

THE LAW OF MONGOLIA ON TELECOMMUNICATIONS

Chapter One General Provisions

Article 1. Purpose of this law

The purpose of this law is to regulate relations between State organizations, service providers, business entities and individuals engaged in telecommunications and the creation, utilization and protection of the telecommunications network and telecommunications services in Mongolia.

Article 2. Legislation on telecommunications

1. The legislation on telecommunications is comprised of the Constitution of Mongolia, this law and other relevant legislation which is consistent with those laws.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions in this law

In this law the following terms shall have the following meaning:

1. "Line" means any conductors (such as wire, capacity) used for broadcasting, transmitting and receiving information and insulators, ducts, poles, towers and other materials used for line protection.
2. "Network" means a set of lines and other apparatus used for broadcasting, transmitting and receiving information and a system for receiving, sorting, transporting and delivering mail.
3. "Operation" means the repair, maintenance, testing and adjustment of a telecommunications network necessary for its efficient functioning.
4. "Telecommunications service" means a service provided to customers through the telecommunications network and "operator" means a business entity in charge of telecommunications operations and services.
5. "Demarcation point" means a point of interconnection between two operators or between an operator and a customer.
6. "Postal items" means letters, parcels and other items stamped by a post office and sent through the postal system.
7. "Postal address" means the information on a customer (individual, business entity or other organisation) including place of residence or location (name of the Aimag, city, Soum, district, bag, horoo, town, village, street and square, number of building, apartment or fence) and the operator number.

8. "Postal securities" means postage stamps and envelopes and postcards with printed postage stamps.

Chapter Two

State Regulation of Telecommunications Operation, Service and Manufacture

Article 4. Powers of the central State administrative body for telecommunications

The central State administrative body in charge of telecommunications shall exercise the following powers:

- 1) to formulate and implement policy on investment in the development of the telecommunications sector;
- 2) to implement measures to ensure fair and competitive conditions in the telecommunications sector;
- 3) to organise the radio spectrum and to issue and control the implementation of licences for the use of radio frequencies;
- 4) to establish standards for telecommunications network equipment and services, and to issue and control the implementation of licences for telecommunications operations and services;
- 5) to approve postage stamps and wax seals;
- 6) to develop policy on the production of postal securities and to establish a State fund for the production of postage stamps; and
- 7) to maintain the safety, efficiency and quality of telecommunications services, and to control the protection of privacy of correspondence.

Article 5. Regulatory council

1. There shall be a non-executive regulatory council responsible for creating an efficient, fair and competitive environment for all types of business entities and organisations in the telecommunications sector, drafting common standards, conditions and rules for the operation of business entities and organisations in the telecommunications sector and making evaluations and recommendations in respect of telecommunications.

2. The regulatory council shall have representatives from the central State administrative body and from business entities and organisations carrying on operations and providing services in telecommunications.

3. Members of the regulatory council shall be appointed by the minister in charge of telecommunications and rules governing the regulatory council shall be approved by the Government.

Article 6. Powers of the regulatory council

The regulatory council shall exercise the following powers:

- 1) to make proposals to the competent authority on State policy on the development of the telecommunications sector;
- 2) to make proposals and recommendations to the central State administrative body on the issue of licences for telecommunications operations and services;
- 3) to establish technical standards and requirements for all types of network equipment and for equipment privately operated by customers from their premises which is connected to the core telecommunications network;
- 4) to establish and regulate interconnecting operators, and the general terms and conditions of revenue sharing agreements entered into between interconnecting operators; and
- 5) to determine criteria for the fixing of charges for telecommunications services.

Article 7. Powers of Governors at all territorial levels

1. Governors at each territorial level shall exercise the following powers:

- 1) to formulate policy on the improvement of telecommunications services and the effective delivery of those services to the population in their territory, and to implement that policy in cooperation with the relevant authorities;
- 2) to supervise and manage timetables for the delivery of mail in their territory;
- 3) to establish a system for the allocation of identifiable addresses in each street, square, building, apartment and fence in the capital city and every Aimag, district, Soum, horoo, town and village in their territory;
- 4) to assist in the organisation of services to prevent failure of the telecommunications network in the event of a natural disaster or other calamity.

