



**Kingdom of Lesotho**

# **THE LESOTHO TELECOMMUNICATIONS POLICY**

**MINISTRY OF COMMUNICATIONS**

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**Maseru-Lesotho**

## TABLE OF CONTENTS

Preface.....	5
List Of Words And Definitions.....	7
Introduction.....	10
<b>PART 1.....</b>	<b>11</b>
1.0 Problem Statement.....	11
2.0 Policy Objectives.....	12
2.1 Affordable, Efficient And High Quality Universal Info-Communications Services.....	12
2.2 Creating An Environment For Sustainable Info-Communications Services.....	12
2.3 Code Of Conduct And Business Practices.....	13
2.4 Participating In Global Trends And Being Active In The Global Information Society.....	13
<b>PART 2.....</b>	<b>14</b>
3.1 Institutional Framework.....	14
3.1.1 Objectives Of The Institutional Framework.....	14
3.1.2 Key Role-Players.....	14
3.2 The Role Of Government.....	15
3.2.1 The Government's Principal Functions Are To:.....	15
3.2.2 Ministry Responsible For Communications.....	16
3.2.3 Capacity Building Within The Ministry Responsible For Communications.....	17
3.2.3.1 Staffing Within The Ministry.....	17
3.2.3.2 Establishment Of A Regulatory Authority.....	17
3.3 The Role Of The Regulator.....	17
3.3.1 The Regulatory Institution.....	17
3.3.2 Scope And Mandate Of The Regulatory Authority.....	18
3.3.3 Objectives Of The Regulatory Authority.....	18
3.4 Functions Of The Regulatory Authority.....	19
3.4.1 Rule-Making And Enforcement.....	19
3.4.2 Licensing.....	19
3.4.3 Management Of Scarce Resources.....	19
3.4.4 Monitoring Performance Of Service Providers.....	20
3.5 Key Regulatory Issues.....	20
3.5.1 Universal Service/Access.....	20
3.5.2 Ownership And Control.....	20

3.5.3	Competition.....	21
3.5.4	Standards .....	21
3.5.5	Human Resource Development.....	21
3.5.6	Research .....	21
3.5.7	Interconnection And Numbering.....	22
3.5.8	Tariffs Policies .....	22
3.5.9	Consumer And User Protection .....	22
3.5.10	Disputes.....	22
3.5.11	Liaison With Minister Responsible For Communications.....	22
3.5.12	Parliament .....	22
3.5.13	International Representation .....	23
3.5.14	Information Collection .....	23
3.6	Structure Of The Regulatory Authority .....	23
3.6.1	Regulatory Authority Staff.....	23
3.6.2	Future Restructuring Of The Regulatory Authority.....	23
3.6.3	Composition Of The Regulatory Authority .....	24
3.6.4	Selection Criteria For The Board Members .....	24
3.6.5	Appointment And Removal .....	24
3.7	Resources .....	25
3.7.1	Financial.....	25
3.7.2	Staff.....	25
3.7.3	Advisory Committees.....	25
3.8	Regulatory Process:.....	26
3.9	Enforcement .....	26
3.10	Relationships Between Regulatory Authority And Others .....	27
3.10.1	With Ministry Responsible For Telecommunications .....	27
3.10.2	With Parliament .....	27
3.10.3	With Courts And Tribunals.....	27
3.10.4	With Auditors.....	28
3.10.5	With Users And The General Public.....	28
3.10.6	With Service Providers .....	28
3.11	The Role Of Telecommunications Operator .....	29

PART 3 .....	30
4.0 Restructuring Of The Lesotho Telecommunications Corporation.....	30
4.1 Lesotho Telecommunications Corporation.....	30
4.1.1 Incorporating The Ltc.....	30
4.1.2 Sale Of Some Shares In The Ltc .....	30
4.1.3 Period Of Exclusivity And Competition .....	31
4.1.4 Liberalising Value-Added And Other Non-Basic Services .....	32
4.1.5 Sale Of Remaining Shares .....	32
4.1.6 Removal Of Exclusivity And Opening All Services To Competition .....	33
4.2 Role Of Consumers And Users .....	33
4.3 Employees.....	33

## **PREFACE**

The coming in of democratic dispensation after the 1993 general elections, ushered new ideas for reform. To this extent, the Government initiated a policy of privatisation as a vehicle through which socio-economic recovery can be achieved.

