by technological developments.

Through instructions of the Minister, the Regulatory Board publishes in the Official Gazette, its intention to make modifications to licenses, and the class of licenses which are affected.

In the case of modification to any individual licenses, a modification notice is also be sent to the business address of the license holder. The notice seeks written views from any interested person or organization and the time limits for submission of those views. All views which are received are taken into account by the Regulatory Board before modifications are introduced.

All licenses which are affected by amendments and additions are modified by written notice issued by the Regulatory Board and unless otherwise provided by law, take effect three months from the date of the written notice.

If any licensee is aggrieved by the decision of the Regulatory Board, he/she may refer the matter to the court. If the court annuls the decision of the Regulatory Board, the decision will apply to all affected licenses.

The Regulatory Board may give any licensee a period of time to comply with any modification which causes undue hardship. The licensee shall be required to demonstrate that he / she is suffering from undue hardship.

Licensees may apply to the Regulatory Board to vary any term of their license. The Regulatory Board has the right to make such modifications if it considers appropriate to do so, having regard to the provisions of this Law and the avoidance of granting undue preference to any individual licensee.

### **Article 10**

Certain telecommunications networks and telecommunications services do not require a telecommunications license.

Acting solely on a proposal from the Regulatory Board, the Minister specifies in a Ministerial decree the circumstances in which such a license is not required.

### **Article 11**

The Regulatory Board must publish details of fees to be levied by it for telecommunications licenses.

The fees may be charged:

1° for license applications, whether or not the application is successful;

2° for initially issuing the license;

3° on a periodic basis to permit continuation of the license;

4° for renewal of the license on expiry.

The same or similar licenses should have the same or similar fees or the fees should be computed on the same or a similar basis.

The Regulatory Board may from time to time amend the fees applicable to different types of licenses. Revised charges are applied to all licenses of the same type.

Details of fees for licenses and any changes to these are published in the Official Gazette.

License fees are paid to the Regulatory Board office. Failure to pay the fee results in delay in issuing the license in the first place or suspension of the license if any periodic fee is not paid within four weeks of the commencement of each period. The Regulatory Board must then issue a notice of temporary suspension of the license.

### **Article 12**

The Regulatory Board keeps and updates a register of matters concerning the operation of the Regulatory Board. The Minister, by Ministerial decree make provision for the contents of the register.

The Regulatory Board ensures that the register is open to public inspection during its normal hours of business and that the public can obtain copies of any part of the register, including copies of licenses, upon payment of the standard fee prescribed by the Regulatory Board.

### **Article 13**

Any licensee which is a corporate body within the meaning of law n°06/88 of February,12,1988 setting out the structure of commercial organizations should, where it undergoes any direct or indirect change of ownership, notify that change in writing to the Regulatory Board no later than one month after the change.

Where in the opinion of the Regulatory Board, the change of ownership of a licensee or for any other reason would adversely affect the development of telecommunications in the Republic, including the development of competition, or the performance of its license obligations, or the security of the Republic, the Regulatory Board revokes the license.

Failure to notify the Regulatory Board of a change of ownership results in a fine levied in accordance with paragraph (5) of Article 57 of this law.

### **Article 14**

If any natural person or organization does not comply with any condition set out in a license, the Regulatory Board issues an enforcement notice requiring that person or organization to remedy the failure within a specified period of time.

Failure to comply with paragraph (1) of this Article is an offence punishable in accordance with paragraph (6) of Article 57 of this law.

If the natural person or organization believes it is complying, or cannot comply, with any condition set out in a license for objective and transparent reasons, it makes representations to the Regulatory Board in writing within seven working days from the date of the enforcement notice. The Regulatory Board reviews the matter and either confirms or withdraws the enforcement notice or gives a written waiver of compliance with the condition.

The Regulatory Board may suspend or revoke any license where after the grant of a license it is found that the telecommunications operator:

- 1° is found guilty of fraud or intentional misrepresentation when applying for the license;
- 2° is engaged in or is supporting activities amounting to a treasonable offence under the Penal Code.

## **CHAPTER IV . VOICE TELEPHONY AND UNIVERSAL ACCESS**

### **Article 15**

Notwithstanding the provisions of paragraph (2)-(3) of Articles 15 and 23 of this law, public telecommunications operators shall provide every natural person and organization with a connection to a public telephone service within that area of the Republic to which their individual license extends.

Public telecommunications operators should promptly respond in not more than 15 days to a request for connection to a public network from any natural person or organization and:

1° give estimated dates when this will be provided and when the public telephone service will commence and;

2° inform the user that the user's name has been placed on any waiting list for the connection and;

3° provide the connection as soon as it is technically feasible and reasonably economic to do so;

If a public telecommunications operator considers it is unreasonable to provide a connection to a public telephone service, or a potential user, he refers the matter to the Regulatory Board for a decision which is binding on both the operator and the potential user.

Public telecommunications operators give a written contract to every natural person and organization which requests a public telephone service. The Regulatory Board, specifies the matters which are, as a minimum, requirement contained in each contract.

### **Article 16**

The Regulatory Board must issue an enforcement notice requiring any public telecommunications operator to amend any contract with a user if it believes that the contract is not in accordance with the law.

Prior to issuing an enforcement notice, the Regulatory Board first seeks the views of the public telecommunications operator which, if it agrees with the Regulatory Board's views, within 21 days of the date of original notification, informs the Regulatory Board and amends its contracts with its users.

If the public telecommunications operator does not agree with the views expressed by the Regulatory Board, it, within 21 days of the date of original notification, he must inform the Regulatory Board, with written reasons. The Regulatory Board either reconsiders its position or issues an enforcement notice within 15 days. The public telecommunications operator may appeal to the court against the issue of an enforcement notice.

### **Article 17**

Disconnection of telephone services due to non-payment of charges is done in accordance with the agreement the user has with the public telecommunication operator.

Any user who has been unlawfully disconnected is entitled to apply to the Regulatory Board which, if it verifies the user's allegation, may issue an enforcement notice and require the public telecommunications operator to pay compensation to the user in respect of the unlawful disconnection. Any party which does not agree with the decision may refer the matter to the court.

### **Article 18**

It is forbidden to levy any sort of charge for joining, staying on, or modifying the position on a waiting list, for a public telephone service.

Any public telecommunications operator or his employee who contravenes this Article, is liable to the sanctions set out in Article 58 of this law.

### **Article 19**

Every user in the Republic has the legal right, without charge:

1° to have an entry in any publicly available telephone directory published by a public telecommunications operator.

2° on written notice to a public telecommunications operator, to decline to have an entry, or to continue to have an entry in any published telephone directory;

3° to request amendments to be made to his entry in any telephone directory in the next edition of that directory and make amendments to the user database immediately.

The entry normally consists of user's family name and given name or initials, or business name, the user's address, (which at the option of the user, may be given in whole or in part) and all public network numbers allocated to that user.