2. Governors at each territorial level shall have authority to approve the installation and use of local radio and television networks.

Article 8. Licences

1. Licences for carrying out telecommunications operations, services and manufacture (hereinafter referred to as "licences") shall be issued for the purposes of:

- 1) the installation and operation of a core telecommunications network;
- 2) the provision of telecommunications to the public through a telecommunications network set up for internal purposes;
- 3) the use of radio frequencies;
- 4) the manufacture of technical and electrical equipment for information and communications; and
- 5) the manufacture of postal securities.

2. If the requirements provided by legislation are satisfied, a licence shall be issued to:

- 1) a business entity, organisation or citizen of Mongolia;
- 2) a business entity with foreign investment incorporated under the laws of Mongolia.

3. A licence may be issued to a foreign legal person by the central State administrative body in charge of telecommunications with the permission of the Government.

4. If a business entity, organisation or individual wishes to carry on an operation or provide a service for a purpose other than one of the purposes for which a licence may be issued under paragraph 1 of this article, the applicant shall inform the central State administrative body for telecommunications or the relevant authority of that purpose and apply for registration.

Article 9. Applications for licences

1. Applications for licences shall be made by interested persons to the central State administrative body for telecommunications.

2. Enclosed with every application shall be information regarding:

- 1) the financial, economic and technical capacity of the applicant and the professional expertise of the applicant's employees;
- 2) the activities and experience of the applicant;
- 3) the nature of the operation or service, including:
 - (a) its location and the range of services to be provided;
 - (b) the technology to be used;
 - (c) proposed service tariffs; and
 - (d) the anticipated cost of operating the licence.

Article 10. Duration of licences

1. Licences shall be issued for a term of no longer than 20 years.
2. The central State administrative body for telecommunications may extend the duration of a licence.

Article 11. Basis for expiry of licences

1. A licence shall expire on the working day following the last day of the term of the licence, unless the licence holder applies for an extension.
2. A licence shall terminate before the expiry of its term in the event of:
 - 1) the dissolution of the licence holder;
 - 2) the failure of the licence holder to conduct operations or provide services in accordance with the licence within the first year of holding the licence;
 - 3) the revocation of the licence at the instance of the authority which issued the licence on the grounds that the licence holder has failed to perform its obligations under law or contract, or at the request of the licence holder.
3. If a licence expires, the relevant licensing authority shall notify the registration authority where the licence was registered.

Article 12. Revocation of licences

1. The relevant licensing authority may revoke a licence if the licence holder:
 - 1) fails to comply with its obligations under law or contract to provide telecommunications services in respect of the establishment, operation and protection of the telecommunications network;
 - 2) carries on activities which are not permitted by or specified in the licence.
2. A licence may be revoked at the request of the licence holder before the expiry of the term of the licence if the licence holder has complied with its obligations under the contract to provide telecommunications services.
3. The relevant licensing authority shall not be liable for any claim for damages which arises from the revocation of a licence under paragraph 1 of this article.
4. A licence holder may apply to the Courts for a review of a decision of the relevant licensing authority to revoke a licence.

Article 13. State control of telecommunications operations, services and manufacture

1. The State inspectorate of telecommunications and its State inspectors shall control and audit the implementation of and compliance with the legislation on telecommunications and its regulations by operators and any other persons engaged in and associated with telecommunications operations, services and manufacturing.