As an epitome to its commitment to reform, the Government passed a Privatisation Act in 1993 and by Legal Notice No 103, the Lesotho Telecommunications Corporation (LTC), was listed amongst state-owned corporations lined-up for privatisation. Underlying this decision, were three dominant factors:-

- Recognition by Government that the forum of the telecommunications sector is a stimulus to socio-economic development.
- The regional trend towards the reform of the telecommunications sector in order to take advantage of international technological developments and to develop national telecommunications networks for the provision of reliable, effective and affordable services as propounded by Article 10 of the Southern African Development Community (SADC) Protocol on Transport, Communications and Meteorology signed in Maseru in August 1996 and ratified by Lesotho in June 1999.
- The need for a transparent, stable and credible framework to facilitate and encourage investment in telecommunications development.

For many decades now, the issue of tele-density and penetration has been of great concern, given that today's businesses are done through telephones, the inaccessibility of such a facility was a great hindrance to growth and social development.

In view of the foregoing, the Ministry of Communications embarked on a policy reform process, beginning with formulation of a policy for setting the framework for operation. This policy, which maps out the mode of operation in the telecommunications sector, was born out of ideas and opinions synthesized subsequent to a stakeholders workshop organized and held by the Ministry of Communications in April 1998 at Lesotho Sun.

The Policy therefore, is intended to bring more players into the field and thereby promote competition through which the network can be expanded as well as improve services. This new arrangement necessitates the need for regulation, in order to level the field on which all role players can equally participate. Thus, a new organ, namely an independent regulatory authority will be established to oversee and ensure that all players conform to the requirements of the law within which they operate.

To conclude this preface, it has to be pointed out that the Telecommunication Policy provides the following :-

- ❑ Establishment of an independent regulatory authority; the Lesotho Telecommunications Authority (LTA), to be in control of all operations and services pertaining to telecommunications
- ❑ Introduction of competition in the sector by attracting more service providers and introduction of new services
- ❑ Expansion of network penetration and improvement of service quality

It is envisaged that this will open up opportunities for job creation and social development; and also, endeavours such as this, are intended to go a long way towards achieving the objective of universal service and access.

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## LIST OF WORDS AND DEFINITIONS

<i>Allocation</i>	The apportionment of segments of the radio frequency spectrum among various users and radio-based services;
<i>Basic Telephone Service</i>	Provision of domestic and international service for transmission over the public switched network of fixed, voice telephone and data service.
<i>Cellular Operator</i>	A person that operates mobile telecommunication facilities;
<i>Customer</i>	A person who received and pays for a telecommunication service over a period of time under an agreement with or pursuant to terms and conditions by the service provider with approval of the Authority,
<i>Customer Premises Equipment</i>	Equipment employed on the premises of a customer for public or private telecommunication service to originate or terminate telecommunications. This is also referred to as 'Customer Terminal Equipment'. (CPE includes telephone handsets, fax and telex machines, PABXs, modems, subscriber distribution boxes, payphones, etc.)
<i>Electronic Mail</i>	Transmission of messages through telecommunications network from one computer terminal to another for specific individualised addresses.
<i>GMPCS</i>	Global Mobile Personal Communication by Satellite
<i>GNP</i>	Gross National Product
<i>Info-communications</i>	Telecommunications and value-added services associated with Telecommunications;
<i>Interconnection</i>	The physical linking of telecommunications networks used by the same or different telecommunications networks or service providers to allow users of one network to communicate with users of, or access

services provided by means of, the other network or any other telecommunications network or provider.

*ITU*

International Telecommunications Union.

*Licence*

An authorisation granted by the Authority for the provision of telecommunication services or for the use of the radio frequency spectrum;

*LTC*

Lesotho Telecommunications Corporation

*Period of Exclusivity*

A temporary period of time to be determined by the regulatory authority during which a designated telecommunications service provider of public telecommunications services may be granted sole rights to provide certain telecommunications services in return for meeting specified obligations.

*Private Line Service*

Offering of telecommunication services in which certain telecommunication facilities or an agreed upon amount of capacity between or among fixed points is reserved for the exclusive use of a particular customer for an agreed upon time, for which the customer compensates the provider based on the total amount of capacity leased rather than the customer's actual usage of that capacity. (Private line service may be offered as a private telecommunication service or as a public telecommunication service);

*Public Telecommunication Services*

Telecommunication services provided to the general public or to a class of persons so as to be generally available;

*Radio Paging*

A service that provides selective calling from any telephone through a base station to one or a predetermined group of radio receivers, which emit an audible, visual, or tactile alert, and sometimes then record a numeric, alphanumeric, or even a short verbal message.