A user's gender is not disclosed unless specifically requested in writing by that user.

Users with prepayment contracts are not entitled to an entry in any telephone directory.

Public telecommunications operators must, at regular intervals of not less than one, nor more than three years, update, revise, publish and make available to each user without charge a copy of a telephone directory.

The Regulatory Board may, upon reasonable notice, and without discriminating between operators, require that public telecommunications operators make telephone directories available in electronic as well as written form.

Public telecommunications operators ensure that user requirements set out in paragraph (1) of this Article and their personal or business details set out in paragraph (2) of this Article is promptly communicated to all other public telecommunications operators. Such information is used solely for the purposes of publishing telephone directories .

Any natural person or organization has the right to compile and publish any telephone directory independently of any public telecommunications operator. The Regulatory Board has the power to make rules about the conditions under which public telecommunications operators will be obliged to make data about users available for third parties.

The Regulatory Board requires that at least one dominant organization providing public networks publishes a telephone directory containing user information as set out in paragraph (1) of this Article and provide a copy of this directory to each user in the Republic without charge.

## **Article 20**

The Regulatory Board ensures that, commensurate with technological development and public network coverage, a directory enquiry service is provided by at least one public telecommunications operator as part of that operator's individual license.

The directory enquiry service is capable of being accessed to by all users in the Republic, including users that have prepaid for their telecommunications service.

Public telecommunications operators that provide a directory enquiry service are permitted to charge for this. The charge is based on the costs of providing the directory enquiry service and a reasonable rate of return as determined by the Regulatory Board.

## **Article 21**

A public telecommunications operator provides public payphones in accordance with the terms of its license.

The facilities and standards of all such payphones are laid down by the Minister having telecommunications in his/her attributions in a Ministerial decree.

## **Article 22**

Public telecommunications operators providing telecommunications networks and/or telecommunications services must comply with criteria set out in their licenses as to the quality of the networks and services they are providing.

The Regulatory Board may at any time modify licenses issued to providers of telecommunications networks and services so as to change quality of service criteria. No modifications are made until:

- 1° a six months notice has been given to the relevant provider and;
- 2° the relevant provider has operated under its license for at least 18 months before notice is given.

Criteria for measurement of quality of service together with the level of compensation which may be claimed by users if any quality measurement is not met are set out in a Ministerial decree.

Quality of service criteria are the same or similar for the same or similar types of licenses.

Information about quality of service as measured in accordance with the criteria are provided to the Regulatory Board as required by law. Failure to provide information is an offence punishable in accordance with the law.

The Regulatory Board must in the first instance, issue an enforcement notice to any telecommunications network or service provider which fails to meet any quality of service criteria and specify the time within which the criteria have to be met. Continued failure to meet any service criteria specified in the enforcement notice may result in the Regulatory Board either:

- 1° reducing the scope of the operator's license, or;
- 2° reducing the duration of of the operator's license or;
- 3° suspending the provider's license.

In extreme cases, the Regulatory Board has the power to revoke the license for non-compliance with the enforcement notice.

The Regulatory Board publishes both generally and in its annual report, information setting out the quality of service performance of each public telecommunications operator.

### **Article 23**

Public telecommunications operators can not restrict access to public networks or public telecommunications services except for the reasons set out in this Article.

When catastrophic conditions prevail, public telecommunications operators make every endeavour to maintain the highest level of service on the public networks. Any necessary restrictions on access to networks or the provision of services, shall be in proportion to the harm suffered by the network. Public telecommunications operators can not discriminate between users on any basis whatsoever, when catastrophic conditions prevail, except on purely objective grounds.

Public telecommunications operators ensure the integrity and continued operation of public networks and public telecommunications services. Restrictions on access to or the use of public networks in order to maintain the integrity of these is kept to the minimum necessary to ensure the continued normal operation of the public networks. Public telecommunications operators cannot discriminate between users when maintaining the integrity of public networks and public telecommunications services.

Users are permitted to connect to public networks, terminal equipment which has been approved in accordance with this Law. A public telecommunications operator, may, without payment of compensation, or giving prior notice, interrupt access to the network or the provision of a public telephone service if any terminal equipment is not approved for use on the public telecommunications network .

Conditions imposed by public telecommunications operators on access to and use of public networks and/or public telecommunications services based on the protection of personal data are only made in accordance with Chapter 17 of this law.

The Regulatory Board is responsible for monitoring compliance with this Article by public telecommunications operators. Failure to comply with its provisions may result in the imposition of sanctions in accordance with Article 59 of this law.

## **Article 24**

Public telecommunications operators take the measures set out in this Article to ensure that personal information relating to an individual user of telecommunications services and telecommunications networks is protected.

Public telecommunications operators may process data which is strictly necessary for providing bills to users and for determining interconnection payments. Processing is permissible only up to the end of the period during which a bill may lawfully be challenged or payment may be pursued through legal means.

Traffic data relating to users which is processed to establish and charge for calls and which has been stored by public telecommunications operators will, subject to paragraph 2 of this Article, be erased or rendered anonymous at the end of each call.

Processing of traffic and billing data is restricted to:

1° natural persons who are employed by public telecommunications operator or;

2° natural persons or organizations who are under contract or with the public telecommunications operator. In such case, any data disclosed are strictly limited to that data which is necessary to enable that person or organization to carry out its contract with the public telecommunications operator.

This Article does not prejudice the right of the Regulatory Board to be supplied with such information as it requires pursuant to law.

On written request to the public telecommunications operator, a user is entitled to have a non-itemized bill. The Regulatory Board has the power to lay down rules about the limits of itemization which users may request and the conditions on which these may be provided.

## **Article 25**

The public telecommunications operator can not use any personal, call traffic or billing data about a user when marketing its services without the explicit written permission of that user.

In the case of contravention of paragraph (1) of this Article, users in the first instance request the public telecommunications operator to cease using their personal details for marketing purposes. In cases of continued contravention, the user may notify the Regulatory Board, which issues a notice prohibiting the public telecommunications operator from using the user's personal details and may order the operator to pay compensation to the user as the Board determines.

## **Article 26**

It is forbidden for any natural person or organization:

1° to use any automatic calling machine, facsimile machine or any other device of the same kind;

2° to make any unsolicited free of charge telephone call for the purposes of the direct marketing of goods and/or services to a user, unless that user has previously given explicit consent.

Users may complain to the Regulatory Board in respect of any infringement of this Article. The Regulatory Board issues an enforcement notice requiring that any practices under this Article will cease.

### **Article 27**

Upon advice from the Regulatory Board, the Minister may, by Ministerial decree make regulations for the presentation and restriction of the identity of calling and connected telecommunications lines.

### **Article 28**

There is hereby established a fund, known as "the universal access fund".

The principal objective of the fund is to facilitate the provision on affordable terms and with minimum subsidy, of the widest possible access to a public telephone service by the general public in all parts of the Republic.