2. In addition to the powers provided by the Law on State Control, the State inspectorate of telecommunications and its State inspectors shall exercise the following powers:

1) to control the implementation of and compliance with the legislation on telecommunications and to control the issue of and compliance with licences;

2) to monitor the implementation of all regulations governing telecommunications operations, services and manufacture or prescribing technical specifications, standards and any other requirements of this law;

3) to terminate unlicensed telecommunications operations and services and to terminate the transmission of radio waves on an unregistered frequency range.

Chapter Three Telecommunications Networks

Article 14. Types of telecommunications network

Telecommunications networks shall consist of telecommunications, postal services, radio and television broadcasting and other information networks. Each network shall be classified as either a public, an internal or a special network according to its purposes.

Article 15. Telecommunications networks

1. "Telecommunications network" means all lines, equipment and other facilities required for the transmission or reception of signs, signals, sounds, images or other information.

2. "Core telecommunications network" means the telecommunications network and the switching equipment established for international, national and local transmission of telecommunications to the public throughout Mongolia.

3. The core telecommunications network shall have integrated technical systems of

management and shall function efficiently.

Article 16. Postal networks

1. "Postal network" means the equipment and facilities for receiving, sorting, transporting and delivering postal items.
2. "Core postal network" means the postal network used for international and domestic postal exchange.
3. The activities of the core postal network shall be regulated by the State.
4. The timetabling of postal deliveries shall be determined as follows:
 - 1) for international postal delivery, by bilateral agreement with each foreign country;
 - 2) for national postal delivery between Aimags, the capital city, Soums and towns by the decision of the Minister in charge of postal delivery;
 - 3) for local postal delivery within the capital city and each of the districts, Soums, bags, towns and villages by the decision of the Governor of each territory.
5. Individuals, business entities and organisations holding a licence to provide public transport shall deliver postal items between Aimags, the capital city, Soums, towns and bags in accordance with contracts with the relevant post office.

Article 17. Radio and television broadcasting network

1. "Radio and television broadcasting network" means all equipment and facilities required for the transmission or reception of radio and television broadcasts.
2. "Core radio and television broadcasting network" means all equipment and lines required for the transmission of radio and television broadcasts to customers throughout Mongolia.
3. Radio and television broadcasting networks shall operate in accordance with the schedule and timetable of the organization which produces the broadcasts.

Article 18. Telecommunications network for a special purposes

1. The State may set up special purpose telecommunications networks for the purposes of Mongolia's defense and security, the maintenance of public order in Mongolia, and for use by the State and local Governments.
2. Special purpose telecommunications networks shall be protected by the State.

3. The Government shall make regulations in respect of the establishment and operation of special purpose telecommunications networks.
4. All the equipment and channels of the core telecommunications network required for a special purpose telecommunications network shall be provided by way of contract.
5. No transmission of information for a special purpose shall be made through the core telecommunications network unless the transmitting organization has taken measures to protect the security of that information.

Article 19. Telecommunications networks for internal purposes

1. Any business entity or organization may establish and use a telecommunications network for internal purposes, its technical systems of management and coordination of its operations.
2. On the issue to it of a license by the central State administrative body in charge of telecommunications, a telecommunications network for an internal purpose may be connected to the core telecommunications network in order to provide a service to the public.

Article 20. Connection to the core telecommunications network

The owner of a telecommunications network for an internal or special purpose shall pay for and supply all lines and other equipment required for the connection of the telecommunications network for an internal or special purpose to the core telecommunications network at a demarcation point. The regulatory council shall determine the location of the demarcation point.

Article 21. Mobilization of telecommunications networks

In the event of a state emergency or the imposition of martial law, the telecommunications network shall be mobilized in accordance with the relevant Mongolian legislation.

Chapter Four

Rights and Obligations of Public Telecommunications Operators and Customers

Article 22. Rights and obligations of operators and customers

The rights and obligations of both operators and customers shall be determined by contract in accordance with the Civil Law.

Article 23. Rights and obligations of operators

1. In addition to any rights determined by contract, an operator shall have the following rights:

1) to charge for the provision of telecommunications services in accordance with the criteria prescribed by the regulatory council;

2) to cease the provision of services to a customer and to terminate the contract between the operator and the customer if the customer fails to fulfill his or her obligations set out in the contract.