*Radio Frequency Spectrum*

Frequencies or spectrum of naturally propagated electromagnetic waves that are utilised for transmission and reception of telecommunication signals.

<i>Regulatory Authority or Authority</i>	Lesotho Telecommunications Authority
<i>Re-Sale Service Provider</i>	Any person who is in the business of providing the telecommunication service to another for a fee and who has a contract with a licensed operator for such purpose.
<i>SADC</i>	Southern African Development Community
<i>Service Provider</i>	A person who provides telecommunications services to the public for compensation
<i>Telecommunication</i>	Any domestic or international transmission of information by wire, radio waves, optical media or other electromagnetic systems, between or among points of the user's choosing.
<i>Telecommunications Operator</i>	A person who constructs, install, maintains, and operates telecommunication facilities.
<i>Universal Service</i>	The provision of telecommunication services so as to be easily accessible and affordable to the public at large without any limitation whatsoever.
<i>Universal Access</i>	Access to universal service
<i>User</i>	Any person who uses a telecommunication service whether or not that person pays for such service.
<i>Value Added Services</i>	The manipulation of the format, content, code, protocol or other aspect of information transmitted via telecommunications or the offering of stored information for interaction by the subscriber (e.g. e-mail, internet, paging)

## **INTRODUCTION**

During 1997, the Government initiated the process of policy reform of the Lesotho Telecommunications sector. In this regard, the Government was motivated primarily by three factors, namely:

- the Government's structural reform programme that recognises the imperative to reform the telecommunications sector as a stimulus for overall economic development.
- The need for a transparent, stable and credible framework to facilitate and encourage investment in telecommunications development.
- The SADC telecommunications policies initiative in pursuance of the provisions of the SADC protocol on Transport, Communications and Meteorology.

Two policy studies were undertaken in 1997 on the "Lesotho Telecommunications Corporation (LTC) Evaluation Study" and on the "Recommended Course of Action for the reform of the telecommunications sector in Lesotho". The recommendations of the two studies were adopted by the Government as the basis for reform of the sector. In the main, the recommendations underscored the need to re-arrange the institutional framework for the development of telecommunications in Lesotho away from the premise of it being monopoly-driven through the LTC toward enhanced private sector investment. To implement this policy decision, the Government decided to put in place a new legislation to regulate the telecommunications sector as well as to restructure the Lesotho Telecommunications Corporation to progressively accommodate private sector participation and competition.

This policy document serves to elaborate the various facets of the policy framework.

## PART 1

### 1.0 Problem Statement

- 1.1 A number of studies have shown the relationship between telecommunications and economic growth. Studies by the ITU, for instance, indicate that each telecommunications line added in Africa contributes approximately US\$4,500 to Gross National Product (GNP).
- 1.2 Statistics on telecommunications development show a large disparity between the network capacity in Africa and the rest of the world. This undesirable situation is due to inadequate investment, low priority given to telecommunications and inappropriate institutional arrangements.
- 1.3 The Government of Lesotho has recognised the need to reform the country's telecommunications sector and restructure the LTC in order to attract investment and stimulate economic growth. LTC's existing infrastructure essential is limited to the wireline delivery of switched voice telephony and a small cellular network jointly owned with Vodacom (Pty) Ltd. of South Africa. These facilities have been unable to satisfy increasing demand for service, and serious efforts are needed to expand service to the under-serviced areas of the country. Indeed, the country's current telephone capacity of 0.75 line per 100 people is substantially below the regional average of 3.4 lines. Moreover, LTC's network is unable to support high-speed data transmission and many value-added services. The lack of modern telecommunications network has discouraged investment in Lesotho's industrial and service sectors, impeding the country's overall economic growth.
- 1.4 Hitherto, the development of telecommunications in Lesotho has generally had to rely on Government either through direct grants or through Government guaranteed loans. This situation can no longer be sustained, as it is out of tune with market evolution whereby Governments worldwide can no longer solely shoulder the cost of infrastructure development.

- 1.5 Equally, bilateral and multi-lateral development assistance is no longer a viable option for investment in telecommunications.

## **2.0 Policy Objectives**

The new policy framework seeks to achieve the following objectives:-

### **2.1 Affordable, Efficient and High Quality Universal Info-communications Services**

To ensure affordable, efficient and high quality services, thus in the long term achieving universal service with regard to telecommunications services and universal access with regard to advanced information services.

