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HIGHLIGHTS of the JAMAICAN TELECOMMUNICATIONS ACT 2000

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INTRODUCTION Jamaica's telecommunications industry is governed primarily by the Telecommunications Act of 2000 which came into operation on March 1, 2000. The Act is comprehensive covering such issues as Interconnection, Spectrum Management, Numbering, Competitive Safeguards, Universal Service and Consumer Protection. The Telecommunications Act of 2000 repealed the Telephone Act and amended parts of the Radio and Telegraph Control Act.

OBJECTIVES OF THE ACT Some of the objects of the Telecommunications Act are:

1) To promote and protect the interests of the public by:

- promoting fair and open competition in the provision of telecommunications services and telecommunications equipment
- promoting access to telecommunications services
- ensuring that telecommunications services are provided to persons able to meet the financial and technical obligations in relation to those services
- providing for the protection of customers
- promoting the interests of customers, purchasers, and other users (including in particular, persons who are disabled or the elderly) in respect of the quality and variety of telecommunications services and equipment supplied

2) To promote universal access to telecommunications services for all persons in Jamaica, to the extent that it is reasonably practicable to provide such access

3) To promote the telecommunications industry in Jamaica

ROLE OF THE OFFICE OF UTILITIES REGULATION (OUR)

The Act holds the Office of Utilities Regulation (OUR) responsible for the regulation of telecommunications in Jamaica and empowers this office to:

- Receive and process applications for licences under the Act and make such recommendations to the Minister in relation to the application as the Office considers necessary and desirable

- Carry out on its own initiative or at the request of any person investigations in relation to a person's conduct so that it may determine whether and to what extent that person is contravening the Act
- Advise the Minister on telecommunications
- Determine whether a telecommunications service is a voice service

Under the Act the OUR is responsible for:

- Promoting the interests of customers, while having due regard to the interests of carriers and service providers
- Making available to the public information concerning matters related to the telecommunications industry
- Promoting competition among carriers and service providers.
- Keeping a register of all applications for telecommunications carrier, dealer and service provider licences.

THE MINISTER'S REMIT While the OUR invites applications for licences and evaluates the applications it can only invite such applications on the direction of the Minister with responsibility for telecommunications. Under the Act the Minister grants licences, is empowered to issue policy directions to the OUR and determines the number of telecommunications licences to be issued.

PROHIBITIONS UNDER THE ACT The Act expressly prohibits a person from owning or operating a telecommunications facility in Jamaica unless that person is the holder of a carrier licence and from providing a telecommunications service to the public by means of a telecommunications facility unless that person is the holder of a telecommunications service provider licence.

Operations that circumvent the international network of a licensed international voice carrier in the provision of international voice services defined as "bypass operations" under the Act, are also expressly prohibited by the Act.

LICENCE APPLICATIONS Applications for licences must be made to the OUR in the prescribed form and be accompanied by a prescribed application fee.

Applications must also contain a statement that the Applicant:

- Undertakes to comply with the provisions of the Telecommunications Act
- Is not disqualified from being granted a licence by reason of any legal impediment
- Possesses the technical qualifications to fully perform the obligations imposed by the licence
- Satisfies the financial requirements for the construction and operation of the telecommunications facility or the provision of the telecommunications service to which the application relates

A Licensee is permitted with the prior approval of the Minister to assign its licence or any rights thereunder or to transfer control of its operations.

RADIO FREQUENCY SPECTRUM The Act also covers the regulation of Jamaica's radio frequency spectrum. Although it is the Minister who is responsible for the allocation and management of the spectrum, he may delegate these functions to the Spectrum Management Authority.

TELECOMMUNICATIONS ADVISORY COUNCIL

The Act mandates the establishment of a Telecommunications Advisory Council which shall advise the Minister on all matters relating to telecommunications services including certification standards and codes of conduct in relation to the telecommunications activities of licensees and their agents and inter-licensee relationships.

APPEALS TRIBUNAL The Act provides for the establishment of an Appeals Tribunal to hear appeals from a person who is aggrieved by a decision of the OUR subject to specific provisions in the Act.

TELECOMMUNICATIONS LIBERALIZATION The Act outlines three phases in the liberalisation of the Jamaican telecommunications market.

- 1) Phase I: March 1 2000 - August 31st 2001
- 2) Phase II: September 1, 2000 - February 28, 2003
- 3) Phase III: March 1, 2003

Phase I During Phase I only the following carrier licences may be issued:

- Two domestic mobile
- Free Trade Zone
- Paging
- Carrier licences to persons who are grandfathered under the Act

Only the following service provider licences may be issued:

- Two Domestic Mobile
- Internet Access to the public through the use of facilities owned and operated by Cable and Wireless Jamaica
- Data to the public through the use of facilities owned and operated by Cable and Wireless Jamaica
- International Voice to the public through the use of facilities owned and operated by Cable and Wireless Jamaica
- Free Trade Zone
- Paging
- Service Provider licences to persons who are grandfathered under the Act

Phase II In addition to the aforesaid carrier and service provider licences, the following licences may be granted by the Minister during Phase II.

- Domestic Carrier
- Domestic Voice Service Provider
- Service Provider licences to a person who is licensed under the Broadcasting and Radio Re-Diffusion Act to provide subscriber television service authorising that person to provide services in relation to internet access excluding voice services

Phase III Although the Act does not specify what will happen during Phase III the Government has stated that on the commencement of Phase III the Jamaican market will be fully liberalized.