The President of the Republic, by Presidential decree establishes the operation of the universal access fund.

The Universal Access Fund functions on contributions from Public General telecommunication operators. That contribution is determined by a Decree of the President of the Republic in a time period specified by the Board. Public operators must disclose details of their potential.

Failure to provide such information is subject to the sanctions set out in Article 60 of this law.

The Regulatory Board may suspend or revoke and telecommunications license (including associated radiocommunications licenses) granted to any telecommunications operator where there is persistent failure by that operator to make properly assessed payments to the fund on the due date.

Failure by any public telecommunications operator to pay national telecommunication access fund contributions on the specified dates or not to pay them at all is regarded as a debt due to the Regulatory Board and is recovered by court order.

## **CHAPTER V. TARIFFS**

### **Article 29**

Suppliers of networks and telephone services in general determine and publish tariffs for the supply and use of their networks and telecommunication services. A copy of each tariff (including all changes made to these at any time) is, at the same time as these are published, provided to the Regulatory Board. Tariffs are also provided to any other natural person or organization which requests them.

Tariffs clearly show the telecommunications networks and services which are offered, how tariffs are calculated for each network and service, and the actual tariffs for the network or telecommunications service or for each unit of time for which the telecommunications services are offered.

Tariffs for dominant organizations are based on objective criteria and on the costs of providing the public telecommunications network and service together with a reasonable rate of return.

Public telecommunications operators may set different tariffs for different times of the day (price regulation depending on hours).

Tariffs for access to and use of public networks are independent of the use to which the user puts the network except in cases where different services or facilities are required.

Tariffs are set out in clear and sufficient details and are sufficiently unbundled, such that a user of public networks or public telephone services is obliged to take or pay for any facilities that are not required.

No public telecommunications service tariffs discriminate, between users but public operators have the right to introduce:

1° discount schemes for users which are directly related to the user's volume of traffic either overall or to specific numbers;

2° special tariffs for users making little use of the public telecommunications services during hours in which those networks are not frequently used; .

3° special tariffs for defined disadvantaged groups of users.

The public telecommunications operators must inform the Regulatory Board of those schemes, and any changes made to these at any time.

The Regulatory Board may at any time require dominant organizations to implement special tariffs provided for in paragraph (7) 2° and 3° of this Article.

No tariffs or changes to these or discount schemes can come into effect before a period of 30 days from the date of their publication is ended.

No tariff or discount scheme can contain:

1° any discounts which create prejudice competitive opportunities of other telecommunications organizations in any particular telecommunications market;

2° any surcharges which can be levied solely because the public telephone operator is a dominant organization;

3° any differences for a user or users in different parts of the geographic area covered by a public telecommunications operator, unless there are objective reasons that justify such differences which are approved by the Regulatory Board.

**Article 30**

The Regulatory Board may impose tariff control schemes for dominant organizations when necessary and amend their license in accordance with Article 9 of this law.

Dominant organizations must within 14 days of notification of any tariff control scheme, adjust their tariffs in accordance with the approved scheme. The new tariffs are submitted to the Regulatory Board which verifies compliance with the scheme prior to their implementation.

Dominant organizations do not have the right to ignore the findings of tariffs control scheme because it is punishable in accordance with Article 61 of this law. The Regulatory Board must monitor the implementation of adjusted tariffs in order to ensure that these conform to the tariff control scheme.

Any users who are charged in excess of the amounts allowed by any tariff control scheme receive from the dominant organization an immediate refund of the excess amount or receive credit on their next telephone bill.

**Article 31**

The Regulatory Board has the power to request any private organization in the Republic which offers the general public access to a telephone service at a profit to itself, to reduce its prices to a level which reflects the costs of providing the service and gives a reasonable rate of return. Private organizations may appeal to the court against any ruling made by the Regulatory Board.

While applying paragraph (1) of this article, the Regulatory Board can not, discriminate between private organizations but should objectively assess the costs incurred by that organization of providing access to telephone service together with a reasonable rate of return.

**CHAPTER VI. RADIOCOMMUNICATION****Article 32**

The Regulatory Board is responsible for the organization and management of the radio frequency plan in the Republic.

The usage of radio frequencies by both civil and military users is based exclusively on the national frequency allocation table.

The specific use to which radio frequencies by Government military users are put is not governed by this law. In all other respects military use is subject to the provisions of this law.

**Article 33**

Unless a license has been issued under the provisions of this Article, and in order not to face penalties as provided for in Article 62 of this law, it is forbidden to:

1° establish or operate any base station or terminal equipment for radiocommunications and/or;

2° install or operate any radiocommunications network and/or;

3° make use of any part of the radio frequency spectrum for radiocommunications purposes.

Applications for licenses must be made to the Regulatory Board in accordance with the procedures laid down by the Regulatory Board.

All applications must set out details of the frequency range sought, and the purpose, precise manner and geographical area in which the applicant proposes to use the frequency spectrum.

Applications may be rejected, or may be required to be amended. A license may also be amended or revoked. The reasons justifying rejection, amendment or revocation of licenses are specified by Ministerial Decree.

Variations to standard terms are applied to all similar licenses. Variations come into effect three months after notice has been given to license holders.

If the demand for a particular frequency range is excessive, the Regulatory Board is obliged to hold a public auction of the relevant frequency range as soon as possible and publish procedures for doing so and the final award in the Official Gazette of the Republic of Rwanda.

Unless either:

1° it rejects the application due to reasons set out in paragraph (3) of Article 47 of this law or;

2° it is necessary to hold an auction for a particular frequency range.

The Regulatory Board issues a license within one month of receiving the application. If any coordination with other countries is required, the license will be issued within six months. Licenses for the installation of radiocommunications terminal equipment are issued together with a license for the use of the National radiofrequency spectrum.

All licenses are in standard format and include the conditions determined by the Minister. On proposal by the Regulatory Board, a Ministerial decree specifies particular conditions to be attached to any license. Additional conditions are based on objective criteria which are disclosed to the telecommunications operator. The Regulatory Board should not discriminate unfairly against any telecommunications operator.

Any allocated frequency may be withdrawn immediately and without notice to any telecommunications operator in the event that such frequency is required by the Government for the security of the Republic.

In all other cases the Regulatory Board gives at least a two years notice of its intention to make changes to the allocated use of the frequency or to withdraw the frequency from public use.

Notwithstanding the provisions of this Article, a natural person or organization which possesses or operates terminal equipment which can only be used for receiving radio messages does not require a license.

### **Article 34**

All radiocommunications licenses are valid for a period of years commensurate with the term of any accompanying telecommunications license provided that the fees specified are paid by the telecommunications operator. If the telecommunications license is renewed, the radiocommunications license may also be renewed for further periods on the same or different conditions.

Paragraph (1) of this Article must be subject to any other provisions of this law relating to radiocommunications licenses.

