

Myanmar Communications Regulatory Commission Law (Draft)

(The Pyidaungsu Hluttaw Law No. , 201x)

Day Month, xxxx ME

( Day Month , 201x)

The Pyidaungsu Hluttaw hereby enacts this Law.

## Chapter I

### Title, Commencement and Definitions

1. This Law shall be called the Myanmar Communications Regulatory Commission Law.
2. This Law shall come into force:
  - (a) In respect of Chapter VI, on the date the Bill is enacted by the Pyidaungsu Hluttaw, being the Commencement Date;
  - (b) In respect of the remainder, on the date that is 6 months after the Commencement Date or such later date as the President may specify through written notification, being the Succession Date.
3. The following expressions contained in this Law shall have the meanings given hereunder:
  - (a) **Appeals Tribunal** has the meaning given to it in the Telecommunications Law.
  - (b) **Chairman** means the Chairman of the Myanmar Communications Regulatory Commission.
  - (c) **commencement date** means the date of commencement as defined in Section 2 (a).
  - (d) **Commission** means the Myanmar Communications Regulatory Commission;
  - (e) **Commission staff** means the staff described in Sections 39 and 40.
  - (f) **Competition Commission** means the Myanmar Competition Commission established by the Competition Law.
  - (g) **convention** means:

- (1) an international convention to which Myanmar is a party;
  - (2) a written agreement or arrangement between Myanmar and a foreign country. This term include an agreement, arrangement and understanding between a Government Entity and an official or authority of a foreign country.
- (h) **frequency spectrum** means a continuous electromagnetic frequency range from 3 hertz to 420 Terahertz.
- (i) **government entity** means:
- (1) the Union Government, or any State Government, Regional Government or Local Authority; and
  - (2) any ministry, department, office, agency, authority, commission, committee, board, council or other body. This includes bodies established under the law of the Union Government, or of any State Government, Regional Government or Local Authority, or bodies established otherwise and bodies conferred the administrative authority of the States.
- (j) **government policy** means a general policy of the Union of Myanmar relating to information and communications technology or postal services approved or written by the Union Government.
- (k) **ICT** means information and communications technology.
- (l) **ICT laws** means any of the following laws and their amendments from time to time, and includes any rules, regulations and by-laws issued under them:
- (1) The Telecommunications Law;
  - (2) The Electronic Transaction Law;
  - (3) The Computer Development Law; and
  - (4) any other law under which the Commission is to exercise any function.
- (m) **licence** means any of the following:
- (1) Any Licence issued under the Telecommunications Law, Postal Law or under any rules, regulations or by-laws issued under those laws;
  - (2) Frequency spectrum authorisation issued under the Telecommunications Law or under any rules, regulations or by-laws made under the Telecommunications Law;

- (3) any other licence, authorisation and certification issued by the Commission under an ICT Law.
- (n) **Licensee** means the holder of a Licence.
- (o) **Member** means a member of the Commission.
- (p) **Minister** means the Union Minister responsible for communications.
- (q) **Ministry** means the Union Ministry assigned by the Union Government to be responsible for communications.
- (r) **Commission Fund** means the Myanmar communications Regulatory fund established in accordance with Section 46(a).
- (s) **National Broadcasting Development Authority** means the Authority by that name established by the Broadcasting Law.
- (t) **National Telecommunications Advisory Committee** means the Committee by that name established by the Ministry under Section 74 of the Telecommunications Law.
- (u) **postal item** means addressed letter correspondence, document, postal parcels, postcard, printed publications in respective packaging.
- (v) **postal service** means any type of service ensuring collection, processing, transportation, sorting and delivery of Postal Items.
- (w) **President** means the President of the Republic of the Union of Myanmar.
- (x) **succession date** means the date that the remainder of this Law other than Chapter VI commences.
- (y) **telecommunications** has the meaning given to it in the Telecommunications Law.
- (z) **telecommunications equipment licence** has the meaning given to it in the Telecommunications Law.
- (aa) **telecommunications service** has the meaning given to it in the Telecommunications Law.
- (ab) **Union** means the Republic of the Union of Myanmar.
- (ac) **Union Government** means the Union Government of the Republic of the Union of Myanmar.