### **2.2 Creating an Environment for Sustainable Info-Communications Services**

The new policy is intended to level the playing field for info-communications development through the following facilitative measures:

- Repeal of Lesotho Telecommunications Act No.12 of 1979 and enactment of a new Telecommunications Act;
- establishing an independent regulatory authority separate from the LTC and operating as autonomously as possible from the Ministry responsible for Communications;
- encouraging the expansion and improvement of LTC's existing network;
- attracting new service providers and services to the sector;
- creating a competitive environment so as to provide an equitable balance between the consumer and the service provider;
- giving effect to restructuring and privatisation of LTC;
- building a national information infrastructure;
- ensuring gender equity with regard to access to employment and entrepreneurship in the info-communications industry;
- provision of telecommunications services that take into account women's needs as well as those of people with physical disabilities.

### **2.3 Code of Conduct and Business Practices**

To create a regulatory and business environment that facilitates the strengthening of both business practices, sustainable service provision and code of conduct for the telecommunications sector.

### **2.4 Participating in Global Trends and Being Active in the Global Information Society**

To build and info-communications system in co-ordination with the SADC region and in terms of the SADC Protocol on Transport, Communications and Meteorology as well as to take advantage of the rapid progress in the convergence of telecommunications, information and broadcasting technologies and services, and play a role in the Global Information Society.

## **PART 2**

### **3.0 STRATEGIES FOR ACHIEVING POLICY OBJECTIVES**

#### **3.1 Institutional Framework**

A coherent strategy is required for the achievement of an investor-friendly environment that is conducive to rapid development. The ultimate goal is to reach an info-communications industry framework with separate roles for Government, regulator and service providers, operated through adequate legislation.

##### **3.1.1 Objectives of the Institutional Framework**

The key objectives of proposed institutional framework are to:

- Allocate clear roles and responsibilities to key role-players;
- Promote accountability and transparency;
- Remove unnecessary duplications of functions and roles to promote efficiency and cost-effectiveness in managing the info-communications industry;
- Remove unnecessary interference while promoting necessary positive intervention;
- Promote investor friendly environment;
- Create a “level playing field”;
- Encourage credibility in the sector;
- Restructure the national incumbent operator; and
- Introduce and promote competition.

##### **3.1.2 Key Role-Players**

The key role-players in building a structure for the info-communications industry are:

- Government
- Regulator
- Investors and Operators

- Labour
- Consumers/Users

## **3.2 The Role of Government**

### 3.2.1 The Government's principal functions are to:

- Create an enabling environment for the provision of affordable and sustainable services through liberalisation and commercialisation of the sector.
- Create a level playing field to facilitate the entry and growth of nascent operators
- Provide good governance, including ensuring law and order in the state.
- Establish and implement development-promoting policies that are market guiding and friendly.
- Restructure and consolidate the info-communications sector by assigning responsibilities and authority to players dealing with policy (Ministry), Regulation (Regulator) and operations (operators/service providers) to ensure that the community as a whole, and all of its parts, are provided with adequate choice of services at reasonable prices.
- Allow for, at the most basic level, checks and balances including an independent judiciary, impartial public service and an impartial regulator, all of which are indispensable to fair and efficient regulation.
- Manage change through adequate mechanisms, such as a policy implementation-monitoring unity in the Ministry.
- Represent Lesotho and pay annual and any dues in regional and international inter-governmental telecommunications bodies in consultation with the relevant institutions.

### 3.2.2 Ministry Responsible for Communications

The Ministry's key responsibilities shall be to establish the overall policies and guidelines for the regulation of telecommunications services in Lesotho and in this regard shall do the following:

- Ensure universal service with respect to basic telecommunications services and universal access with respect to advanced information services.
- Create and oversee environment for the provision of info-communications industry.
- Create and sustain an enabling environment for the provision of info-communications industry.
- Create and sustain an enabling environment for the provision of the info-communications services largely by the private sector.
- Ensure that policy-making, regulatory and enforcement structures have the capacity to perform their respective functions comprehensively and fairly.
- Formulate and review the policy and oversee its implementation.

These changes transform the responsibility of the Ministry from the previous role of combining policy, rule creation, implementation and operation functions towards the responsibility for sector analysis, policy development, monitoring, review, as well as general facilitation.

### 3.2.3 Capacity Building within the Ministry responsible for Communications

#### 3.2.3.1 Staffing within the Ministry

To attain the required transformation to the new role of the Ministry, adequate staffing and capacity building will be needed to be set up to carry out the necessary policy development including the planning for universal service and universal access.

