



CITRA

الهيئة العامة للاتصالات وتقنية المعلومات
COMMUNICATION & INFORMATION TECHNOLOGY REGULATORY AUTHORITY



CITRA

الهيئة العامة للاتصالات وتقنية المعلومات
COMMUNICATION & INFORMATION TECHNOLOGY REGULATORY AUTHORITY

**Law No. 37 of 2014 on the Establishment of
Communication and Information Technology Regulatory Authority**

Having perused the Constitution;

- The Amiri Decree No. 8 of 1959 regulating the Use of Wireless Communications Devices,
- The Law No. 16 of 1960 promulgating the Penal Code, and the amending laws thereof;
- The Penal Procedures and Trials Law promulgated by Law No. 17 of 1960, and the amending laws thereof;
- Law No. 30 of 1964 on the Establishment of the State Audit Bureau, and the amending laws thereof;
- Law No. 37 of 1964, on the Public Tenders, and the amending laws thereof;
- The Decree Law No. 31 of 1978, on the rules for the Preparation of the Public Budgets and Monitoring their implementation and the State's final account, and the amending laws thereof;
- The Decree Law No. 15 of 1979, concerning the Civil Service, and the amending laws thereof;
- The Decree promulgated on 4/4/1979, concerning the Civil Service System and the amending laws thereof;
- The Decree Law No. 105 of 1980, on the regulation of State Domains, and the amending laws thereof;
- The Decree Law No. 20 of 1981, the establishment of a circuit within the Court of First Instance for the Trial of Administrative Disputes as amended by Law No. (61) of 1982;
- The Amiri Decree No. 12 of 1986, concerning the Competencies of the Ministry of Communications, and the amending laws thereof;
- Law No. 18 of 1986, on the Ratification of the Arab Wire and Wireless Communications Union Agreement,
- The Decree Law No. 116 of 1992, on the Administrative Regulation, Determination of Terms of reference and Delegation thereof, and the amending laws thereof;
- Law no. 1 of 1993 on the Protection of Public Funds, and the amending laws thereof;
- Law No. 14 of 1996, regarding the Ratification of the Charter and Agreement of the International Union for Communications and the Protocol attached thereto,
- Law No. 26, of 1996, on the Establishment of Companies for Wireless Communications Services, and the amending laws thereof;
- Law No. 19 of 2000, concerning Support of National Manpower and Encouraging the same to Work in Non-Governmental Entities, and the amending laws thereof;
- Law No. 9 of 2001 concerning the Misuse of Telephone Communications Devices and Wiretaps,
- Unified Customs System – Law of the Gulf Cooperation Council No. 10 of 2003,
- Decree No. 266 of 2006 on the Establishment of the Information Technology Central Agency, and the amending laws thereof;

- Decree No. 136 of 2008, on the Affiliation of the Information Technology Central Agency to the Ministry of Communications,
- Law No. 10 of 2007, on the Protection of Competition, and the amending laws thereof;
- Law No. 7 of 2008, on the Regulation of Build, Operate, and Transfer (BOT) Operations and Similar Operations, And amendment of some provisions of Decree Law No. 105/1980 on the regulation of State Domains;
- Law No. 9 of 2010, on the Issuance of the State's Development Plan (2010-2011, 2011-2012, 2012-2013, and 2013-2014);
- Law No. 37, of 2010, on the Regulation of Privatization Programs and Transactions;
- The Companies Law promulgated by the Decree Law No. 25 of 2012, and the amending laws thereof;
- Law No. 111 of 2013 on the Licenses of Commercial Shops; and

The National Assembly has approved the following Law, which we hereby ratify and promulgate as follows:

Chapter One **Definitions**

Article (1)

The following words and expressions shall have the meanings assigned to each of them herein below unless the context signifies a different meaning:

The Ministry: Ministry of Communications

The Minister: The competent Minister assigned by the Council of Ministers

Authority: The Communications and Information Technology Authority

Board: The Board of Directors of the Authority

Chairman: The Authority's Board Chairman

Communications: Every sending, transmitting, disseminating, publishing, or receiving of marks, signals, or transcribed material, images, movies, sounds or information of whatever nature by wire, radio, photic, or any other electronic system means.

Communications Service: The service formulated, wholly or partially, through sending or receiving information, and passing them to telecommunication networks using any local and international telecommunication means, including the internet.

Public Communications Service: The communication services offered to the beneficiaries in general or to a certain group of them against pay in accordance with the provisions of this law.

Information Technology: Creating, processing, storing, transferring or retrieving, using or availing information to others through the use of electronic means. This includes audio information as well as audio and video data.

Radio Waves: Electro-magnetic waves with frequencies exceeding three (3) kilo hertz in space without an artificial router.

Public Communications Network: Wire or wireless telecommunication system, local or international, or a set of systems to provide a public telecommunication service to beneficiaries in

accordance with the provisions of this law.

Private Communications Network: Communications system operated for the interest of one person, or group of persons bound by joint ownership to serving their private needs.

Peripheral Communications Devices: Communications devices used by the beneficiary either to transmit, receive, pass or disconnect a communication.

Beneficiary/User: A person who benefits from the public communications service or intends to use the same in purposes related to telecommunication processes.