On proposal by the Regulatory Board the Ministerial decree determines, the fees for radiocommunications licenses. Fees may be initial application fees and annual fees.

Failure to pay any fees within the specified time may result in the withdrawal of the radiocommunications license and reallocation of the relevant frequency.

The Regulatory Board has the right to change the terms and conditions attached to any license and specific contract. The change of general terms is applied to all licenses.

Licenses may be surrendered to the Regulatory Board at any time and are surrendered at the expiry of the period set out in paragraph (1) of this Article. Failure to surrender a license is punishable in accordance with the provisions set out in paragraph (4) of Article 62 of this law.

### **Article 35**

If the Regulatory Board believes that any radiocommunications terminal equipment is causing or may cause interference with radiocommunications, the Regulatory Board issues a prohibition notice to any natural person or organization which is using or selling the radio communications terminal equipment.

The notice prohibits further use or sale of the relevant radiocommunications terminal equipment from the date it specified and suspends any radiocommunications license which have been granted in respect of the use of the equipment.

Any natural person or organization that continues to use or sell the radiocommunications terminal equipment after the date set out in the prohibition notice is liable to a daily fine as set out in paragraph 5 of Article 62 of this law.

As an alternative to issuing a prohibition notice, the Regulatory Board may:

1° modify any license granted in respect of the relevant terminal equipment to limit the way, the times and the circumstances in which the equipment continues to be used;

2° allow the license holder to modify the terminal equipment such that it ceases to cause interference provided it is not used until the modifications are made.

### **Article 36**

It is forbidden for any natural person or organization:

1° to own, lease, rent or manage a radio station and/or radiocommunications terminal equipment if that person or organization intends to use or permit others to use that radio station and/or equipment to provide a telecommunications service in contravention of Article 35 of this law;

2° to intercept without authorization radiocommunications signals which are not for general public use;

3° to divulge without authorization the existence or contents of a radio communications message or publish and make any other use of the contents of a radiocommunications message which is not intended for general public use;

4° to transmit false or misleading alarm, emergency or distress signals and communications in particular those, which may:

- (a) endanger the safety of aircraft, ships or vehicles on land;
- (b) endanger the safety of any individual person or groups of people;
- (c) interfere with the efficiency of any service dedicated to saving lives.

5° to transmit signals and communications which by their nature may:

- (a) threaten the security of the Republic;
- (b) would be contrary to public order or good moral standards;
- (c) would be an insult to the religious beliefs of others;
- (d) would be offensive to a foreign state.

A breach of the provisions of paragraph (1) of this Article is an offence punishable in accordance with Article 62 of this law.

## **CHAPTER VII . LEASED LINES**

### **Article 37**

Public telecommunications operators should make available leased lines to any natural person or organization in response to all reasonable requests if such lines or capacity on such lines are available.

The Regulatory Board must publish the technical characteristics of such leased lines.

Public telecommunications operators should not discriminate between users when providing leased lines. Conditions of access to such lines should be observed with transparency and fairness.

Public telecommunications operators must provide information on the availability and tariffs of leased lines to the Regulatory Board in accordance with the format and procedures specified by the Regulatory Board. All changes to the information are also notified to the Regulatory Board.

Failure to provide the information required by paragraph (4) of this Article results in a fine assessed in accordance with Article 63 of this law.

### **Article 38**

Dominant organizations publish tariffs for leased lines. Those tariffs are based on the costs incurred in providing such lines together with a reasonable rate of return and are independent of any use to which any user wishes to put the leased line. Tariffs must specify at least an initial connection charge and a periodic rental charge. Failure to provide tariff information is punishable in accordance with Article 63 of this law.

The provision of leased lines by dominant organizations are subject to Article 30 of this law.

## **CHAPTER VIII . INTERCONNECTION**

### **Article 39**

All public telecommunications operators should, if requested in writing by other public telecommunications operators, interconnect their networks with those of the other operators.

Technical and commercial arrangements for interconnection must be concluded by written agreement between the relevant telecommunications operators.

Interconnection can not be refused if the request is reasonable with regard to applicant's requirements and the public telecommunications operator's capacity to satisfy them. The reasons which give rise to a refusal must be explained in detail to the applicant in writing.

If agreement can not be reached between telecommunications operators, any operator may refer the matter to the Regulatory Board.

If the Regulatory Board is unable to facilitate the conclusion of an agreement, the Board may in the interests of all users in the Republic, impose interconnection terms on both parties which are as far as possible objective, fair and reasonable and do not discriminate between the operators.

The Minister, by Ministerial decree, sets out the general conditions and pricing principles which an interconnection agreement must satisfy.

A copy of each interconnection agreement is submitted to the Regulatory Board as soon as the agreement has been signed by both public telecommunications operators. The Regulatory Board notifies such agreements to the public. Copies may be supplied upon payment of the fee determined by the Regulatory Board.

Discrimination by public telecommunications operators in matters of interconnection is forbidden. A public telecommunications operator shall apply similar conditions in similar circumstances to organizations with which it is interconnected and which are providing similar services.

A public telecommunications operator is required by law to provide all necessary information and technical specifications to other telecommunications operators requesting interconnection with that operator's network including all proposed changes which relate to the interconnection requested.

#### **Article 40**

Each dominant organization must provide to the Regulatory Board details of standard reference interconnection offers which will be made to public telecommunications operators. These shall itemize each interconnection facility offered together with the associated terms and conditions within agreement including tariffs.

Charges for interconnection cover the effective cost of using the network and is sufficiently unbundled so that the applicant is not required to take or pay for any facility not strictly related to the service requested.

Each standard interconnection offer specified in paragraph (1) of this Article is approved and published by the Regulatory Board.

Public telecommunications operators requiring interconnection with dominant organizations are entitled to rely solely upon the reference interconnection offer and related requirements. Other facilities and services may be negotiated with the dominant organization on an individual basis.

Dominant organizations must modify their standard of interconnection offers to take into account commercial and technological changes and the introduction of new facilities and services.

If the dominant organization does not make available the standard interconnection offer to the Regulatory Board, the Board must issue an enforcement notice.

Failure by the dominant organization to comply with such notice by the date specified is published results in a daily fine assessed in accordance with Article 64 of this law.

If the Regulatory Board is unable to approve any standard interconnection offer, then the Board will give a written notice of this to the dominant organization together with written reasons.

In that case, the dominant organization shall have the right to present its views to the Regulatory Board or to adjust its standard interconnection offer.

If the Regulatory Board and the dominant organization cannot reach agreement, either party may refer the matter to the court for decision. The decision of the court is final and binding on both parties.

The Regulatory Board may require that any interconnection agreement be modified when essential for the purposes of fair competition and interoperability of telecommunications services. The Board must inform the dominant organization of the modifications which must be made.