## **Chapter II**

### **Objectives**

4. The objectives of this law are as follows:
  - (a) to establish the Myanmar Communications Regulatory Commission as an independent, autonomous and impartial Government agency;
  - (b) to establish the powers, functions and duties of the Myanmar Communications Regulatory Commission; and
  - (c) to enable MCRC to exercise the powers conferred to it for the successful implementation of the duties under the Law.

## **Chapter III**

### **Establishment of the Commission**

5. The Myanmar Communications Regulatory Commission is hereby established.
6. The Commission shall be a legal entity with perpetual succession and a common seal.
7. The Commission has the ability to:
  - (a) sue and be sued in its own name;
  - (b) acquire, hold and dispose of property; and
  - (c) enter into legally binding contracts and agreements.

## **Chapter IV**

### **Functions, Powers and Duties of the Commission**

8. The functions of the Commission are as follow:
  - (a) to license and regulate Telecommunications in accordance with the Telecommunications Law;
  - (b) to allocate, assign, control, and administer Frequency Spectrum;
  - (c) to manage and supervise the satellite orbital position of the Union of Myanmar
  - (d) to advise the Government on policies in relation to communications;

- (e) to implement and administer the Postal Law and ICT Laws;
- (f) to promote fair competition in the telecommunications sector and protect against anticompetitive practices;
- (g) to ensure that Telecommunications Services and Postal Services are reasonably accessible to the public;
- (h) to administer in the matters concerning Myanmar regarding the setting of international standards relating to Telecommunications and use of the Frequency Spectrum;
- (i) to carry out inspection and supervision of the performance of Service Licensees in accordance with the Law;
- (j) to promote and facilitate the development and expansion of the Telecommunications sector;
- (k) to make available to the public information regarding communications.
- (l) to assist the Competition Commission to investigate complaints regarding market conduct in Telecommunications Service and Postal Service markets;
- (m) to assist the National Broadcasting Development Authority;
- (n) such other functions as are conferred on the Commission by any existing law;
- (o) to do anything reasonably necessary for the performance of the Commission's functions.

9. The powers of the Commission are as follow:

- (a) the powers granted to the Commission by the Postal Law and ICT Laws;
- (b) power as a statutory body to do all things necessary to, the performance of its functions, and to achieve the objectives of the Postal Law and ICT Laws including but not limited to:
  - (1) make determination or decision
  - (2) take enforcement actions to a licensee
  - (3) the power to institute proceedings for a monetary fine and apply for other orders in a Court of competent jurisdiction;
  - (4) the power to make notifications, orders, directives, procedures, standards and codes of practice; and

- (5) the power to take any other enforcement or administrative action permitted under the Postal Law and ICT Law.

10. The Commission may negotiate and enter into agreements with other organisations or authorities, including those outside of Myanmar, for the purposes of the Commission to perform its functions, exercise its powers and discharge its duties.

11. The duties of the Commission are as follow:

- (a) performing its functions and exercising its powers with due care and diligence and in a fair and just manner, taking account of all of the circumstances;
- (b) seeking at all times to operate with the greatest achievable efficiency in the discharge of its functions and the exercise of its powers;
- (c) ensuring the funds and other resources of the Commission are used efficiently and appropriately; and
- (d) any other duties imposed on the Commission under the Postal Law and ICT Law.
- (e) supervision of the Universal Service Fund and implementation of programs under the Universal Service Strategy

12. (a) If the Union Government informs the Commission of a Government Policy by way of a written notification, and if the policy is consistent with the Postal Law and ICT Laws, then the Commission shall:

- (1) Ensure that the Government Policy is carried out;
- (2) perform its functions or exercise its powers in a manner that is consistent with the Government Policy;

(b) The Commission shall ensure that the Government Policy by way of a notification received under subsection (a) is published.

13. The Commission shall on its own motion or at the Minister's request, advise the Minister on:

- (a) policies for and the regulations of Telecommunications Services and Postal Services; and
- (b) policies for the management and use of the Frequency Spectrum.

**Chapter V**  
**Membership of the Commission**

14. The Commission shall be formed with the following Members:
  - (a) A Chairman; and
  - (b) Two other Members.
15. The Members collectively shall be responsible for following matters:
  - (a) the performance of the functions of the Commission;
  - (b) the exercise of the powers of the Commission; and
  - (c) the execution of the Government Policies, and the implementation of the decisions, of the Commission.
16. The Commission shall be responsible to the President.
17. The Members of the Commission shall not be considered to be civil service personnel.
18. No Member shall, while holding office, hold any other office or employment, whether remunerated or not, without the President's written approval.