Communication Devices: Any devices, tools, means, or wire/wireless telecommunication systems used or are intended to be used for telecommunication purposes and are part of a telecommunication network linked thereto or within its components. That includes local and international radio communication devices.

Licensing: A permission granted by the Authority, the contract, or the agreement signed between the Authority and the person allowing him to establish, operate, and manage a public telecommunication network, or provide public telecommunication services, or use radio frequencies in accordance with the provisions of this law and regulations issued thereunder.

Licensee or Service Provider: The person licensed to provide a service or more of telecommunication services to the public; or licensed to manage, establish or operate a telecommunication network or internet service to provide communication service to the public which includes information or content providers provided through telecommunication network.

Partner: A person who is party to a contract with a public telecommunication operator for providing telecommunication services.

Qualitative Approval: An approval to use specific types of telecommunication devices and terminal telecommunication devices and permission for their entry.

National Frequencies Distribution Table: The table which contains the distribution of the frequencies spectrum into bands to be used to provide the various telecommunication services in conformity with the frequencies distribution table issued by the International Telecommunication Union (ITU).

National Frequencies Distribution Plan: The plan that contains the technical criteria approved by the Authority to use the frequencies bands contained in the National Frequencies Distribution Table while observing the national security requirements in using such bands.

Distribution of Frequency Bundles: Entering the frequency bands in the National Frequencies Distribution Table to be used in one or more of the space or terrestrial radio frequencies or radio astronomical services in accordance with specific conditions.

Allocation: The permission granted by the Authority to a radio station to use frequencies or a specific radio channel in accordance with special conditions laid down by the Authority.

National Frequencies Allocation Register: This is a special register that contains all information relevant to channels and frequencies assigned or allocated to civil radio stations and others.

Radio Station: One or more transmission or reception device or a joint combination thereof including the auxiliary devices present in a specific location to provide the radio telecommunication or astronomical radio or radio services.

Radio Frequencies/Radio Frequencies Spectrum: The frequencies or spectrum comprising electromagnetic spectrum waves spread in a natural mode with a range of three-kilo hertz to three thousand gigahertz used to transmit or receive telecommunication signals and the microwave frequencies and whatever emerges later as specified by the International Communications Union (ITU) for future telecommunication systems.

Radio Communication: Whatever transmitted via radio by way of write up, marks, signals, images, sounds or movies of all types including the means, facilities, devices and services associated with transmission such as communication sending service, reception or delivery thereof.

Radio Transmission Service: Transmitting radio telecommunication to be received by the public directly or by retransmission stations, whether spatial, terrestrial or via the Internet. This service may include audio or TV (video) transmissions or other types of transmission.

International Telecommunication Structure: The infrastructure that provides the possibility of international accessibility across the State of Kuwait borders. It includes the marine cables, satellites and other terrestrial systems or any invented systems crossing the borders of Kuwait.

International Communications: Communications service between the State of Kuwait and other states through licensed international telecommunication gateways for the purpose of passing and ending them at the beneficiary. (Note there is a typo in Arabic that would confuse the meaning)

Access: To allow access to telecommunication facilities or services of another licensed operator to provide telecommunication service including connecting telecommunication devices using wire or wireless means, access to any physical installations that include buildings, conduits for wiring, cabling and towers and access to the mobile telephone networks, and to translating digits or networks that provide a similar function.

Inter-connection: The physical and logical connection among telecommunication networks either used by the telecommunication operator or by another operator to enable subscribers with an operator to communicate with subscribers with the same operator or with another operator, or to obtain services provided by another operator.

Directory: Subscribers' data in the public telecommunication network.

Comprehensiveness of Services: Providing the minimum limit of telecommunication services and information technology in areas and gatherings and facilitating the delivery of the service and its utilization in accordance with the controls and conditions set forth by the Authority and amended as needed.

Dominant Operator: Any licensee who owns a market share or has the economic power that enables him to prevent the presence and continued effective competition in the relevant market through the power of the licensee to act independently, to a tangible degree, of the competitors, participants and users as a result of its control over facilities. The basic telecommunication facilities mean public telecommunication service or infrastructure exclusively or mainly made available by one service operator or a few service operators where it is impractical to replace them economically or technically to secure the service.

Chapter Two

Communication and Information Technology Regulatory Authority

Article (2)

A public authority with independent corporate body named (Communication and Information Technology Regulatory Authority) shall be established and supervised by the competent minister. It shall enjoy an independent corporate body as well as financial independence. Other branches for the Authority may be established inside the State of Kuwait.

Personnel at the Ministry of Communications working in the fields that the Authority needs shall be transferred to the Authority and the Minister of Communications in their regard shall issue a decision while all their rights and allocations shall be maintained.

