Page 1 LEGANET.CD LEGANET.CD **DROITCO** October 16, 2002. - LAW 014-2002 establishing the Post and Telecommunications Regulatory Authority. (Presidency of the Republic) **CHAPTER I GENERAL PROVISIONS** Section I General provisions Art. 1st. - In the Democratic Republic of the Congo, an independent regulatory body for the post and telecommunications called, Authority of regulation of the post and telecommunications of Congo, ARPTC in acronym. The Congo Post and Telecommunications Regulatory Authority is a legal person governed by public law with legal personality. Art. 2. - The Regulatory Authority reports to the President of the Republic. It has its headquarters in Kinshasa. Section II Missions To Guillaume and Olivier **Art. 3.** - The role of the Regulatory Authority is to: a) ensure compliance with laws, regulations and conventions in the field of post and telecommunications; b) help define and adapt, in accordance with the guidelines of government policy, the general legal framework in which the activities of the posts are carried out and telecommunications; c) cooperate with other authorities, both national and foreign, having the same purpose, contributing to the preparation of the Congolese position in the negotiations international organizations and participate in the representation of the Democratic Republic of the Congo in international organizations in the field of post and telecommunications; d) examining the concession application files, issuing, suspending or withdrawing authorizations, receiving declarations, drawing up the specifications corresponding to the authorizations, ensure compliance with the obligations contracted by their holders, periodically set the number of new operators eligible for a concession or authorization; e) define the principles of interconnection and pricing of public postal and telecommunications services; f) lay down technical standards for equipment and terminals and carry out the approvals required by law; g) manage and control the frequency spectrum, assign the frequencies necessary for the operation of any sound and television broadcasting station; h) develop and manage the national numbering plan; i) ensure the continuity of service and protect the general interest; j) analyze and study prospectively the evolution, at national and international levels, of the social, economic, technical and legal environment of the activities of the sector; k) suggest any legislative or regulatory changes that it deems necessary for the development of the post and telecommunications sectors and for development competition; l) protect the interests of consumers and operators on the post and telecommunications market by ensuring the existence and promotion of competition effective and fair and take all necessary measures to restore competition to the benefit of consumers; m) assist in the designation of the authorized operator, apart from the public operator, for the purpose of installing and operating part of the reference network; n) define and enact installation standards for any sound and television broadcasting station for collective reception or reception for the purposes of redistribution; o) give, on an exceptional basis, the authorization to the operator of an independent network to transmit or receive, even free of charge, private correspondence, any signals or communications on behalf or for the benefit of third parties; p) give the Minister, concurrently with the public operator, the prior notice to authorize a concessionaire operator of the public telecommunications service to sell its own interurban traffic and to have its own international exit routes, under various conditions set by law; q) ensure that universal service funds are used to ensure the provision of universal service in the postal and telecommunications sector; r) ensure that citizens benefit from the services provided using new information and communication technologies. Art. 4. - In order to exercise its effective power of control, the Regulatory Authority may conduct site visits, conduct surveys and studies, carry out expertise and collect all the necessary data required for this purpose. In order to enable it to ensure compliance with legislative and regulatory texts as well as certain obligations arising from licenses or authorizations granted postal and telecommunications operators, the latter are required to provide the Regulatory Authority, at least once a year and at any time at its request, with the documents to facilitate this task. Professional secrecy is not enforceable against the Regulatory Authority by operators in the post and telecommunications sector. The same applies to any confidentiality clause attached to contracts binding local private operators in the post and telecommunications sector to local and foreign operators and to foreign administrations The Regulatory Authority treats the information received from operators with discretion, taking into account the requirements of commercial confidentiality and to avoid creating a unfair disadvantage. Art. 5. - The Regulatory Authority may receive a request for an opinion on a dispute between operators. In this case, the Regulatory Authority, in strict compliance with the principles of transparency, impartiality, objectivity, non-discrimination, equity and justice, may initiate quickly and freely the attempt to reconcile the operators concerned. If conciliation fails within one month of submitting the request for conciliation, the Regulatory Authority publishes a reasoned decision which preserves the continuity of service. In all cases, the Regulatory Authority may take action when the disputes between the operators involved are likely to affect the continuity of service in the sector. The decisions of the Regulatory Authority may be appealed to the administrative section of the Supreme Court of Justice. The appeals do not suspend the execution of the decisions taken. Art. 6. - The procedure relating to sanctions and the settlement of disputes is fixed by order of the Minister having posts and telecommunications in his attributions. Art. 7.