**Chapter VI**  
**Appointment and Removal of the Members of the Commission**

19. President shall, within 30 days from the commencement day, form and assign a selection committee that comprises of the following -
  - (a) a designated person of the Speaker of the Pyidaungsu Hluttaw;
  - (b) the Minister responsible for communications or the person designated by him; and
  - (c) a member of the National Telecommunications Advisory Committee who is not an official within the Ministry, as nominated by the Chairman of that committee;
20. The selection Committee shall be an ad-hoc committee formed temporally on need basis and the duration of the Committee shall be notified at the time of its formation.
21. The selection committee shall convene on the following conditions:
  - (a) within 30 days of its formation; or

(b) as vacancies arise among the Membership of the Commission

22. The selection committee shall be chaired by the member of the committee as chosen by the committee as Chairman.

23. (a) The Selection Committee shall do the follow to recommend a list of nomination for membership of the Commission to the President:

- (1) undertake an independent and transparent selection process including publishing advertisements, reviewing any available recommendation and holding interviews; and
- (2) invite proposals for candidates from the public and Telecommunications industry.

(b) The selection committee shall recommend for membership of the Commission persons who meet the following criteria and with whom majority of the committee are satisfied:

- (1) citizen born of both parents who are citizen;
- (2) not younger than 40 years and not older than 65 years;
- (3) is a graduate of a university;
- (4) possesses sound knowledge of the communications sector.

24. After considering the recommendation of the selection committee, the President shall appoint one of the nominees as Chair and the other two as members of the Commission.

25. (a) The Chairman of the Commission shall:

- (1) be appointed for a fixed term of 6 years; and
- (2) be paid emoluments, and allowances commensurate with that of a Union-level Minister.

(b) The other Members of the Commission shall:

- (1) be appointed for a fixed term of 4 years; and
- (2) be paid emoluments, and allowances commensurate with that of a Union-level Deputy Minister.



- (c) Each Member of the Commission:
  - (1) shall be appointed on a full-time basis; and
  - (2) may be appointed as a Member more than once subject to the limitation that a later appointment must not result in the sum of the person's periods of appointment exceeding 12 years. No person shall be appointed or remain as a member.

26. A person shall not be eligible to be appointed, or remain, as a Member if that person:
- (a) has committed a serious breach of the terms and conditions of their appointment;
  - (b) materially fails to perform their functions;
  - (c) takes a direct or indirect benefit from a Licensee or a person or firm affiliated with a Licensee,
  - (d) is determined by a medical team formed in accordance with the Law to become physically unable to continue discharging his/her duties;
  - (e) becomes or has been declared bankrupt or insolvent
  - (f) convicted of any offence in Myanmar or elsewhere under a law involving dishonesty or corruption
  - (g) is a Minister or Deputy Minister at any level of Government;
  - (h) is taking office for a position where he/she is receiving government salary and allowance
  - (i) official or staff of a government department or organization, government commercial business, board, corporation, or a regional administrative body
  - (j) Running a company or operating a commercial business or being an employee
  - (k) is a member of a Hluttaw or holds any other elected office;
  - (l) is a member of any political party; or
  - (m) has, or had within the 12 months prior to appointment, any other interest which could, in the opinion of the Committee, conflict with the proper performance of his duties as a Member.