### **Article 41**

The Regulatory Board must:

1° ensure that any differentials in charges, terms and conditions offered by a public telecommunications operator do not result in distortion of competition;

2° ensure that all public telecommunications operators apply the same charges terms and conditions to their own subsidiary or affiliated companies as they offer to other public telecommunications operators;

3° ensure that all dominant organizations operate a cost accounting system to enable them to identify the costs associated with interconnection;

4° ensure that users throughout the Republic benefit from the interconnection of networks and the stimulation of a competitive market;

5° assist in the resolution of disputes by conciliation between public telecommunications operators concerning actual or proposed interconnection agreements, at the request of one or both operators;

6° ensure that when providing copies of interconnection agreements to the public, no commercially sensitive information concerning the businesses of the public telecommunications operators, not including interconnection charges and general terms and other requirements, is disclosed.

If conciliation cannot be achieved by both parties, the Board will make a decision in accordance with this law.

## **CHAPTER IX. TERMINAL EQUIPMENT AND TYPE APPROVAL**

### **Article 42**

It is forbidden to import or attempt to import, supply, (whether by sale or rent, loan or gift), connect, or allow to remain connected to a telecommunications network, or put into service any item of terminal equipment which does not comply with the technical, safety, marking and other requirements specified by the Minister in a Ministerial decree. Requirements may be specified by the Minister by reference to terminal equipment approval standards set down by the International Telecommunication Union.

The Regulatory Board must determine and publish:

- 1° the conditions and assessment procedure under which certificates of compliance for terminal equipment are issued;
- 2° the technical specifications for terminal equipment which is subject to conformity testing;
- 3° the conditions governing connection of terminal equipment to public networks.

The Regulatory Board must enforce the provisions of paragraph (1) of this Article in this regard, it has the power to:

- 1° test and approve any terminal equipment to verify that it has been, and remains, approved in accordance with this law;
- 2° examine any approvals or other documentation for terminal equipment and enter business premises for this purpose under an order of the court;
- 3° seize terminal equipment which it reasonably believes does not comply with this law;
- 4° issue prohibition notices which prohibit any natural person or organization from carrying out any of the activities specified in paragraph (1) of this Article;

If any natural person or organization contravenes the paragraph (3) (4) of this Article:

- 1° by interfering with the powers of the Regulatory Board;
- 2° by refusing to allow examination of documents or entry into premises or the seizure of terminal equipment or obstructing examination of documents or entry into premises;
- 3° by falsifying any certificate of conformity;
- 4° affixing any approval marking or notice to terminal equipment so as falsely to make it appear that it has been approved in accordance with this law.

That natural person or organization is subject to a fine in accordance with Article 65 of this law and any terminal equipment which does not comply with this law are confiscated by the Republic. The court determines whether the terminal equipment is to be destroyed, or modified or sold at auction.

Any natural person or organization may appeal to the court against any seizure of terminal equipment by the Regulatory Board or any finding that such equipment is not or is no longer approved in accordance with this law.

The Regulatory Board must keep a register of approved terminal equipment which it makes available and accessible to the public.

### **Article 43**

Any natural person who wishes to install and maintain telecommunications terminal equipment (other than consumer equipment) on telecommunications networks must:

1° register the commencement and cessation of his or her activities with the Regulatory Board;

2° fulfil the conditions provided for in Article 5 of this law.

Registration takes place in accordance with the procedures prescribed by the Regulatory Board and is accompanied by the registration fee determined by the Regulatory Board. It determines and publishes the conditions which would demonstrate the level of technical competence which has to be achieved.

The Regulatory Board must verify the technical competence of any person applying for registration as soon as possible after submission of the application. After such verification has taken place, that person receives a written authorization permitting him or her to install and maintain terminal equipment without any additional requirements being imposed by providers of telecommunications networks.

An application is only refused if the applicant fails to satisfy the requirements set out by the Regulatory Board of his or her technical competence or any other conditions. Written reasons for any refusal must be given to the applicant and the registration fee is refunded.

The Regulatory Board should not show discrimination in its dealings with applicants in accordance with this Article.

Registration is personal to the applicant. It should not be transferred to any other person. If a registered installer ceases to carry on the business of installing and maintaining terminal equipment, he or she gives a written notice to the Regulatory Board.

Failure to comply with the provisions of this Article is punished in accordance with Article 66 of this law and the Regulatory Board may issue a prohibition notice requiring anyone holding himself or herself out to be a registered installer or maintainer to cease doing so.

#### **Article 44**

The Minister, by a Ministerial decree, specifies certain types of terminal equipment which it is forbidden to import, or export, sell, rent, lease, hire, loan, give or otherwise dispose of, without written permission from the Regulatory Board.

Any natural person or organization which contravenes the provisions of this Article is subject to the penalties set out in Article 67 of this law.

### **CHAPTER X . NUMBERING**

#### **Article 45**

The Regulatory Board must investigate the possibility of number portability use in Rwanda or elsewhere and submit a yearly report to the Minister having Telecommunications in his/her attributions.

The President shall, by Presidential decree, set out the specific responsibilities of the Regulatory Board with respect to numbering.

The Regulatory Board must not discriminate between telecommunications operators when assigning numbers, ranges of numbers and number sequences but should act at all times in an open, transparent and objective manner.

Neither telecommunications operators nor the Regulatory Board should make available details of individual numbers and ranges of numbers which might threaten the National integrity.

It is forbidden for any telecommunications operator to implement any numbers or ranges of numbers which have not been allocated to that operator. Violations of this paragraph are subject to the penalties provided in Article 68 of this law.

## **CHAPTER XI. TECHNICAL REQUIREMENTS AND OTHER STANDARDS**

### **Article 46**

The Regulatory Board is responsible for technical telecommunications standards in the Country.

It is forbidden to use in the Republic any equipment or network which does not comply with the technical standards in force. The Regulatory Board issues prohibition notices which prevent any further use of such equipment or network.

## **CHAPTER XII. RIGHTS OVER LAND**

### **Article 47**

It is forbidden to install any telecommunications infrastructure or terminal equipment on, over or under any public or private land other than in accordance with this law.

All telecommunications operators wishing to install telecommunications infrastructure and terminal equipment on, over or under public land (including land which is rented from the Government and land upon which no structure has yet been erected) must make a request in conformity with the law in force.

All telecommunications operators wishing to install telecommunications infrastructure or terminal equipment on, over or under private land must first apply to the owner of the land for the right to buy, rent or obtain a right of way over any part of the land.

If the owner agrees to sell his /her land, he /she must be compensated for its value by the telecommunications operator as if the land had been acquired in accordance with Law - Decree n°21/79 of July,23,1979 on expropriation for public use, as amended to date.

The sale or rent of land or granting of rights over land by a private owner does not preclude the need for an application in accordance with this Article.

Every application to install telecommunications infrastructure or terminal equipment should contain the details laid down by the Ministerial decree.

Applications are made to the Regulatory Board, which is responsible for obtaining approvals from other central and local government departments.