—The president of the college of the Regulatory Authority establishes each calendar year, before the end of March, an activity report addressed to the president of the Republic. **CHAPTER II ORGANIZATION AND OPERATION Art. 8.** - The Regulatory Authority is made up: • a college; and • an administration. Section I Of the College of the Regulatory Authority Art. 9. - The college of the Regulatory Authority is made up of seven members, namely a president, a vice-president and five advisers. Art. 10. - The president and the vice-president of the college of the Regulatory Authority are appointed by the President of the Republic. The other members of the college of the Regulatory Authority are appointed by the President of the Republic, two of whom are on the proposal of Parliament and three on the proposal of the Minister having posts and telecommunications in his attributions. Their mandate is for five years, renewable once. They are appointed because of their competence in the public or private sector and their proven expertise in technical, economic, legal, postal and telecommunications regulation. Art. 11. - Before taking office, the members of the college of the Regulatory Authority take the following oath before the Supreme Court of Justice: Before God and the Nation, I ..., member of the college of the Congo Post and Telecommunications Regulatory Authority, I swear obedience to the Constitution and to the laws of the Democratic Republic of the Congo, and undertake to faithfully fulfill the functions entrusted to me, and not to undertake any activity contrary to honor and the dignity of my office. Art. 12. - The status of member of the college of the Regulatory Authority is incompatible with any personal interest linked to the post and telecommunications sectors with the holding any public office. Art. 13. - The college of the Authority is invested with all the powers of decision, management and provisions necessary for the achievement of its mission. To this end, it takes all appropriate decisions, in particular with regard to: a) the definition of general guidelines; b) deciding the annual budget and action programs; c) approval of the accounts for the financial year ended and the choice, through a call for tenders, of the Authority's auditor; d) adoption of the organization chart, internal regulations, articles of association, salary scales and employee benefits; e) approval of staff recruitment plans; f) the creation, abolition or displacement of administrative seats or provincial offices; g) action and investment programs; h) tariffs for post and telecommunications charges and services. Art. 14. - During the exercise of their functions, the members of the college of the Regulatory Authority enjoy guarantees of independence. They are bound by professional secrecy for the facts of which they became aware during or during the exercise of their functions. Art. 15. - An appendix to this law defines the emoluments, indemnities and benefits of the members of the college of the Regulatory Authority taking particular into account counts the usual amounts remuneration of private operators in the sector. **Art. 16.** - The president of the college of the Regulatory Authority: a) represents the Authority vis-à-vis third parties; b) is responsible for the technical, administrative and financial management of the Authority; c) a capacity to sue both in claim and in defense; d) convene and preside over the meetings of the college and the police of the meetings; e) jointly sign with the other members the decisions of the college of the Authority, f) ensure their dissemination and ensure their implementation; g) the president of the college of the Regulatory Authority may delegate all or part of the power to the vice-president who replaces him in the event of his absence or prevention. In this case, the latter is automatically responsible before the legal institutions of financial or judicial control, for the proper execution of management missions, subject of the delegation. h) is the expenditure authorizing officer. Art. 17. - The college meets at least once a week and as often as the interests of the Regulatory Authority require. The quorum of 4 members is required for the deliberations of the college. The decisions of the college of the Authority are taken by a majority of the votes of the members present. In the event of a tie, that of the president is decisive. The decisions of the college of the Authority in matters of regulation may be appealed to the administrative section of the Supreme Court of Justice. The remedy is no suspension of the execution of the decision taken. The deliberations of the college of the Regulatory Authority are recorded in minutes entered in a special register and signed by the president and by each of the members of the college who took part in the session. They become enforceable after their notification to the interested parties. They are communicated, for information, to the minister having posts and telecommunications in his attributions. Section II Administration of the Regulatory Authority Art. 18. - The Administration of the Regulatory Authority, placed under the authority of the president of the college, is made up of the directorates. **Section III Staff Art. 19.