27. A Member may resign from office on the provision of 30 days' written notice to the President.

28. The office of a Member shall become vacant if the Member holding such office:
- (a) dies;
  - (b) attains the age of 70 years;
  - (c) is found to have been unqualified for appointment in accordance with subsection (b) of Section 23;
  - (d) is found to have been ineligible for appointment, or is not eligible to remain a Member, in accordance with Section 26;
  - (e) completes his tenure of office and is not reappointed in accordance with subsection (c) (2) of Section 25;
  - (f) resigns from office in accordance with Section 27; or
  - (g) is removed from office in accordance with Section 29.
29. (a) If the President has reason to believe that a Member is not eligible to continue in office pursuant to Section 26, the President shall form an investigation committee with 3 relevant members to investigate into the matter.
- (b) The investigation committee shall be ad-hoc and duration of the investigation committee shall be included in the notification of the formation of the committee.
  - (c) Upon receiving a notification from the President for investigation, the investigation committee shall inform the relevant Member.
  - (d) The investigation committee shall give the relevant Member an opportunity to make representations in response to such notice.
  - (e) The Member shall not be removed from office on the grounds in subsection (a) and (b) of Section 26 unless:
    - (1) the Member's alleged conduct is investigated by the investigation committee;
    - (2) the Member is given an opportunity to make representations in such an investigation; and
    - (3) a majority of the investigation committee recommends, based on the result of its investigation.
  - (f) In making a recommendation to the President under this section, the investigation committee shall consider any relevant advice that has been made available to

determine whether the removal from office is reasonably justified in the circumstances.

- (g) If the President, acting on the recommendation of the investigation committee, is satisfied that the Member is ineligible to continue in office, the President may remove the Member from office with no less than 30 days' notice in writing and shall provide the detailed grounds for such removal.

30. The Chairman of the Commission shall inform the President of the expiration of the tenure of a Member no later than 90 days before that expiration.

31. The selection committee shall seek to minimise the period of vacancy of the position of each Member. In any event of vacancy, the Selection Committee shall make recommendation for Membership in the following manner:

- (a) no later than the end of the Member's fixed term; and
- (b) no earlier than 30 days before the end of the Member's fixed term.

## **Chapter VII**

### **Decision-making and Delegation by the Commission**

32. (a) The Commission shall meet at least once a month for the efficient performance of its functions.
- (b) Meetings shall be called with notice of not less than one week, unless the Commission determines at the meeting being called, that the matters for decision require urgent attention.
- (c) The Commission meeting shall be held as follow:
- (1) The meeting shall hold if the Chairman and another Member attends the meeting. In case when the Chairman cannot attend the meeting, the meeting can proceed by written authorization of the Chairman.
  - (2) the Chairman shall preside at all meetings. In cases when the Chairman cannot attend the meeting, the Chairman may designate one of the Members to preside.
  - (3) all Members present are entitled to vote.
  - (4) a decision of the majority of the Members present at any meeting shall be the decision of the Commission. In the event of an equality of votes, the presiding Member shall have a casting vote.

- (d) The Commission shall keep written minutes of all of its meetings.
  - (e) A determination in writing signed, or assented to in writing, by all the Members of the Commission necessary to constitute a quorum shall be as valid as if it had been made at a meeting of the Commission duly called and constituted by those Members.
33. (a) If a Member is to take part in the consideration or determination by the Commission of a matter that relates to a business that Member has any form of direct or indirect interest:
- (1) the Member shall make a disclosure of that interest;
  - (2) such disclosure shall be recorded in the minutes of the meeting;
  - (3) the Member shall not continue to take part in the consideration or determination of the matter; and
  - (4) the Member shall not be counted for the purposes of constituting a quorum for the Commission.
- (b) This section does not apply to the extent that the interest of a Member is only as a result of the supply of goods and services that are available to the public on the same terms and conditions.
34. (a) The Commission may delegate any of its functions, powers or duties, other than the right to vote or this power of delegation to:
- (1) a Member;
  - (2) a member of the Commission Staff; or
  - (3) a person whose services are made available to the Commission in accordance with Section 40.
- (b) A delegation by the Commission:
- (1) shall be in writing;
  - (2) shall be subject to such conditions and restrictions as are specified in the instrument of delegation;
  - (3) shall be specified to be restricted to a class of matters;
  - (4) is revocable without notice by resolution in writing of the Commission; and,

(5) such revocation shall not affect or prevent the performance of a function, the exercise of a power or discharge of a duty by the Commission.

(c) A delegate is subject to the same obligations, responsibilities and protections as a Member under this Law.

(d) A Member may not delegate any powers nor nominate an alternate to attend meetings of the Commission of his behalf.

35. In performing its functions and exercising its powers, the Commission must have regard to Myanmar's obligations under any Convention.

36. Subject to this Law, any act, decision or proceeding of the Commission is not invalid by reasons of the following:

(a) a defect or irregularity in the appointment or removal of a Member;

(b) a vacancy in, or absence from, the office of a Member; or

(c) a failure by a Member to comply with Section 33;

37. No Member shall be personally liable for any act done or default made by the Commission in good faith in pursuance or intended pursuance of the powers, duties and functions of the Commission under this Law.