#### 3.2.3.2 Establishment of a Regulatory Authority

The regulatory institution, referred to as the “Lesotho Telecommunications Authority” (LTA), shall be established as an autonomous entity with all the powers of a legal persona.

## 3.3 The Role of the Regulator

### 3.3.1 The Regulatory Institution

The Ministry responsible for Communications shall put in place a regulatory institution for the enforcement of Government’s decisions and legislation. By so doing, the regulatory institution will take over the responsibilities for the creation and enforcement of rules and procedures to facilitate efficient operations in the market as well as the National frequency spectrum management.

The regulator shall monitor market demand and supply capacity of service providers and shall intervene to correct imbalances or market distortions in favour of users. The regulatory institution will have the necessary independence from stakeholders to ensure impartiality, flexibility and transparency.

### 3.3.2 Scope and Mandate of the Regulatory Authority

The mandate of the regulatory authority proposed in this policy framework is limited to the regulation of the telecommunications, information technology as well as transmission of broadcasting (but with reference to broadcasting does not extend to issues of content). Accordingly, it will include allocation and management of radio frequency spectrum including for broadcasting.

There shall be clear separation of power between the policy, regulatory and operating institutions, hence the requirement of an autonomous Regulatory Authority.

### 3.3.3 Objectives of the Regulatory Authority

The specific objectives of the Regulatory Authority will be to:

- regulate info-communications in the public interest;
- contribute towards development of the social goals of info-communications policy including the provision of universal service and universal access;
- ensure the provision of a wide range of info-communications services to stimulate and support economic growth;
- regulate the activities of all info-communications operators;
- stimulate investment in the public info-communications networks;
- ensure a “level playing field” where competitive entry is permitted under the info-communication policy;
- protect the interests of the info-communications industry with a view to provide advanced information services;
- promote the development of national human resources for the info-communications industry. For example, by encouraging the provision of suitable training facilities by the service providers.
- Manage common national resources, such as the radio-frequency spectrum and numbering plan effectively.

### **3.4 Functions of the Regulatory Authority**

#### **3.4.1 Rule-making and Enforcement**

The regulator shall make rules and procedures for the provision of info-communications services and amend such rules after transparent consultations with interested parties.

To enable the regulatory body to carry out the enforcement functions, the regulator will be empowered with investigative powers and authority to impose appropriate sanctions and penalties for violations of the info-communications laws and regulations. Such sanctions or penalties can include fines, or revocation of licence.

#### **3.4.2 Licensing**

- Undertake the licensing of all info-communications service providers, according to such policy guidelines as may be set by the Minister.
- Licence radio spectrum users.
- Undertake the review of existing licenses and fees, where applicable.
- Monitor and enforce compliance with the relevant legislation and regulations.
- Determine appropriate classes of licences.
- Hear complaints from users and service providers.

#### **3.4.3 Management of Scarce Resources**

- Management of scarce resources (e.g. frequencies and number scheme).
- Determination of procedures for the allocation and use of scarce resources.

#### 3.4.4 Monitoring Performance of Service Providers

Use Government development guidelines to monitor and evaluate performance of service providers and report to the Ministry responsible for communications on a regular basis.

### 3.5 Key Regulatory Issues

#### 3.5.1 Universal Service/Access

- Implementation of the universal service policy.
- Administration of the universal service fund
- Service Provision and User Needs
- Promote the provision of efficient, effective and affordable info-communication service for all sectors of society and the development of public and private services that are responsive to the needs of users.
- Ensure that info-communications services, viewed collectively, develop and promote a sound business environment in the interest of healthy competition, efficient services and modern facilities.
- Protect the integrity and viability of public info-communications services.
- Develop regulations supporting the achievement of policy objectives.
- Encourage investment in, and promote the stability of, the industry.

#### 3.5.2 Ownership and Control

- Encourage participation of local people in the ownership and control of info-communications facilities and networks as well as provision of info-communications services.
- Impose limitations on cross-subsidisation of info-communications services.
- Regulate the bundled or control the ownership of info-communications services to check abuse.

### 3.5.3 Competition

- Promote fair competition between info-communication service providers in those segments where competition is permitted.
- Allow service providers maximum freedom in the pursuit of their commercial objectives, while simultaneously taking into account the info-communication needs of the public and the policy objectives of Government.