2. In addition to any obligations determined by contract, an operator shall have the following obligations:

1) to provide customers, without discrimination, with reliable and efficient telecommunications services in accordance with its licence;

2) to comply with any standards and any regulations in respect of telecommunications operations and services;

3) to give advance notice to customers of any intended replacement or expansion of telecommunications equipment or services and any temporary interruptions which may result;

4) to protect the privacy of all information transmitted through the telecommunications network;

5) in the event of a natural disaster or other unexpected accident, to permit use of the network by others in accordance with legislation and without delay; and

6) to provide customers with telecommunications services free from interruption except in the event of a natural disaster or other unexpected accident.

3. An operator is required to seek the prior consent of relevant authorities to maintain and repair its telecommunications lines and network housed on the premises of a State-protected business entity or organization...

4. An operator which receives postal items marked with unidentifiable addresses shall keep such postal items for a period of 6 months, after which time the operator shall establish an internal body responsible for making decisions in respect of the treatment of such postal items.

5. Postal items marked with an unidentifiable address, the contents of which reveal an identifiable address, shall be delivered to that address.

6. National and foreign currencies and other valuable items contained in unsealed postal items which have no identifiable addressee shall be held by the public treasury and civil documents shall be held at the civil registration and information authority.

7. If the addressee of an undelivered postal item is identified, the contents of the postal item held by the public treasury or civil registration and information authority shall be delivered to the addressee. If it is not possible to deliver those contents the addressee shall be compensated for that loss.

8. The central State administrative body shall establish rules for the treatment and the unsealing of postal items with unidentifiable addresses.

Article 24. Rights and duties of customers

1. In addition to the rights determined by the contract to provide telecommunications services, a customer shall have the following rights:

1) to select and use any equipment (telephone, telex, facsimile, radio and any other devices necessary for the operation of such equipment) which complies with standards for the telecommunications network and other technical requirements;

2) to receive timely notification of any fault in the telecommunications network and to have such fault repaired;

3) to receive compensation under the Civil Law for any loss caused by interruption to a telecommunications service (except where that loss results from a natural disaster or other unexpected accident), failure to operate equipment, or loss of or damage to postal items; and

4) to have the use of post office boxes in post offices.

2. In addition to the obligations imposed by contract, a customer shall have the following obligations:

1) to protect the telecommunications network and other equipment located on the customer's premises, and inform the operator of all actual and potential damage to the network or to any equipment;

2) to pay charges provided by contract for telecommunications services promptly;

3) to obtain a licence from the central State administrative body in charge of telecommunications for the installation and use of telecommunications equipment which generates a frequency of over 9 kHz, to register such equipment and not to hinder the efficient functioning of equipment operated by others.

Chapter Five

Protection of Telecommunications Network

Article 25. General obligations of individuals, business entities and organizations

Individuals, business entities and organizations shall have the following general obligations:

- 1) in the course of constructing a telecommunications network, to obtain permission from the owner of a telecommunications network to work on the network and relocate the engineering lines and the buildings in which it is housed and, if necessary, to bear the cost of relocation;
- 2) to reflect the demands and requirements of communication in accordance with relevant standards in their construction plans and to implement those plans;
- 3) to obtain addresses and codes from post offices and to update them regularly;
- 4) to refrain from posting any explosive (weapons, gunpowder, bullets, etc.) or flammable items (gasoline, fuel, spirits, acid, alkali, etc.) and any other items prohibited by the customs office.

Article 26. Rights of way

1. "Telecommunications right of way" means an area of land and space designated for a telecommunications network by the assigned land authority of Mongolia.