38. (a) The Commission may, by written order, establish advisory committees to assist it in performing any of its functions.

(b) An advisory committee has no formal powers other than the power to make recommendations to the Commission.

(c) An advisory committee consists of such persons as the Commission from time to time appoints to the committee.

(d) The Commission may revoke a person's appointment to an advisory committee.

(e) The Commission may give an advisory committee written orders as to:

(1) the way in which the committee is to carry out its functions;

(2) procedures to be followed in relation to meetings.

- (f) Membership of an advisory committee is not to be remunerated and is not a permanent official position.

## **Chapter VIII**

### **Director General, Staff and Consultants**

- 39. (a) The President, after consulting with the Chairman, shall appoint a Director General.
- (b) The Director General shall be:
  - (1) primarily responsible for the supervision and day-to-day management of the affairs of the Commission and the Commission staff;
  - (2) the head of the Commission Staff; and
  - (3) the Secretary of the Commission.
- (c) The Director General shall perform such further duties as the Commission may, from time to time, direct.
- (d) The Director General may, in writing, delegate any of his powers and functions in his capacity as Director General to any of the Commission Staff, except this and, of delegation.
- (e) In discharging his duties, the Director General shall act under the authority and directions of the Commission.
- 40. (a) The Commission may employ such suitably qualified persons as it considers necessary for the efficient performance of its functions and discharge of its duties under this Law as it considers necessary.
- (b) The Director General and other persons employed under this section constitute the Commission Staff.
- 41. The Commission may make the following arrangements with a Government Entity:
  - (a) for the services of officers or employees of the Government Entity to be made available for the purposes of the Commission; or,
  - (b) for the services of Commission Staff to be made available for the purposes of the Government Entity.

42. The Commission may acquire services from consultants from time to time to assist the Commission with the efficient performance of its functions under this Law, on such terms and conditions as the Commission may reasonably determine.

43. The Commission shall take reasonable steps to ensure that Commission Staff and any consultants engaged pursuant to Section 42 do not take part in the consideration of any matters that relate to or affect a business or person in which they have any form of direct or indirect interest.

## **Chapter IX**

### **Finance**

44. (a) The Commission shall prepare an annual budget comprising:

- (1) estimates of all funds proposed to be raised or received in the next financial year, itemised to an appropriate level;
- (2) estimates of proposed expenditure for the next financial year, itemised to an appropriate level; and

(b) The budget prepared by the Commission shall be submitted to the Union Government.

(c) Commission shall prepare its necessary financial regulations to implement the budget.

45. The revenue of the Commission shall comprise the following:

- (a) monies appropriated, if any, by the Pyidaungsu Hluttaw for the purposes of giving effect to this Law, Postal Law and the ICT Laws;
- (b) all monies as appropriated under Section 46(c);
- (c) applications fee, annual fee, fees, levies and charges imposed under the Postal Law and ICT Laws;
- (d) grants, donations or other contributions, including contributions from international organisations or from a government, government department, government instrumentality or a statutory entity of a country other than Myanmar, if any, made to or for the benefit of the Commission;
- (e) loans raised by the Commission;
- (f) all monies derived from the sale, disposal, lease or hire of property vested in or acquired by the Commission; and,

- (g) any other monies lawfully received by the Commission, including interest.
46. (a) From the Succession Date, the Commission shall establish a Commission Fund.
- (b) Subject to subsection(c), all monies received by the Commission shall be:
- (1) paid into the Commission Fund; and,
  - (2) at the sole disposal of the Commission for the sole purpose of funding activities in exercise of its powers, performance of its functions or discharge of its duties.
- (c) To the extent that the Commission receives revenue in any financial year that exceeds its expenditure, then the Commission:
- (1) may retain all or part of that surplus up to the greater of:
    - (aa) an amount equivalent to 10% of the amount received as revenue in that financial year; or
    - (bb) an amount notified by the Union Government to the Commission budget; and,
  - (2) must pay any remaining surplus into the Union Fund.
47. The funds of the Commission shall be applied only for the following purposes:
- (a) In the payment or discharge of the expenses, obligations or liabilities incurred by the Commission in connection with the performance of its functions, exercise of its powers, or discharge of its duties;
  - (b) in the payment of any emoluments, allowances payable under this Law; and,
  - (c) for such purposes as are authorised by this Law or any matter relevant to discharge of the functions of the Commission.
48. Notwithstanding the provision of any other law, the revenue of the Commission shall be exempt from payment of income tax.
49. (a) At the end of each financial year, the Commission shall prepare an account of its revenues and expenditures.
- (b) The accounts of the Commission shall be audited by the Union Auditor General Office, at least once a year, in accordance with the internal financial rules, which was adopted by this Law.