### 3.5.4 Standards

- Set national standards governing info-communications equipment, the provision of telecommunications services and ensure compliance with these standards.
- Ensure that the needs of disabled people are taken into account, particularly with regard to type-approval for customer premises equipment (CPE) and user equipment.
- Set applicable technical and quality standards in consultation with the info-communications industry and consumer bodies.
- Undertake type-approval of customer premises equipment (CPE) and set the rules for their connection to the networks.

### 3.5.5 Human Resource Development

- Encourage service providers to keep abreast with technological advancement of the sector.

### 3.5.6 Research

- Promote and conduct development research in info-communications, including regulation, policy and technology.

### 3.5.7 Interconnection and Numbering

- Determine interconnection and numbering guidelines, facilitate interconnection negotiations and approve interconnection agreement, (with modifications as necessary) and manage numbering plans all in the public interest.

### 3.5.8 Tariffs Policies

- Regulate tariffs as and when required in the public interest.

### 3.5.9 Consumer and User Protection

- Take responsibility for consumer protection with regard to info-communications.
- Provide for the resolutions of complaints and disputes by consumers.
- Mobilise sector players including consumers to participate in matters related to telecommunications.

### 3.5.10 Disputes

Act as arbitrator on disputes that may arise between service providers, consumers and other stakeholders.

### 3.5.11 Liaison with Minister Responsible for Communications

- Advise the minister with regard to any major issue affecting info-communications where required or as necessary.

### 3.5.12 Parliament

- Report to parliament, through the Minister, on the performance of its functions.

### 3.5.13 International Representation

- Represent the Government in regional, international and inter-governmental telecommunications regulatory and administrative matters.
- Provide a forum for consultation with all interested parties.

### 3.5.14 Information Collection

- Collect, store and disseminate information and data on the sector to parties and organisations concerned with the development and distribution of info-communications services, and to other relevant parties.

## **3.6 Structure of the Regulatory Authority**

### 3.6.1 Regulatory Authority Staff

The Regulatory Authority shall have appropriately qualified staff in sufficient numbers to perform core functions. Non-core functions will as much as possible be outsourced.

Salary and terms of service will be commensurate with responsibilities, so as to assist in attracting and retaining persons of the right calibre, as well as reducing temptation to corrupt practices which are inimical to fair and efficient regulation.

### 3.6.2 Future Restructuring of the Regulatory Authority

There is a limit to the number of regulatory bodies Lesotho can afford due to the size of the economy. Accordingly, it is prudent that sufficient flexibility be allowed to combine the info-communications regulator with other utility regulators should such necessity arise in the future.

### 3.6.3 Composition of the Regulatory Authority

There shall be established a collegial regulatory Board of five members of which at least one shall be a full time member and shall in that capacity be both the Chief Executive of the Regulatory Authority and Secretary of the Board of Directors of the Authority.

### 3.6.4 Selection Criteria for the Board Members

Members should be appointed on the basis of their competence and integrity rather than on political considerations. Their period of tenure, appointment and removal shall be clearly defined in the legislation.

Members shall have knowledge or qualifications or experience in the fields of economics, accountancy, info-communication technology, engineering, public policy, business practice, finance, law, or any other relevant experience.

### 3.6.5 Appointment and Removal

Members shall be appointed for a period of three years by the Minister acting on the recommendation of an Appointments Committee that shall include at least one representative each from the following:

- Ministry of Communications,
- Ministry of Finance,
- Ministry of Trade, and
- Attorney-General's Chambers.

To allow for continuity and transfer of experience, the periods of appointment shall be staggered for at least the initial appointment. Removal or suspension shall only be for reasons of misconduct or incapacity.

### **3.7 Resources**

#### **3.7.1 Financial**

The Revenue sources of the Regulatory Authority will be, but not limited to, the following:

- A percentage of annual revenue from all licensed operators in the market.
- Licence fees.
- Fees on licenses for access to limited resources – such as radio spectrum.
- Any other fees the regulator may levy in keeping with international practices.
- Donations and loans
- Government Budget.

Any surplus over the annual operating costs of the Regulatory Authority will be used for the Universal Service Fund or remitted to Government Treasury.

The Authority shall not be dependent on a regular budget from Government, but may in exceptional circumstances seek a subsidy from Government to supplement its regular budget. Such circumstance may include the start-up budget for the Authority.

#### **3.7.2 Staff**

The Authority shall have the freedom to appoint, exercise discipline and remove staff as well as to determine their terms and conditions of service.