Article (3)

The Authority shall undertake to regulate, supervise and monitor the telecommunication sector to upgrade the same in the State of Kuwait and protect the users' interests. In so doing, it may:

- A- Regulate the services of the networks of all telecommunication in the State of Kuwait in accordance with the prescribed public policy to guarantee developing and spreading such services of all various types and present them to users efficiently at suitable prices in a way that achieves the ideal performance for the telecommunication sector. It also may coordinate with the telecommunication and information technology authorities of the GCC system in this regard.
- B- Develop a detailed list of the technical terminology used in the telecommunication and information technology sectors, set their meanings approved within the State of Kuwait, publish such list, and continually update the same annually.
- C- Develop bylaws to regulate the telecommunication and information technology sectors in consistence with the prescribed public policy in this regard and to guarantee providing the telecommunication and information technology services as required by comprehensive development in the State of Kuwait and continually update such bylaws annually.
- D- Develop controls relevant to the service spread rates that service providers adhere to in providing the service, guarantee that such service realizes and implements the most up-to-date systems and standards, establish criteria for service quality, monitoring and means of compliance thereto by the service providers as well as conditions that identify the dominant operator over any of such services annually.
- E- Encourage competition and investment in the telecommunication and information sectors and prevent illegitimate competition or abusive use by any party of its dominant position in the market.
- F- Develop bylaws that establish controls and conditions to grant licenses for telecommunication networks and services, the internet, and the use of radio frequencies, establish and operate international telecommunication structure, international access structure and the conditions relevant to comprehensive service and comprehensive access to ensure that services cover all regions of Kuwait provided that such controls and conditions shall be described as being transparent, public and equitable in line with

recognized laws and public moral values.

- G- Determine the fees to be collected from the licensees against their use of the frequency spectrum, numbers, and the internet bands, determine other resources due to the telecommunication and information technology sectors, and set collection mechanisms and means of such fees and resources.
- H- Manage radio frequency spectrum, monitor interventions and quality of the frequency spectrum; adopt the necessary procedures in this respect to limit and prevent the same; regulate the use of all terrestrial, marine, air and space frequencies including the preparation and updating the National Frequencies Distribution Table; prepare the National Frequencies Distribution Plan and the National Frequencies Allocation Register in participation with the military and security authorities; update the portion relevant to civil usage for both the National Frequencies Distribution Plan and the National Frequencies Allocation Register and publish the same for public use and allocate frequencies in a manner that guarantees their ideal use.
- I- Regulate interconnection between the public telecommunication networks owned by the private sector, the Ministry of Communications or any other government entity except for the security entities so that all public telecommunication providers shall be bound to provide interconnection among their networks and to facilitate connecting subscribers to all networks as per contracts concluded in this respect. The Authority undertakes to facilitate and encourage the service providers to reach agreements to interconnect among each other as soon as possible in accordance with instructions issued by the Authority for this purpose. The Authority may also engage to intermediate and arbitrate in the event parties fail to reach an acceptable solution to all parties within a reasonable period. The executive bylaws shall define the interconnection principles.
- J- Establish the technical and operational rules and standards to connect wire and wireless telecommunication devices with the public telecommunication networks including the personal telecommunication devices and set procedures for regulating the entry of such devices to Kuwait in accordance with the principles provided under applicable laws.
- K- Grant qualitative approvals and regulate the entry and use of personal telecommunication devices necessary for individual or personal uses, or for use in specific areas and monitor such usage given that such frequencies do not interfere with operating companies and other entities frequencies.
- L- Collect information relevant to the telecommunication and information technology sectors to prepare and issue reports, bulletins, and guidelines to users and prepare the media programs needed to increase the public awareness of the importance ascribed to such sectors and the extent of their positive impact on the economic and social development in the State of Kuwait.
- M- Track the source of any radio waves to verify the licensing thereof without infringing on the privacy of messages while observing the provisions of enforceable laws especially the aforementioned Law No. 9/2001.
- N- Issue an annual report that depicts the Authority's activities and achievements and any changes in the prescribed general policy relevant to the telecommunication and information technology services and showing the Authority's future plans and to publish this report.

- O- Review and evaluate the need to amend the regulatory level of each telecommunication and information technology service or any type or category thereof while taking into consideration competition factors provided that revision and nature of evaluation shall be based on research study.
- P- Propose the regulatory draft bills to cope with the rapid development in telecommunication and information technology sectors and submit the same to the Council of Ministers through the competent minister, approve the regulations and bylaws and create the relevant instructions.
- Q- Guarantee compliance with the enforceable provisions of international, regional, and bilateral agreements relevant to the telecommunication and information technology sectors approved by the State.
- R- Develop the mechanisms for resolving disputes arising between service providers and service suppliers referred to it by one or all parties to the dispute, approve the regulations relevant to resolving disputes pertinent to the international network (The Internet) and set the technical and operational conditions and standards relating to national security to be complied with.
- S- Allocate, regulate and manage the naming of the domain names to access the international network (the Internet).
- T- Represent the State of Kuwait in meetings, conferences, seminars and other international forums relevant to telecommunication and information technology affairs which the Authority has competence over.
- U- Determine, update and supervise the prices and fees ceiling for telecommunication and information technology services offered to users, maintain competition and competitive market and oblige licensees to take the initiative to adopt all technical procedures necessary to discover any materials, sites, software, any content that may be in violation of the enforceable laws in the country or whatever matter that infringes on the public order and public moral values.
- V- Any other tasks to be entrusted to it by the Council of Ministers within the framework of coping with the technical developments in the telecommunication sector.