50. The Commission may borrow up to such an amount as may be approved by the Union Government, to meet the capital expenditure and perform its functions under this Law.

## **Chapter X**

### **Planning and Reporting**

51. (a) The Commission must prepare a 5-year work plan.
- (b) The Commission may review the work plan and revise it as necessary.
- (c) The work plan must include details of the following matters:
- (1) the specific objectives and priorities of the Commission within the period of the plan;
  - (2) the strategies and policies that are to be followed by the Commission in order to achieve those objectives; and,
  - (3) such other matters as the Commission considers appropriate.
52. (a) The Commission must prepare an annual report no later than six months after the end of the financial year and submit the report to the Union Government.
- (b) The annual report must include the following:
- (1) a summary of the Commission's operations during that year;
  - (2) the results of the Commission's monitoring of the performance by the Licensees for the development of the Telecommunications and Postal Services sectors;
  - (3) all financial statements and auditor's reports as are required by this Law or any other applicable law; and actions taken over auditor's report.
  - (4) a list of consultants retained by the Commission and a description of the matters in relation to which they have advised;
  - (5) the membership of any advisory committees established under Section 38 and a description of the matters in relation to which they have advised;
  - (6) a list of the requests for arbitration or mediation of a dispute between Licensees and a general description of the matter under dispute; and,
  - (7) a summary of material litigation involving the Commission and any other material matters under the Postal Law and ICT Laws.

## **Chapter XI**

### **Independence and Transparency**

53. The Commission shall perform its functions as an independent, autonomous and impartial body in accordance with the Law, and shall perform its functions without favour, prejudice or political or commercial interference.
54. The Commission shall publish a written procedure setting out the standards that the Commission shall aim to meet with respect to promptness in the carrying out of its functions:
55. (a) In performing its functions, exercising its powers and discharging its duties, the Commission may, where it is appropriate and practical to do so, consult with the following persons:
- (1) relevant government, commercial, industrial, consumer and standards-making bodies and organisations;
  - (2) the general public.
- (b) The Commission shall publish a written procedure setting out the processes that the Commission shall adopt with respect to the conduct of public consultations.
56. (a) The Commission shall establish a public register on its website.
- (b) The Commission shall publish the following information on its public register:
- (1) Copies of all Postal law and ICT Laws;
  - (2) a copy of the national table of frequency allocations;
  - (3) a copy of the national numbering plan;
  - (4) copies of any written submission given to the Commission in relation to a public consultation;
  - (5) a copy of any Union Government's notifications received under Section 12;
  - (6) the work plan prepared under Section 51;
  - (7) a copy of each annual report prepared under Section 52; and,
  - (8) copies of all decisions of the Appeals Tribunal notified to the Commission.

- (c) Without limitation, subject to Section 57, the Commission may publish such other information on its public register as the Commission considers will assist it to fulfil its powers or functions, or to promote the objectives of an ICT Law.
  - (d) The Commission shall:
    - (1) publish information under subsection (a) within a reasonable timeframe after that information is created or is received by the Commission; and,
    - (2) ensure that its public register contains an accurate and up to date record of the information identified in subsection (a).
- 57.
- (a) If a person gives information to the Commission, the person may, at the time of giving the information, request that the information be excluded from publication because of its confidential nature.
  - (b) Subject to subsection (a), if such a request is made the Commission may, if it is satisfied that it is necessary or desirable to do so because of the confidential nature of the information, exclude the information from publication.
  - (c) The Commission may exclude information from publication, besides for reasons of the confidential nature of the information as set out in subsection (b), if:
    - (1) the disclosure of the information would prejudice the fair trial of any person; or,
    - (2) the Commission is satisfied that such disclosure would involve the unreasonable disclosure of any personal information about any individual.
  - (d) Notwithstanding subsections (b) and (c), where information that is subject to a request for confidentiality is provided to the Commission and the Commission determines, after considering any representations from interested persons, that in the Commission's opinion the disclosure of the information is in the wider public interest, the Commission may publish that information.
  - (e) The Commission may share with the Competition Commission any information it receives that is relevant to the Competition Commission's functions, irrespective of the confidentiality of that information. However, if a request has been made by a person under subsection (a) in respect of that information and the Commission is satisfied that it is necessary or desirable to exclude such information from publication, then:
    - (1) the Commission shall inform the Competition Commission, at the time of such sharing, of that request and that the Commission is satisfied that it should be excluded from publication; and,