#### **3.7.3 Advisory Committees**

From time to time, the Authority may establish advisory committees comprised of individuals with appropriate expertise to fairly represent the views and interests of users and operators and to advise the Board and/or the staff of the Authority on specific or technical questions. Such advisory committees shall be appointed and shall conduct their business according to such rules as the Authority may issue.

### **3.8 Regulatory Process:**

It is necessary for the Authority to have as much operational autonomy as possible. This is necessary to ensure fairness and transparency in its decision-making.

Operational transparency and confidence from the industry and public for the regulator will also be encourage through ensuring that its rules and regulations are given wide publicity and that they are reached after wide consultations with interested parties. The legislative framework shall also need appropriate provision to ensure that the parties aggrieved by a decision of the regulatory authority have a fair and effective means of redress in terms of the laws of Lesotho.

Due consideration, however, has to be taken that this type of info-communications regulation is relatively new. Legislation should give the Regulatory Authority the flexibility to determine its agenda and to make rules for conducting its affairs, subject to the overriding requirement of transparency, credibility and fairness.

### **3.9 Enforcement**

The Regulatory Authority should act only in accordance with the powers conferred on it, the functions and duties assigned to it by the relevant legislation and general guidelines provided by the Minister.

The Authority shall have the power, where an info-communication service provider or user of radio frequency spectrum contravenes the provisions of legislation or licence, to impose sanctions, including appropriate fines. The Authority shall also have necessary judicial powers of enforcement of its decisions. Contravention of the info-communications legislation by service providers or members of the public should be subject to sanctions under general legislation.

### **3.10 Relationships between Regulatory Authority and others**

Although independent, the Regulatory Authority will have relationships with other institutions and authorities and should be accountable for its actions in carrying out its responsibilities. The following relationships shall obtain:-

#### **3.10.1 With Ministry responsible for Telecommunications**

- The Minister is responsible for policy and overall administration of the information communications legislation.
- The Minister is responsible for issuing guidelines on universal service/access.

The Minister may, after consultation with the regulatory authorities, determine the degree of liberalisation and in which market segments it will take place. The Minister shall have the power to give to the Regulatory Authority general, but not specific guidelines on licensing.

Such guidelines shall be issued after public consultation and published in the official gazette. The regulator will determine the number of entrants and the related terms and conditions.

#### **3.10.2 With Parliament**

The Regulatory Authority shall report to Parliament through the Minister. This shall be done through the submission of an annual report on the activities of the Authority showing achievements in carrying out its mission as well as audited Accounts for the year in question.

#### **3.10.3 With Courts and Tribunals**

The Courts or special tribunals can review disputed decisions of the Regulatory Authority. Such review will be on questions of procedure not content and the decision for the court or special tribunal shall be final.

3.10.4 With Auditors

The accounts of the Agency should be audited by an independent firm of auditors appointed by the Auditor General.

3.10.5 With Users and the General Public

The Authority is responsible for:

- consulting with users and the general public;
- the provision of information; and
- the investigation of complaints.

3.10.6 With Service Providers

The Authority is responsible for the provision of information and settlement of disputes and should hear third party complaints.

The Authority will ensure that the service providers comply with the requirements of the licences provided.

The Authority may require service providers to provide information regarding their operations and performance where required to carry out its functions.

### **3.11 The Role of Telecommunications Operator**

The telecommunications operator's main functions are to:

- Under licence to construct, maintain and operate telecommunication plant or equipment and associated facilities in line with the Government development policy guidelines and in line with the LTA's rules and procedures
- Under licence, provide and install telecommunications customer premises equipment and offer telecommunications services to the public on non-discriminatory basis.
- Participate and pay membership costs in national, regional and international organisations for the telecommunications operators
- Conclude interconnectivity agreement with other operators and international correspondents as well as with resale service providers.

## **PART 3**

### **4.0 RESTRUCTURING OF THE LESOTHO TELECOMMUNICATIONS CORPORATION**

#### **4.1 Lesotho Telecommunications Corporation**

The Lesotho Telecommunications Act 1979 give the LTC “exclusive privilege of establishing and maintaining working telecommunications as well as to administer and control telecommunication services and supervise and control persons employed in connection with the establishment, maintenance and operation of those services”.

##### **4.1.1 Incorporating the LTC**

The restructuring of the Lesotho Telecommunications Corporation shall encompass full corporatisation, by bringing it fully under the Companies Act.