The Regulatory Board issues a written permission for the installation of telecommunications infrastructure or terminal equipment in not later than two months of the receipt of a valid application unless:

- 1° there is technical, spectrum scarcity or of radiocommunication of interconnection;
- 2° there are state security matters;
- 3° telecommunications operators fail to reasonably comply with Article 58 of this law or to observe the local telecommunications distribution plan.

In the event of refusal of an application, telecommunications operators may change their applications and submit these for further consideration and settlement by the Regulatory Board.

### **Article 48**

Whenever requested by a provider of telecommunications networks and/or telecommunications services, and if practicable to do so, it is the duty of all other providers of telecommunications networks and utility suppliers to share the use of their telecommunications infrastructure, upon payment of reasonable compensation for required.

A telecommunication supplier has the right to object to the use of his/her infrastructure as long as he/she considers on justifiable and reasonable grounds that:

- 1° it is not economically reasonable to allow such use;
- 2° it likely causes damage to the nature or function of such infrastructure;
- 3° major additional construction work is required;
- 4° other technical considerations may endanger his/her telecommunications infrastructures.

Agreements for the sharing of facilities must be negotiated directly between telecommunications network and utility operators. In the event that the terms enclosed with such agreements cannot be agreed on either party may request the Regulatory Board to determine these terms and in particular the compensation for the use of the infrastructure.

In order for it to determine the agreement terms, the Regulatory Board must:

- 1° request each party to present its views either in person or in writing;
- 2° respect the interests of both parties when reaching a decision;
- 3° apply similar decisions to similar situations without discrimination between telecommunications operators.

The Regulatory Board must, wherever possible, when issuing permission in accordance with this Article ensure that telecommunications cables installed under, over, alongside or across public roadways and public land are in conduits suitable for the purpose.

Providers of telecommunications networks must:

1° install infrastructure and terminal equipment with proper regard to safety and in accordance with international telecommunications standards;

2° avoid interfering with or obstructing any means of entering or leaving any land unless by prior agreement with the landowner;

3° do as little damage as possible to the land of another party.

After completion of the work, the telecommunications operator must ensure that the property on which he/she has been working is as far as possible restored to its original state and all rubbish and excess spoil is removed.

If the telecommunications network provider fails after completion of the work to comply with the provisions of paragraph (6) of this Article, the landowner may carry out any required work at the expense of the network provider.

#### **Article 49**

If, when installing telecommunications infrastructure or terminal equipment, any telecommunications network provider (or anyone employed or contracted by him/her) damages or destroys any telecommunications infrastructure or terminal equipment belonging to another network provider or any cables, pipes, conduits, poles, ducts, masts, aerials or transmitters, belonging to broadcasting companies or other utility companies must pay compensation to the affected company.

Compensation is comprised of:

1° repair costs and the temporary or permanent costs of diversion or re-siting of any of the telecommunications infrastructures facilities mentioned in paragraph (1) of this Article;

2° compensation for loss of business caused by such damage or destruction if any such loss can be proved;

3° compensation for any person killed or injured due to such damage or destruction according to the law in force.

#### **Article 50**

Any landowner proposing to carry out any works on land which may result in the need for temporary or permanent alteration to, or relocation of, any infrastructure or terminal equipment, must give written notice to the relevant telecommunications network provider. The written notice specifies the nature of the works and the alteration or likely alteration involved.

The network provider must within 10 days of the date of the receipt inform the landowner whether he/she or the landowner will carry out the works. If the network provider wishes to carry out the works, he/she must do so in accordance with a timetable established by the landowner. If the landowner (or someone employed or contracted by him/her) is to carry out the works, the network provider has the right to supervise these.

All alterations carried out by the landowner must as far as possible be to the same standard as the original works and using similar materials.

All losses and damages, costs and expenses incurred by the network provider, either in carrying out the alterations or in supervising them, are paid to the network provider by the landowner.

In the event that the network provider:

- 1° does not submit a notice to the landowner stating that he/she wishes to undertake the alterations;
- 2° does not agree with the landowner on the work timetable;
- 3° fails to undertake the alterations within the time set out in the timetable;
- 4° fails to provide the supervision mentioned in paragraph 2 of this Article.

The landowner may carry out the alterations him/herself.

Notwithstanding the paragraph (4) of this Article, in order to preserve the integrity of the network, alterations must be carried out to the reasonable satisfaction of the network provider. In the event of disputes, the Regulatory Board settles these, when it fails to do so, the case is taken by the court.

If the landowner:

- 1° carries out alterations without having given to the network provider the notice in accordance with this Article and/or;
- 2° unreasonably fails to carry out any requirements of the telecommunications operator is liable to a fine provided for in Article 69 of this law.

## **CHAPTER XIII. ACCOUNTING STANDARDS**

### **Article 51**

The Regulatory Board has the power, if necessary, to require dominant organizations to implement cost accounting systems which are sufficient to verify that tariffs for telecommunications networks and/or telecommunications services, leased lines, and interconnection of networks are based on the costs of providing these facilities together with a reasonable rate of return as determined by the Regulatory Board.

The Regulatory Board has the power to require dominant organizations to prepare separate accounts:

1° for each telecommunications network and/or service offered by them;

2° for each business, if the dominant organization is involved in businesses other than the provision of telecommunications networks and/or services.

The Regulatory Board must, if necessary, give guidance to dominant organizations on how the paragraph (1) and (2) of this Article must be implemented and it publishes this guidance. If the provisions of paragraph (1) and (2) of this Article are implemented, dominant organizations must ensure that their cost accounting systems are independently verified for compliance with this Article by an independent auditor once each financial year.

Independent auditors must provide written certification of compliance to the Regulatory Board.

Any dominant organization which fails to comply with this Article may suffer suspension of its operating license, or in cases of persistent violation, revocation of the license.

#### **CHAPTER XIV. RIGHTS OF THE REPUBLIC IN ISSUES OF INTEGRITY**

##### **Article 52**

Notwithstanding any other provision of this law, the Government has the right to do all such things as are necessary concerning telecommunications networks and telecommunications services as it ensures the preservation of the national integrity.

The Minister may, whilst observing national legislation and international agreements ratified by the Rwandan Republic:

1° interrupt or cause to be interrupted, any private communication which appears dangerous to the National integrity, contrary to law, public order or public morals;

2° suspend a telecommunications service for an indeterminate period, either generally or only for certain communications;

3° requisition or cause to be requisitioned, telecommunications infrastructures.

#### **CHAPTER XV. INVESTMENTS IN THE BUSINESS OF OTHER TELECOMMUNICATIONS OPERATORS**

##### **Article 53**

Except with the prior permission of the Minister, it is strictly forbidden:

1° for any one company which is supplying telecommunications networks and/or services to hold any shares in any other company which is supplying telecommunications networks and/or services either directly or indirectly through any nominee organization, or subsidiary or other associated company which is part of the same group of companies as the first company;

2° for any company to hold shares, whether directly or indirectly through any nominee organization, or subsidiary or other associated company which is part of the same group of companies, in more than one company which is supplying telecommunications networks and/or services.