- (2) the Competition Commission shall not publish such information except with the written consent of the Commission or the party who gave the information to the Commission.
- (f) Subject to this section, except for the purpose of the performance of his or her duties or the exercise of his or her functions or when lawfully required to do so by any court or under the provisions of any law, a Member, Commission Staff or agent of the Commission shall not disclose any information relating to the affairs of the Commission or of any person which has been obtained by him in the performance of his duties or the exercise of his functions.

## **Chapter XII**

### **Investigations**

- 58. (a) The Commission may investigate the following:
    - (1) the conduct of a Licensee or any matter falling within the Commission's functions;
    - (2) any matter that may involve a contravention of the Postal Law and ICT Law;
    - (3) any matter relating to the supply of, or a failure to supply, a Telecommunications Service or a Postal Service; or,
    - (4) any other matter relating to the subject matter or objective of the Postal Law and ICT Law.
  - (b) Subject to subsection(c), the Commission shall not conduct an investigation where it thinks that the subject matter of the investigation would not be a matter relevant to the performance of any of its functions.
  - (c) The Commission shall investigate a matter of a kind referred to in subsection (a) where the Union Government's requests the Commission to so investigate.
59. The Commission shall publish a written procedure setting out the processes and the conduct of investigations.
- 60. (a) The Commission shall publish a report setting out its findings as a result of any investigation it conducts. It shall publish the report promptly following the conclusion of the investigation.
  - (b) If the investigation was held because of a request by the Union Government, the Commission shall report to the Union Government at least 10 Business Day before it publishes the report.

- (c) Subject to section 57, the report shall cover the following:
  - (1) a summary of the investigation of the matter;
  - (2) the names of the persons (if any) to whom the matter relates, provided that publication will not in the opinion of the Commission result in unfair consequences for the named persons;
  - (3) the dates on which the investigation began and ended;
  - (4) any findings that the Commission has made as a result of the investigation;
  - (5) the evidence and other material on which those findings were based; and,
  - (6) such other matters relating to, or arising out of, the investigation as the Commission thinks fit.
- 61. (a) If, as a result of an investigation, the Commission is satisfied that a person has failed to do an act required by the Postal Law and ICT Law, the Commission may, by written order, require the person to do that act.
- (b) If, as a result of an investigation, the Commission is satisfied that a person has engaged in conduct prohibited by the Postal Law and ICT Law, the Commission may, by written order, require the person:
  - (1) to stop engaging in that conduct; or
  - (2) not to engage in it again; or,
  - (3) to comply both (1) and (2)
- (c) The Commission may direct a person to do specified acts that it thinks necessary to help prevent the contravention of the Postal Law and ICT Laws.

### **Chapter XIII**

#### **Information Gathering**

- 62. (a) This section applies to any person if the Commission has the following reason to believe that the person:
  - (1) has any information or any document that is relevant to the Commission's performance of its functions, exercise of its powers or the discharge of its duties; or