Under this arrangement, the Government will relinquish its current function of overseeing the Lesotho Telecommunications Corporation through the Ministry of Communications. The Board of Directors shall be given full authority to run the company, including the appointment of top management. The overall objective is to give the restructured LTC sufficient management, operational and financial autonomy.

##### **4.1.2 Sale of Some Shares in the LTC**

Consultancy work is in progress to recommend a policy to Government on the most appropriate modality of privatising LTC. However, an informed assumption would point to a possibility of a sale of some shares to a strategic partner. Because of the current

weakness of the LTC in terms of its overall infrastructure capacity and financial spending not much would be realised from its total sale. Better returns could be realised before the sale of majority share, but if a time of exclusivity is allowed for improving the business situation of the company with the involvement of a strategic partner who would be permitted a considerable measure of management control. However, such management control would be complemented by objectives that were agreed upon for network built-out, quality of service, and the introduction of new technology and services.

#### 4.1.3 Period of Exclusivity and Competition

In order to attract potential equity partners for the LTC, it may be necessary to grant LTC a licence of exclusive right to provide basic telephone services in Lesotho for what is referred to as domestic and international public switch voice telephone services or fixed telephony network. This period of exclusive rights (termed “exclusivity”) is necessary to provide the privatised LTC time to improve its infrastructure, finances, operational standards, as well as to enable the strategic partner to recoup its investment.

The strategic partner would be expected to bring along financial resources, managerial, technological and human resource development and improvements in quality of service. In addition, the strategic partner would, during the period of exclusivity, have obligations to meet set targets in line with policy objectives including info-communications service penetration, infrastructure modernisation and extension, technological improvements of the network, universal service and universal access.

The exclusive licence may be for a maximum of five years. A minimum period of exclusivity may be negotiated between the Regulatory Authority, the potential strategic investor, and LTC. Certain specific conditionalities shall be attached to the exclusivity rights granted to the LTC. The LTC would be required to meet network build-out requirements and service quality standards as well as universal service targets agreed upon with the Minister and monitored by the Regulatory Authority in keeping with policies that the Minister shall have enunciated on the provision of basic telephony services throughout Lesotho.

Failure to meet agreed targets would require review of the exclusivity period by the Regulatory Authority, with the potential that LTC might forfeit its exclusivity rights prior to the expiration of the exclusivity period, and also might be liable to pay a penalty the amount of which shall be determined by the Regulator.

#### 4.1.4 Liberalising Value-added and other non-basic Services

Subject to exclusivity rights that may be granted to the LTC in the new Information Communications Act, the Regulatory Authority shall ensure competitive provision of other telecommunications services including transmission of Broadcasting, Telecommunications value-added services, and Resale services in Lesotho in a manner that will ensure healthy development of these services.

Operators already holding licences for provision of the services referred to above will be obliged to ensure that their licences are in conformity with the requirements of the Regulatory Authority once in place.

Competition will be allowed in such areas as:

- Mobile Cellular
- Radio Paging
- GMPCS
- Data Communication, Including Internet, DTI And E-Mail
- Customer Premises Equipment Importation, Manufacture, Distribution, Installation And Maintenance.

#### 4.1.5 Sale of Remaining Shares

The Government shall progressively sell its shares in LTC and shall in this process facilitate way and means of providing a window of opportunity for the Basotho to acquire a stake in the company. There shall be a scheme for shares to be made available to the LTC workforce.

#### 4.1.6 Removal of Exclusivity and Opening all Services to Competition

At the end of the period of exclusivity given to LTC, the regulator may determine the necessity for a further limited extension of some basic telephony services or remove exclusivity and open all services to competition.

#### 4.2 Role of Consumers and Users

The Government shall encourage the formation of consumer and user groups to give them the opportunity to participate in the development of telecommunications. The Regulatory Authority shall encourage the formal participation of such groups through the establishment of an advisory committee on consumer affairs.

#### 4.3 Employees

In the process of privatisation, the rights of employees, including pension rights shall be protected. Employees shall be consulted about changes that will affect them. Where employees are in excess, retrenchments may be unavoidable. Every effort will be made to ensure that schemes are put in place to re-train and re-deploy valuable staff before retrenchment takes place.

But, it must be understood that such retraining and redeployment will be entirely at LTC's discretion, and would be targeted to meet only actually identified needs. Where possible, schemes will be put in place to organise the retrenched staff into small companies to perform non-core functions by way of LTC out-sourcing, even if it would be for a certain time before such services would be sourced through normal competition.