Any company contravening these provisions must sell its shares holding forthwith.

## **CHAPTER XVI. PRIVACY AND DATA PROTECTION**

### **Article 54**

Notwithstanding the provisions of this Chapter and Chapter 14 of this law, every user's voice or data communications carried by means of a telecommunications network or telecommunications service, remains confidential to that user and the user's intended recipient of that voice or data communication.

Unless authorized by Article 55 of this law, it is forbidden for any natural person or organization to carry out any interception of communications.

Any natural person or organization that contravenes the paragraph (2) of this Article are subject to the penalties set out in Article 70 of this law.

### **Article 55**

The provisions of Article 54 of this law do not apply if:

- 1° the user has given explicit written authorization ;
- 2° the court has authorized, the interception of communications, or recorded communications;
- 3° the purpose of providing evidence of any commercial transaction or that a business communication has taken place.

The court may authorize the interception of communications if it is necessary:

- 1° to safeguard national integrity, or to protect the other country's security and in the interests of the defence of the Republic;
- 2° for public security reasons;
- 3° for the prevention, investigation, detection and prosecution of criminal offences;
- 4° to determine whether unlicensed installation and use of a telecommunications network, or telecommunications terminal equipment, or the unlicensed provision of a telecommunications service has taken place;

Application to the court may be made by the Ministry most affected, notably the Ministry of Justice, the Ministry of Defence, the Ministry of Commerce , and/or the Regulatory Board.

Every application to the court must be supported by evidence which clearly demonstrates that the interception of communications is necessary in accordance with the provisions of paragraph (2) of this Article.

If the court makes an order permitting the interception of communications, it may:

1° limit the extent of that order to a particular type of interception;

2° limit the duration in time of the interception of communications;

3° specify that certain natural persons or organizations only are permitted to carry out the interception of communications;

4° limit the geographical area in which the interception of communications may take place.

The Regulatory Board takes all measures to ensure compliance with any court decision on the interception of communications.

Any natural person or organization which exceeds the authority of the court order is subject to penalties provided for in paragraph (3) of Article 70 of this law.

#### **Article 56**

Public telecommunications operators must take all technical and organizational measures necessary to ensure that the services and associated telecommunications networks are as secure as possible, commensurate with technological development, costs of implementation and the risk associated with any lapse of security.

Public telecommunications operators inform users about any security risks which may occur from a breach of telecommunications network security, and any remedies available to them.

### **CHAPTER XVII. PENALTIES AND ENFORCEMENT OF PENALTIES**

#### **Article 57**

Any natural person or organization who contrary to paragraph (14) of Article 5 of this law, fails to obtain a license in accordance with paragraph (1) 2° of Article 5 of this law is liable to a fine of between 500,000 and 15,000,000 Rwanda Francs and a daily fine of between 100,000 and 3,000,000 Rwanda Francs for every day on which the telecommunications network remains operational and/or the telecommunications service continues to be provided without a license after the Regulatory Board has served written notice on the network and/or service provider that it has not obtained a license as required by Article 5 of this law.

Any natural person or organization which purports to transfer or assign a telecommunications license in contravention of paragraph (14) of Article 5 of this law is liable to a fine of between 500,000 and 15,000,000 Rwanda Francs.

Any natural person or organization that continues to operate a telecommunications network and/or provide a telecommunications service without renewing its license in accordance with Article 6 of this law is subject to one of the penalties set out in paragraph (1) of this Article .

Any natural person or organization that has had their telecommunications license suspended or revoked by reason of failure to pay any periodic or renewal fee is liable to a daily fine of between 100,000 and 3,000,000 Rwanda Francs for each day on which that person or organization continues to provide an operational network and/or telecommunications service after notice of suspension has been served on it.

Any legally recognized natural person or organization that fails to notify a change of ownership in accordance with paragraph (3) of Article 13 of this law is liable to a fine of between 500,000 and 15,000,000 Rwanda Francs.

Any natural person or organization which contravenes an enforcement notice issued under paragraph (2) of Article 14 of this law which enforcement notice has been confirmed, if that person or organization has given explanations to the Regulatory Board within the time specified in paragraph 4 of Article 14 is only at the discretion of the Regulatory Board:

1° pay a fine of between 300.000 and 5,000,000 Rwanda Francs for each day in which that person or organization does not comply with the enforcement notice and/or;

2° have additional conditions imposed on the license or;

3° suffer the suspension of the telecommunications license for the period specified in a notice of suspension issued by the Regulatory Board;

4° suffer the revocation of the telecommunications license.

### **Article 58**

Any public telecommunications operator who contravenes the provisions of Article 19 is liable to:

1° a fine of between 100.000 and 5,000,000 Rwanda Francs in respect of each natural person or organization that is charged for entry to and/or remaining on the waiting list, or whose position on the waiting list is unfairly improved and;

2° repayment of the amount of the charge(s) to the natural person(s) or organization(s) that had been required to pay the charge.

### **Article 59**

In the event Article 23 of this law is contravened, the Regulatory Board issues an enforcement notice to a public telecommunications operator, specifying the sanctions to be applied. The operator failing to comply with the action required in the enforcement notice, incurs a fine of between 1,000,000 and 5,000,000 Rwanda Francs for each day on which the operator fails to take the required action.

### **Article 60**

Failure by any public telecommunications operator to comply with the provisions of paragraph (4) of Article 28 of this law results in a fine of 100,000 Rwanda Francs for each day on which the information is not provided to the Regulatory Board.

### **Article 61**

Any dominant organization which in a culpable manner exceeds the tariff controls imposed by paragraph (3) of Article 30 of this law is subject to a fine of between 1,000,000 and 5,000,000 Rwanda Francs for each day on which it exceeds the controls measured from the date on which the controls were formally notified in writing to the dominant organization.

### **Article 62**

The Regulatory Board may, in respect of every natural person or organization which contravenes the provisions of paragraph (1) 1° of Article 33 of this law:

1° impose a fine of between 200,000 and 5,000,000 Rwanda Francs and/or;

2° impound the base station or terminal equipment until a permit has been obtained;

3° in cases where the Regulatory Board reasonably believes that the security of the Republic might be at risk, and the court so orders, the base station and terminal equipment should be confiscated .

In respect of paragraph (1) 2° and 3° of Article 33 of this law:

1° in each case, impose a fine of between 100,000 and 1,000,000 Rwanda Francs and/or;

2° issue a prohibition notice preventing any further use of the network or spectrum until a permit is obtained or a permanent prohibition notice where the Regulatory Board reasonably believes that the security of the Republic is at risk.