Article (4)

Authority's Board of Directors

- A- The Authority Board of Directors shall comprise seven members of experienced and competent persons to be named under a decree upon recommendation by the competent minister provided that four of them shall be full-time members and all members shall assume office for a four year term renewable for one time.
- B- The decree referred to in Item A above shall name among the Board members the Chairman. He/she shall be responsible for the administrative, financial and technical affairs of the Authority and represents the Authority before third parties and as against the judiciary. The executive bylaws shall define his responsibilities.

- C- The Authority shall have a Deputy Chairman appointed under a decree. The Chairman may authorize him with whatever responsibilities as he may so decide.
- D- A board member shall be a Kuwaiti natural person of those regarded for integrity; he shall not have been sentenced by a final verdict of declaring bankruptcy or by a ruling that restricts freedom in a crime or misdemeanor disgracing honor and honesty unless he has regained his status. The member must have a university degree as a minimum limit.

Article (5)

- A- Authority Board members or its personnel should not have, during their membership term or positions therein, or anyone of their relatives up to the first degree, any direct or indirect benefit or interest, related to investment in the telecommunication sector, or any other interest that conflicts with their positions or jobs therein.

The board member shall notify the Chairman and the employee the General Manager in writing of the presence or emergence of any benefit or interest as previously stated.

- B- During their employment with the Authority, Board members of the Authority and personnel thereof shall be prohibited to provide any work or advisory service or the like for their own account or for third parties account pertinent to the telecommunication sector in the State that goes beyond the scope of tasks and duties he/she performs to the Authority. None of them may perform any such work or service within a year after abandoning employment except by the approval of the Council of Ministers in respect of the Board members and the approval of the Chairman of the Board of Directors in respect of the Authority employees. Employers shall be prohibited to employ or task any Board member of the Authority or its employees with any work or service in violation to this article.

Article (6)

The membership seat at the Authority Board of Directors becomes vacant in the following cases:

1. Resignation;
2. Expiry of membership term;
3. If a member is absent for three consecutive sessions or six nonconsecutive sessions of the Board of Directors' sessions during the year without an excuse acceptable to the Board;
4. If it is proved that the member has direct or indirect interest in the telecommunication or information technology field in violation to Article (5) of this law;
5. If a final judgment of indictment is rendered against him in a crime or misdemeanor disgracing honor or integrity;
6. If a final judgment is rendered against him declaring his bankruptcy; and
7. If he/she becomes unable to perform the duties a board member is tasked with due to sickness or death.

In the event a membership expires, a substitute member shall be appointed in accordance with provisions of Article (4) of this Law to complete the term of the member whose membership has

expired within a period of no more than a month from its expiry date.

Article (7)

The Council of Ministers shall determine by a resolution the remunerations of full and non-full time Board of Directors members.

Article (8)

The Board of Directors shall exercise all powers required for the Authority to discharge its duties, particularly to:

- A- create and update the plans and programs related to implementation of the State's general policy in the telecommunication and information technology sectors;
- B- approve the licenses and permissions for establishment, operation and management of the public telecommunication networks, providing telecommunication and information technology services to users and establishment and operation of international telecommunication infrastructure and international access infrastructure based on determination of the licensing mechanism and conditions and the period of time to be taken for granting it from the date of closure of applications.
- C- approve the renewal, amendment or revocation of such licenses and announcing the resolutions made in this regard;
- D- set the conditions and criteria related to new licenses and permissions to operators who had, before establishment of CITRA rights, permits, contracts or allocation of resource for provision of telecommunication and information technology services and those related to the use of radio frequencies and internet. telecommunication
- E- Reconcile the conditions of the present operators in accordance with the provisions of the law and reconciling the conditions of the existing private or state-owned networks, except for the networks owned by the State's security agencies in accordance with the provisions of this law;
- F- Approve the Authority's policies, particularly those related to promotion of competition, prevention of monopoly, distribution and customization of radio frequencies spectrum, and provision of services;

To order the licensee, at his cost, to provide and install the devices, equipment, programs, computers and all technologies and techniques that guarantee prevention and blocking of any offensive materials, links and websites, collect the information and data that pass through or by it or by satellites, submarine pathways, radio waves or any other innovated means, whether using the Internet or any other public or private telecommunication means.

- G- Setting the principles of determining the prices and fees of the telecommunication and information technology services provided to users in what conforms to the competition reality in providing the service, its level and monitoring its application;
- H- Determining the prices and fees of telecommunication and information technology services offered to beneficiaries in the event of competition absence or weakness;