** — The Regulatory Authority employs three types of staff: a) staff recruited in accordance with the Labor Code; b) career staff of the State public services on secondment; c) agents from public enterprises. Career staff from State public services and agents from public enterprises, on secondment to the Regulatory Authority, are subject, throughout the duration of their secondment, to the texts governing the Regulatory Authority and to labor legislation, subject to the provisions of their respective statutes; The staff of the Regulatory Authority must not have interests in companies in the sector. The Authority staff responsible for carrying out control operations and for recording, in the form of a report, infringements committed in respect of positions and telecommunications is sworn. As such, he can search, seize materials and close the premises under the control of the public prosecutor. It benefits from the assistance of the Police forces in the exercise of its mission. He takes an oath before the public prosecutor at the district court according to the following formula: "I,..., agent of the Congo Post and Telecommunications Regulatory Authority, I swear to perform my duties with probity in compliance with the laws and regulations of the Democratic Republic of the Congo. " Art. 20. - At the same level of responsibility, the status of a staff member of the Regulatory Authority cannot be less favorable than that of staff working at the regulatory authority. within private companies in the sector. CHAPTER III FINANCIAL, FISCAL AND ACCOUNTING PROVISIONS **Section I Financial management** Art. 21. - The regulatory authority has ordinary and extraordinary resources. A. Regular resources include: (a) the income from its services; b) income from administrative costs related to the study of files for granting or renewing licenses and / or authorizations, approval of terminal equipment and more generally the product of any royalty in relation to the mission of the Regulatory Authority; c) the numbering charge; d) the regulatory tax; e) the parafiscal taxes authorized by the financial law. The methods of calculation, the rate and the amount of the royalties, costs and other remuneration constituting the ordinary resources of the Regulatory Authority, are fixed by decree of the President of the Republic. B. Extraordinary resources include: a) repayable advances from the Treasury, public or private bodies as well as loans authorized in accordance with the legislation in force; and b) subsidies, donations, bequests and any other income related to its activity. **Art. 22.** - The expenses of the Regulatory Authority are: a) operating and investment expenditure; b) repayment of advances and loans; c) all other expenses related to the purpose of the Regulatory Authority. Art. 23. - The fiscal year runs from January 1 to December 31. The president presents for examination to the college of the Regulatory Authority, in October, the draft budget balanced in revenue and expenditure, including the allocations depreciation and provisions normally constituted. The budget is transmitted for information by the Regulatory Authority to the Minister having posts and telecommunications in his attributions. The funds coming from conventions and international agreements are managed according to the modalities provided for by these acts. Art. 24. - In the event of a budget surplus, the college of the Regulatory Authority decides on the allocation of the profit for the year, taking into account the equipment needs. of the Regulatory Authority. The portion of the unallocated surplus is paid into the Treasury. **Section II Tax regime** Art. 25. - The Regulatory Authority is exempt from all taxes, fees and charges. **Section III Accounting management** Art. 26. - The president of the college of the Regulatory Authority is the authorizing officer of the budget in terms of both revenue and expenditure. The collection of receipts and the payment of expenditure are carried out under the responsibility of the president. The accounts of the Regulatory Authority are kept in accordance with the Congolese general chart of accounts. **Art. 27.** - At the end of each financial year, the college of the Regulatory Authority: (a) arrange for an inventory of assets and liabilities; b) establish the accounting documents and supporting documents for the financial year; c) draw up a financial report on the activities of the Regulatory Authority. These documents are sent within three months following the end of the financial year to the Minister having finance in his or her attributions for control purposes. Art. 28. - The accounts of the Regulatory Authority are subject to verification by an external audit firm. The report is made public and sent to: • President of the Republic; • Minister having finance in his attributions; • Minister having posts and telecommunications in his attributions. CHAPTER IV DISSOLUTION AND LIQUIDATION Art. 29. - The dissolution of the Regulatory Authority may be decided by the President of the Republic who designates its liquidator. **CHAPTER V FINAL PROVISIONS** Art. 30. - All the previous provisions contrary to this law are repealed. Art. 31. - This law comes into force on the date of its promulgation.

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