In the case of continued use of the network or spectrum in contravention of any prohibition notice, the Regulatory Board may:

1° impose a daily fine of between 100,000 and 5,000,000 Rwanda Francs in respect of each day after the date of the issue of the prohibition notice on which the network and/or spectrum is used;

2° impose such technical measures as shall render the network unusable.

Apart from the powers of the Regulatory Board set out in paragraph (2) of Article 62 of this law, the court may impose on any organization or its director, manager or officer of organization a penalty of more than 5 years of imprisonment where continued use of the network or spectrum has been made in contravention of a prohibition notice.

Any telecommunication operator that fails to surrender a radio communications permit to the Regulatory Board in accordance with paragraph (5) of Article 34 of this law (whether the permit has expired or the telecommunication operator chooses to surrender it) but continues usual activities is subject to a fine of 500,000 Rwanda Francs.

Any telecommunication operator that continues to use or sell radiocommunications terminal equipment in contravention of a prohibition notice issued in accordance with paragraph (3) of Article 35 of this law is liable to a daily fine of between 100,000 and 5,000,000 Rwanda Francs. In addition, the court may order that the relevant equipment be confiscated.

Any director, employee, or manager of any organization which contravenes the provisions of Article 36 of this law:

1° in the case of paragraph (1) 1° of Article 36 of this law, pays a fine as provided for in paragraph one of this Article;

2° in the case of paragraph (1) 2° of Article 36 of this law, is liable to a fine of between 50.000 and 500.000 Rwanda Francs and/or an imprisonment term of between 2 months and one year;

3° in the case of paragraph (1) 3° of Article 36 of this law, is liable to a fine of between 50,000 and 500,000 Rwanda Francs and/or an imprisonment term of between 2 months and one year; or a fine of between 500,000 and 5,000,000 Rwanda Francs and/or an imprisonment term of between one year and 7 years if the security of the Republic is at risk;

4° in the case of paragraph (1) 4° of Article 36 of this law, is liable to a fine of between 500,000 and 5,000,000 Rwanda Francs and/or an imprisonment term of between 6 months and five years;

5° in the case of paragraph (1) 5° (a) of Article 36 of this law, is liable to a fine of between 1.000.000 and 10.000.000 Rwanda Francs and/or an imprisonment term of between one year and 10 years. With regard to paragraph (1) 5° (b)-(d) of Article 36 of this law, is liable to a fine of between 200.000 and 5.000.000 Rwanda Francs and/or an imprisonment term of between 2 months and five years;

6° in the case of paragraph (1) 6° of Article 36 of this law, is liable to a fine of between 10.000 and 50.000 Rwanda Francs.

### **Article 63**

Failure to provide the information on leased lines and any changes to this as required by paragraph (4) of Article 37 of this law punishable by an initial fine of 250,000 Rwanda Francs and a daily fine of 50.000 Rwanda Francs. In the case of dominant organization, these are increased to 1,000,000 Rwandan Francs and 200,000 Rwanda Francs for each day on which the person or organization contravenes this provision.

### **Article 64**

Failure by a dominant organization to provide a reference interconnection offer as required by Article 40, result in a fine of between 500,000 and 3,000,000 Rwanda Francs and a daily fine of 500,000 Rwanda Francs for each day on which the person or organization contravenes if the offer has not been provided by the date set out in the enforcement notice.

**Article 65**

A breach of Article 42 (4) 1° of this law is punished by a fine of between 50,000 and 550,000 Rwanda Francs in respect of each individual item of terminal equipment which is found to contravene paragraph(1) of Article 42 of this law.

A breach of paragraph (5) 3° of Article 42 of this law is punished by a fine of between 300,000 and 2,500,000 Rwanda Francs and a daily fine of 500,000 Rwanda Francs for each day on which the person or organization contravenes any provisions of this Article.

A breach of paragraph (4) 3° or 4° of Article 42 of this law is punished by a fine of between 300,000 and 2,500,000 Rwanda Francs .

A breach of paragraph (4) 4° of Article 42 of this law is punished by a fine of 550,000 Rwanda Francs in respect of each item of equipment.

**Article 66**

Every natural person who fails to register the commencement and/or cessation of his business as an installer and maintained of terminal equipment in accordance with Article 43 is subject to:

1° a fine of between 50,000 and 500,000 Rwanda Francs and ;

2° a daily fine of 50,000 Rwanda Francs until such registration takes place, measured from the date on which the Regulatory Board has served written notice on the natural person that registration is required .

Every natural person who holds himself out as being a registered installer and/or maintainer of terminal equipment when he or she has not received written authorization from the Regulatory Board, shall be subject to a fine of 500,000 Rwanda Francs.

Every natural person who purports to transfer his or her registration to another person in contravention of paragraph 6 of Article 43 of this law is subject to a fine of 500,000 Rwanda Francs .

**Article 67**

Every natural person or organization with a legal status that contravenes the provisions of Article 44 is :

1° subject to a fine of between 500,000 and 5,000,000 Rwanda Francs and/or

2° in the case of any natural person, and director or manager of an organization, a period of imprisonment of not more than one year.

**Article 68**

Any public telecommunications operator that contravenes paragraph (4) of Article 45 is subject to a fine of between 500,000 and 5,000,000 Rwanda Francs and pays compensation in full to those persons who are required to change their numbers both in respect of the costs of doing so and for any loss of business suffered by them.

**Article 69**

Any landowner who contravenes paragraph (7) of Article 50 is liable to a fine of between 50,000 and 500,000 Rwanda Francs.

**Article 70**

Any natural person or organization which intercepts any communication in contravention of Article 54 of this law is liable to :

1° a fine of between 500,000 and 5,000,000 Rwanda Francs and/or;

2° in the case of a natural person or each of the directors or managers of an organization, a period of imprisonment of between one month and one year.

In the case of the interception being of information might compromise the security of the Republic, the term of imprisonment in paragraph 1 (2°) of this Article will be increased to ten years.

Any natural person or organization which exceeds the authority of the court order in paragraph (7) of Article 55 of this law is subject to a fine between 500,000 and 3,000,000 Rwanda Francs.

**CHAPTER XVIII: FINAL AND TRANSITIONAL ARTICLES****Article 71**

Any concessions granted under the provisions of Law n°8/92 of 19 November 1992 relating to Institutional Reform of telecommunications continue in force only until these have been replaced by licenses under this Law.

Licenses will be granted one month after the commencement of this Law.

**Article 72**

All previous legal provisions contrary to this law are abrogated.

**Article 73**

This law will come into force on the day of its publication in the Official Gazette of the Republic of Rwanda .

Kigali, on 30/11/2001

**The President of the Republic**  
**Paul KAGAME**  
(sé)

**The Prime Minister**  
**Bernard MAKUZA**  
(sé)

**The Minister of Public Works, Transport and Communications**  
**Silas KANAMUGIRE**  
(sé)

**Seen and sealed by the Seal of the Republic:**

**The Minister of Justice and Institutional Relations**  
**Jean de Dieu MUCYO**  
(sé)