- I- Following up applying penalties on violators to licensing conditions and provisions of the law;
- J- Proposing recommendations relevant to assigning lands to the licensees in accordance with the provisions of this law and operable legislations;
- K- Deciding on the complaints submitted to the Authority by users and licensees and laying down criteria for solving the internet disputes and adopting the required procedures appertaining thereto except for the disputes relevant to financial dues resulting from applying valid agreements;
- L- Setting up advisory committees necessary for assisting the Authority in executing its entrusted duties;
- M- Approving the technical rules and special criteria for linking personal telecommunication and other devices, wire and wireless, with the public telecommunication networks, and approving the procedures of the entry of such devices to Kuwait and publishing that in the Official Gazette and any other advertising means that the Board chooses;
- N- Regulating the entry to the telecommunication networks and the conditions of linking them in accordance with instructions issued by the Authority for this purpose, approving the linking agreements referred to in Article (25) of this Law, making sure the agreements do not violate such instructions while observing the conditions of any licensing granted by the Authority, or any agreement made with the Ministry before this law becomes effective;
- O- Approving a national numbering plan for the public telecommunication services, and distributing such numbers to such services and their providers in accordance with objective, transparent, and non-discriminatory bases;
- P- Approving and issuing the needed instructions to implement the policy relevant to the thoroughness of the telecommunication and information technology services;
- Q- Identifying the projects and general services relevant to upgrading the telecommunication and information technology level in the State which require support from the Public Treasury because they are not economically feasible in the private sector, and identifying the manner of providing the support to achieve promoting the services in the two sectors;
- R- Determining the revenues which will go to the State from licenses, permits and fixing the return they give to the State;
- S- Appointing an auditing internal and external office or more to audit accounts;
- T- Approving the estimated annual draft budget of the Authority and approving the annual report issued by the Authority, the annual draft budget and final accounts and the external auditor's report; and
- U- Approving the organization structure and the job profile of the Executive System of the Authority.

Article (9)

The Board shall have the right to exclude any licensee from application for new license, and shall have the right to refuse any change to the ownership of the licenses and contracts if the board found that their participation in the tender or this change would result in non-competitive situation in the market.

Article (10)

The Board of Directors may enter into contract with specialized authorities, entities, or institutions, or specialized science, technology and law companies or cooperate therewith to perform some of the Authority's works or duties.

Article (11)

The Board shall meet upon invitation of the Chairman or Deputy chairman when he/she is assigned to do so at least once per month and whenever necessary. The Board meeting shall be valid if attended by the majority of members provided the Chairman or the Deputy Chairman are presented. The board decisions shall be approved by the majority of votes. In case of tie, the Chairman's side shall prevail.

Chairman shall call the Board to meeting based on written request of at least three members within no more than seven days from his/her receipt of the request. The Board may decide to invite experienced and specialized person to consult him for the fees that may be determined by the board for this purpose. It may create one or more technical or consulting committee to advise the board or to the Authority. The board shall approve release of remunerations for the members of such committees who are not CITRA employees.

Chairman shall select Board Secretary from the number of employees who will prepare the agenda, record the minutes of meetings, keep the registrations and transactions related thereto, perform any duties that may be assigned to it by the Board of Directors. The Board may publish in the Official Gazette the resolutions relating to service providers, licenses and main decisions.

Article (12)

CITRA shall secure special financial resources sufficient for its operation. The Authority's financial resources shall consist of:

A-Fees of issuance and renewal of licenses and permits;

B-Wages and revenues received by CITRA for the services offered thereby or the amounts it levies as fines or penalties as provided hereunder or in its implementing regulations; and

C-Any other revenues approved by the Council of Ministers.

The revenues surplus achieved by CITRA in any fiscal year will go to the State's budget after deducting the reserves decided by Council of Ministers in the minimum of 10%.

Article (13)

CITRA shall have separate budget that starts with the State's fiscal year and ends by end thereof. However, the first fiscal year however shall start from the date when this law comes into force until the end of the next fiscal year.

Article (14)

Six months after issuance of CITRA 'S implementing regulations CITRA shall replace the Ministry of Communications and any other entities within the powers the Law vested into CITRA .

Article (15)

All service providers or licensees who are authorized to own or operate telecommunication networks, or use wireless waves shall adjust their conditions to comply with the provisions of this law within no more than one year from the date of publication of CITRA's implementing regulations.

Chapter Three

Licensing Communications Networks and Services

Article (16)

Establishment, operation, management, or provision to public of public telecommunication networks, internet services, international or land telecommunication, or advertisement of anything of that type telecommunication shall be allowed only after obtaining a license from CITRA in accordance with the provisions of this law and its implementing regulations.

State-owned public networks shall be governed by the provisions of this Law.

Article (17)

CITRA may issue instructions specifying types of private networks, and guidelines and technical conditions for establishment and operation of them. CITRA also may stipulate its approval to establish some types of those networks, as necessary.

Article (18)

In accordance with provisions of the above Article (17), private telecommunication networks may not be established and operated without obtaining a license for that from CITRA except for the license necessary for use of radio frequencies.

Article (19)

Private telecommunication networks may be connected to another only through access to public networks in accordance with a written agreement between the owners or operators of such networks, as the case may be upon the instructions issued by CITRA on the guidelines and technical conditions required for connection. CITRA's approval may be required for connection of some types of such networks if needed in the manner that that guarantees the principle of competition and no monopoly.

Article (20)

Whoever owns, operates or manages a private telecommunication network may not provide public telecommunication services via that network.

Article (21)

A- CITRA may decide to establish, operate, and manage public telecommunication networks, offer the public telecommunication service, international access platform, or international access networks, land telecommunication structure, or land telecommunication service that rely on the State's scarce resources (frequencies and digitization), and fiber optics throughout the country or part of it. In this case, the Board shall announce as it deems appropriate the licensing decision and the instructions related to the procedures and criteria of selection of the licensee in accordance with the type of the service.

B The service referred to in the above paragraph (A) shall be licensed through public tenders in

accordance with the conditions to be approved by the Board.