The dimensions of a right of way shall include:

- 1) an area 10 meters on either side of all overhead lines;
- 2) an area 5 meters on either side of all cables;
- 3) the area within a 300 meter radius of a station established for transmission via microwave station or satellite; and
- 4) any area considered harmful to humans because of the capacity of radio and television transmitting equipment.

Areas designated as rights of way by sub-paragraph 1 and 2 of paragraph 1 of this article may vary between cities and villages.

2. An operator holding a licence to provide telecommunications services and operations through a telecommunications network shall use rights of way in accordance with the legislation.

3. All disputes arising in relation to rights of way shall be resolved by the central

State administrative body in charge of telecommunications and by the relevant local authority in accordance with their respective powers.

Article 27. Protection of rights of way

1. An operator is deemed to be the legal owner of a right of way.
2. Signs indicating rights of way shall be erected along the telecommunications lines.
3. The following actions shall be prohibited within an area designated as a right of way:
 - 1) the construction of buildings including garages and fences and the planting of trees;
 - 2) the disposal of any heavy objects or chemical or caustic substances which may cause damage to telecommunications lines in a right of way;
 - 3) the transportation of an excessively tall load in or across a right of way.
4. Any activity carried out or which may cause disturbance to land which is designated as a right of way requires the prior consent of the owner of the right of way. Any person who carries out such activity shall be responsible for the cost of restoring the land to its natural state.

Article 28. Liability for breach of this law

If an infringement of the legislation on telecommunications is held not to constitute a criminal offence, the telecommunication inspector shall impose on the offending person the following administrative penalties:

- 1) any person who causes damage to any telecommunications facility established for common use shall be fined between 5,000 to 25,000 togrogs; and in the case of a business entity or organization shall be fined from 30,000 to 150,000 togrogs;
- 2) any person who causes damage to telecommunications lines and the network (such as telecommunications cables, overhead lines, subscriber cable boxes, built-in wires, transformers, ducts, post office boxes) in the course of or as a result of carrying out an investigation or the construction of any building or engineering lines shall be fined from 5,000 to 35,000 togrogs, and in the case of a business entity or organization shall be fined from 50,000 to 250,000 togrogs;
- 3) any person who dismantles or defaces any sign erected along telecommunications lines or causes damage to telecommunications poles or leaves extraneous objects in cable boxes, manholes, ducts or post office boxes shall be fined from 3,000 to 10,000 togrogs, and in the case of a business entity or organization shall be fined from 30,000 to 150,000 togrogs;
- 4) any person who operates or manufactures equipment generating radio frequencies without authorization or registration or sets up a connection with the telecommunications lines or listens to or records information passing through the telecommunications lines without authorization shall be fined from 5,000 to 35,000 togrogs, and in the case of a business entity or organization shall

be fined from 50,000 to 250,000 togrogs;

5) any person who breaches article 27(3) and (4) of this law shall be fined from 2,000 to 35,000 togrogs, and in the case of a business entity or organization shall be fined from 50,000 to 250,000 togrogs;

6) any person who sends or receives by post prohibited items or sends postal items in excess of the number of items permitted, or fails to comply with the timetable for mail delivery or loses or causes damage to or unseals any postal item shall be fined from 1,000 to 35,000 togrogs, and in the case of a business entity or organization shall be fined from 50,000 to 250,000 togrogs;

7) any person who breaches article 23(2)(6) of this law shall be fined from 5,000 to 35,000 togrogs, and in the case of a business entity or organization shall be fined from 50,000 togrogs to 250,000 togrogs;

8) any person who breaches article 23(2)(2) and 23(2)(4) of this law shall be fined from 2,000 to 25,000 togrogs; and in the case of a business entity or organization shall be fined from 30,000 to 200,000 togrogs.

Article 29. Compensation for loss

Any person who suffers loss as a result of a breach of the legislation on telecommunications may bring a claim for compensation against the person whose breach caused such loss.

Chairman of the State Ih Hural of Mongolia

N Bagabandi

Ulaanbaatar

November 16, 1995