- (2) is capable of giving any evidence which the Commission has reason to believe is relevant to the Commission's performance of its functions, exercise of its powers or the discharge of its duties.
  - (b) The Commission may direct any person to do the following to gather information that is required for its functions:
    - (1) to give the Commission, form specified in the order, any such information; or
    - (2) to produce to the Commission, within the period and in the manner specified in the order, any such documents, whether in a physical form or in an electronic media; or
    - (3) to make copies of any such documents and to produce those copies to the Commission within the period and in the manner specified in the order; or
    - (4) to submit, at a private hearing, before the Commission at a time and place specified in the order any such documents, whether in a physical form or in an electronic media.
  - (c) The Commission shall allow the person so ordered a reasonable time to give and to produce any information and/or documents specified in the order.
  - (d) This section does not require a person to produce a document that would disclose information that is the subject of legal professional privilege.
63. (a) Any person given an order to provide information under Section 62 shall comply with the order and ensure that the information provided pursuant to the order is true, accurate and complete.
- (b) A person is not excused from furnishing information or producing a document on the ground that the information or document may tend to incriminate the person, but such information or document is not admissible in evidence against the person in criminal proceedings other than proceedings under, the Postal law and ICT Laws.
64. The Commission shall:
- (a) only use information obtained under Section 62 for the purposes of performing its functions, exercising its powers or discharging its duties under this Law;
  - (b) keep any information obtained under Section 62 confidential and not disclose that information without the consent of the provider, except for the following:
    - (1) for the purposes of performing its functions, exercising its powers or discharging its duties under this Law; or

- (2) where the Commission is otherwise permitted by this Law or is required by law to disclose that information; and,
- (c) deal with sensitive information obtained under Section 62 in accordance with Section 57.

#### **Chapter XIV**

##### **Offences and Penalties**

- 65. (a) Whoever fails to comply with or breaches any provision of this Law shall, on conviction, be punished with a fine not exceeding kyats 100 lakh.
- (b) Whoever fails to comply with or breaches any rules, regulation, notification, directive, or order issued under this Law shall, on conviction, be punished with a fine not exceeding kyats 60 lakh.
- (c) An offence under this Law shall be deemed as a cognizable offence.
- (d) The Commission or the Union Attorney General, or a person acting on behalf of the Commission or the Union Attorney General, may institute proceedings for the recovery of a monetary fine imposed on a person under this section in a Court of competent jurisdiction.
- (e) A Court of competent jurisdiction may order a person to pay a monetary fine if the Court is satisfied that the person has contravened a provision of this Law.
- (f) Where the conduct involves multiple contraventions of this Law, a proceeding may be instituted under this section against a person in relation to each contravention but the person is not liable to more than one monetary fine under this section in respect of the same conduct.
- (g) Any monetary fines payable under this Law are to be paid into the Union Fund.

#### **Chapter XV**

##### **Transitional Arrangements**

- 66. (a) On the Succession Date, the organization established under the Union Government Notification No. 125/2015, dated 27-10- 2015, shall be dissolved.
- (b) On the Succession Date, every Posts and Telecommunications Department staff stops being a staff of the Posts and Telecommunications, and is each transferred to the service, and become a staff of the Commission.

67. Any instrument made or given by the Posts and Telecommunications Department under any Law that was in force immediately before the Succession Date continues in force until amended or revoked by the Commission as if it had been made in the same terms by the Commission subject to this Law.

68. On and from the Succession Date:

- (a) the Posts and Telecommunications Department shall cease to be a regulator of the Telecommunications Services and Postal Services or responsible for spectrum management or the administration of the Postal Law and ICT Laws;
- (b) any reference in the Postal Law and ICT Law (other than this Law) to the Posts and Telecommunications Department is to be construed as a reference to the Commission, unless the context requires otherwise;
- (c) all assets and liabilities held by the Posts and Telecommunications Department, and all rights and all management or control of anything which, immediately prior to the Succession Date were vested, payable to, recoverable by, or which belong to the Posts and Telecommunications Department shall be deemed, as from the Succession Date, to have been transferred to, vested in, payable to or recoverable by and belong to the Commission without any transfer, assignment, notice or assurance other than this Law and despite any other law;
- (d) all contracts, deeds, instruments or other instruments (written or otherwise) entered into by or with the Posts and Telecommunications Department and in force immediately prior to the Succession Date shall be deemed, on and from the Succession Date, to be contracts, deeds, instruments or other instruments entered into by or with the Commission; and
- (e) all Government appropriations in the name, of the Posts and Telecommunications Department shall, as from the Succession Date, accrue to the Commission.

69. In implementing the provisions contained in this Law, the Ministry may, after consulting with the Commission, issue necessary rules, regulations and by-laws with the approval of the Union Government.

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I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Sd/ Htin Kyaw

President

Republic of the Union of Myanmar