C-The Board shall define the conditions and criteria of granting the other licenses related to provision of public telecommunication and international telecommunication services. Submission of applications for such licenses shall be open to whoever satisfies the conditions.

Article (22)

In addition to the technical and any other conditions, procedures of granting the license should consider the following:

A-All those who desire to obtain a license shall be given opportunity to submit their proposals or applications if they meet CITRA's conditions.

B-The proposal or application shall be based on the undertaking for provision of service to all interested people within reasonable time and affordable prices.

C-The proposal items shall be based on fair and legitimate competition with former license holders.

Article (23)

Licensee of public telecommunication services who enjoys controls shall, when approached by any other public telecommunication licensee, access to its network on fair and reasonable conditions to be determined by CITRA. CITRA may, if needed, bind the controlling licensee in public telecommunication for the purpose of access to the infrastructure owned by the controller of service in accordance with the rules and conditions issued by CITRA . If CITRA finds that the prices and terms offered by the controlling licensee for access are unacceptable and unjustifiable, CITRA may fix the prices and define the terms it deems appropriate in this regard.

Article (24)

Licenses provided in article 21 (paragraph A) shall be granted by Amiri decree. Licenses provided under article 21 (Paragraph C) shall be issued by a Board decision, provided it is regulated by a contract of administrative nature that contains, in addition to other conditions set forth by this law, or the regulations issued thereby, definition of the proceeds due to CITRA from CITRA , and term, renewal and proceeds and renewal fees of the license, any other or financial returns rights, as lump sum or periodic amount to be paid by the licensee.

Article (25)

Each licensee shall enter into connection agreements with the other licensees according to the licensing requirements of each of other licensees provided such agreements contain all conditions of to the technical, operational, administrative, financial and commercial aspects that contain the necessary flexibility to be executed by the respective parties provided the following shall be observed:

A- Agreements shall be prepared in accordance with the instructions to be issued by CITRA under paragraph (J) of Article (3) hereunder;

B- Agreements shall include the conditions of termination, cancellation and amendment of them and measures to be taken because of violation of these conditions by either party.

C- CITRA's approval of such agreements as a precondition for the enforcement of the agreement

Chapter Four

Management of Frequencies and Licensing of their Use

Article (26)

The frequencies spectrum is considered a national resource that CITRA undertakes to regulate its usage in accordance with this law and prepare the schedules, schemes and registers necessary for this purpose as provided hereunder. The part allocated for public civil uses shall be published in the Official Gazette.

Article (27)

A-Subject to the provisions of paragraph (B) of this article, no person may use any radio frequencies unless he/she obtains the required license therefor in accordance with the conditions to be set by the Board.

B- In coordination with CITRA, the armed forces and security agencies may use the radio frequencies customized and assigned to them without license in a manner that does not cause jam of other frequencies. The military and security agencies may use the other customized frequencies provided they obtain CITRA's approval and be subject to the same licensing conditions that apply to other licensees and provided this does not harm other beneficiaries from radio frequencies but they shall be exempted from licensing fees.

C-Subject to the provisions of any other law that requires obtaining an operation license for radio services, operators of such services including the radio, television, transmission via satellites and receivers shall obtain the relevant license from CITRA.

Article (28)

The Council of Ministers may, at the Minister's office based on the Board's recommendation, approve adoption of the mechanism of submission public tenders to grant licenses for use of radio frequencies spectrum in the cases warranted by the public interest, provided that the anticipated returns from this method shall not be the only or the main reason for estimating this interest.

Article (29)

After reviewing the opinion of the experts and specialists, the board shall set a plan for customization or assignment of radio frequencies, its review and amendment as needed. The plan shall take into account the national agenda to customize the frequencies and the national plan for allocation of the frequencies, policies and goals related to future uses of radio frequencies in the State.

Article (30)

Subject to the exceptions set forth under article (31) of this law, no ownership or use a radio station on the State's territory or aboard a ship or aircraft registered in the State shall not be allowed unless a license (for this purpose) is obtained in accordance with this law. Likewise, it is not allowed to bring a radio station to the State unless CITRA so permits.

Article (31)

A-The armed forces and the security agencies shall be excepted from the provisions of Article (30) of this law.

B-The Board may exclude the following entities from provisions of article (30) of this law:

- 1-Foreign ships and aircrafts, land transportation and transit services that pass through the territorial waters, airspace or lands of Kuwait or dock in its ports or land in its airports.
- 2- Embassies provided reciprocity is observed and obtaining a renewable permit.

Article (32)

A-The licensee shall comply with the use of radio frequencies in accordance with the conditions and criteria granted in the license, including:

- 1-Radio spectrum frequencies assigned to him
- 2-Type and specifications of the aerial and the radio stations
- 3-Boundaries of the licensed geographical area related to the mobile station
- 4-The site where the aerial is installed
- 5-Capacity of the radio station operator
- 6-Any other technical conditions that enhance the efficient use of frequency

Chapter Five

Renewal, Amendment and cancellation of Licenses

Article (33)

The license term for the public telecommunication network or the license to use frequencies shall be for a fixed term and shall be renewable in accordance with the CITRA's instructions.

Article (34)

A-Subject to the provisions of paragraph (B) of this article, the Board may decide to amend one or more of the licensing conditions. Amendment shall be subject to the following procedures: The Board shall advise the licensee in writing of the amendment, reasons, and the period of execution. The licensee may submit its objection to that amendment within the timeframe to be fixed by the Board.

1. The Board may call the complainant for discussion to hear reasons of the objection. By the end, the board may decide to accept the amendment, postpone its execution, or accept the objection. The board decision may be appealed before the competent court.

Article (35)

The Board may cancel the license in its entirety, or for a certain service, or in a certain area, If the licensee committed grave violation of the licensing conditions, the provisions of this law, the regulations issued under it, the Board's instructions, or if he unduly inflicted serious damage to third parties and if he didn't repair the situation within thirty days from a written warning to him by the Chairman of if he delayed implementation of CITRA's instructions for a period of more than thirty days without a cause unacceptable to the Board.

Article (36)

The license shall be revoked in case the licensee fails to pay the agreed proceeds to renew the license for more than thirty days without reason acceptable to the Board on time.

Article (37)

The license shall be revoked in case the licensee does not safeguard technical means to secure, keep, and store anything that passes through it whether this was through the internet, any other telecommunication network or whatever means. The license shall be cancelled de facto if the licensee is liquidated, declared bankrupt or disqualified.

Article (38)

A licensee whose license is cancelled in accordance with the law may not claim any compensation, refund or any reimbursement of any proceeds paid to obtain or renew the license for whatever reason.

Article (39)

The licensee should abstain from accepting new subscriptions as of the date of his notification of license cancellation. He may continue with the work as of the cancellation date only to the extent necessary and required for the transfer of subscribers to another licensee by CITRA's written approval.

Article (40)

A licensee whose license was cancelled may not apply for a license before expiry of two years after cancellation of the license.

Article (41)

The license cancellation decision shall not deprive the person affected by the licensee's violation from initiating claims for compensations or the subscribers' right to claim compensations or cash refund.

Article (42)

The license is deemed personal and is non-transferrable. The Board may approve transfer of it to another person in accordance with the respective conditions and prescribed returns.

Chapter Six **Qualitative Approvals and the License of Communications Devices**

Article (43)

A-CITRA shall establish technical rules and standard specifications for the telecommunication devices and the terminal telecommunication devices to ensure that no harm is caused to the telecommunication networks or services, public health and safety and the environment.

When such rules are set, CITRA shall coordinate with the other entities in charge of the specifications in the State provided it publishes them in the Official Gazette and any other advertising media available to the interested persons/parties.

B- Any person who provides telecommunication services, supplies telecommunication devices or sells them may not use, supply or sell non-conforming telecommunication devices to the technical rules and specifications specified by CITRA.

Article (44)

An importer or who desires to import telecommunication devices the technical specifications of which have not been announced may apply to CITRA for issuance of its prior approval of import such devices to reinforce the application with the manufacturing company's manual to show its specifications in coordination with the appropriate authorities.

Article (45)

The Board shall issue the instructions that highlight the conditions and procedures of receiving the approval to bring the telecommunication devices and terminal telecommunication devices to the country, use them, keep and trade in them.

Article (46)

Trading, sale or display for sale of bugging devices is shall prohibited. Only the competent official entities which will be defined by a decree shall be allowed to possess the bugging devices of all types. None of such entities may use the devices without obtaining prior permission from public prosecution in in accordance with the terms, conditions and procedures set forth in the Kuwaiti Code of Procedures.

Chapter Seven

Observation of Licensees and Beneficiaries Protection

Article (47)

Each licensee of public telecommunication service provision shall establish a special section to receive beneficiaries' and subscribers complaints and shall avoid the causes of complaints if they are related to the service standard and quality or to the way of service provision.

Article (48)

subject to paragraphs (G and H) of Article (8) of this law, the licensee may increase or decrease its service fees except only after advertising in two local daily newspapers the new wages and prices in no less than seven days in advance, provided they should not be more than what was provided in the license agreement conditions or the instructions or resolutions issued by CITRA in that regard. Under all circumstances, the licensee shall notify CITRA in advance of any amendments he makes to such wages and prices.

Article (49)

If CITRA received any complaint about the licensee's default or a dispute between the licensee and the beneficiaries concerning the service standard or violation of the license conditions, CITRA may investigate the reasons of the complaints and decide whether to keep the file or notify the licensee to remove the violation within (90) days.

Article (50)

The licensee shall provide CITRA with an annual report to show the available technical, administrative and financial aspects that guarantee provision of the licensed service to beneficiaries as required.

Article (51)

Phone calls and private telecommunication shall be deemed confidential and their sanctity should not be desecrated. Otherwise, the violator will be legally accountable.

Article (52)

In agreement with the licensee, CITRA may establish the rules and procedures that should be followed when the licensee receives disturbance complaints, as well as procedures of investigation of such complaints and the necessary rules required for reduction or minimization of disturbance calls in general.

Article (53)

A-Communications service may not be blocked or cancelled for beneficiaries unless the beneficiary has caused material damages to the network during its utilization of the service, or if it uses the telecommunication service in contravention to the applicable legislation or public morals, or if it fails to pay due fees and wages in spite of written warning.

B- The telecommunication service shall not be disconnected under any circumstances from the beneficiaries due to financial, or administrative or technical disputes between the licensees except in accordance with the procedures provided by the Connection Agreement concluded in accordance with provisions of Article (25) of this law. Disconnection of service due to causes relevant to national security based on the concerned authorities' request shall be excluded.

Article (54)

CITRA shall assure that the licensee complies with the conditions and provisions of law. It may adopt any measures it deems appropriate for this end, including:

- A- Physical examination of the network and telecommunication devices location telecommunication;
- B- Examining the licensee's technical records that the adopted systems to issue invoices are sound and accurate;
- C- Assure the quality of the service provided to beneficiaries and complaints of beneficiaries; and
- D- Review the maintenance and failure records at to licensee to ensure the efficiency of service management.

Article (55)

The Board Chairman may decide to establish one or more committees from outside CITRA to settle disputes. The committee shall be chaired by consultant to be nominated by the Supreme Judiciary Council or the Chairman of Legal Advice and Legislation Department, as the case may be. The committee shall be assigned to resolution of the disputes that may arise between CITRA and any licensed operator, or among operators themselves. It shall settle the complaints filed by operators or others against CITRA's decisions and procedures or which have direct relationship to it.

The decision issued by the Chairman shall define the number of the Committee members provided their number is odd and shall not exceed five experienced and specialized members. The Implementing regulations shall also defines the procedures and regulatory rulings to be adopted before such committees. Stakeholders may appear before the committee, submit their memos and defense on the disputes referred to them.

The committee's decisions shall be binding on the disputed parties. Grievance against decisions may be filed before the judiciary. Under all circumstances, resorting to judiciary before resorting to this committee is not allowed. The committee shall adjudicate the disputes referred thereto within one month from filing the grievance or the request. The objectionable issues when reviewed before the judiciary shall be attached to the technical report prepared by CITRA.

Chapter Eight

Competition Provisions

Article (56)

The licensee may not act in any manner or do or omit to do anything that may prevent, limit, or distort competition in any business relating to the telecommunication sector in the State if the act or omission occurred as a result of operating telecommunication network or providing telecommunication service.

Article (57)

The act or omission referred to in the preceding article may obstruct, prevent, or distort competition in any of the following cases:

- A-The licensee alone, or in collaboration with others, exploits a controlling position in the market or in a main part thereof;
- B-Agreement with others for the purpose of preventing or limiting competition in the market in the manner specified the Implementing regulations of the Law;
- C-Providing potentials to the concerned parties that would limit competition in the market; and
- D-Making market structure changes that may prevent or limit competition, particularly merger in the telecommunication sector. CITRA may issue controls pertinent to the acts, works, or omissions that prevents or limits competition.

Article (58)

CITRA is specialized in determining whether the action, act or omission that would prevent or limit competition in accordance with the provisions of the preceding article subject to the provisions of regulations and resolutions issued to provide and secure competition in the telecommunication sector and the general principles covered in the license.

Before issuance of decision in this regard, CITRA shall make the investigations it deems necessary and it may request any information or data from the licensee, summon any person to express his view on the issue. It should, before issuing the decision, advise the licensee with the reasons underlying its issue and the procedures it shall follow to avoid issuance thereof.

CITRA shall notify the licensee of the decision it issues in this regard and may notify any other related person. The necessary and required procedures to remove the causes of the violation shall be adopted at the expense of the violator.

Chapter Nine

Authority of Delegated Legal Power

Article (59)

A-A decision by the Minister in coordination with CITRA will identify the employees with delegated legal powers in accordance with the provisions of this law and regulations and decisions issued in its enforcement.

B-Without prejudice to the Criminal Procedures Law and other established laws in the State, CITRA employees referred to in Item (A) of this article shall have CITRA to supervise implementing regulations of this law, the regulations, decisions and orders issued in application to its provisions. They shall have the right to access the locations which have, or are suspected to have, telecommunication devices, networks, or facilities, or all or part of the infrastructure used in the telecommunication services to inspect them and to seize any telecommunication devices or equipment which are not licensed, allowed, or used in an unauthorized activity, or that, if used, would jam or damage the existing telecommunication systems.

For this purpose, those employees shall have the right to:

- 1-Request and examine licenses, books, registers, documents and all papers related to the telecommunication activity.
- 2-Examine and inspect any telecommunication devices, telecommunication installations, or any other facilities related to providing telecommunication service or establishing, operating or owning telecommunication network.
- 3-Review any other information or documents in any form they might be related to the provision of telecommunication services.

C-The employees referred to in the preceding paragraph shall have the right to enter any aircraft, ship, boat or any vehicle that lands or docks in the State to inspect it for stations and radio telecommunication devices related to telecommunication frequencies, or to review the documents and papers pertaining thereto.

D-Any person shall be prohibited from preventing or obstructing any of the authorized persons from performing the tasks and authorities set forth in this article.

E-Civil and military authorities and Public Security Forces and authorized persons of legal powers shall include any possible assistance to perform their tasks in seizing violations.

Article (60)

A-CITRA employees may seize any unlicensed or violating telecommunication devices or equipment used in unlicensed activity against a written receipt that shall show the type and specifications of devices and hand over such devices to CITRA.

B- The seized items which cannot be licensed shall be confiscated; but licensable items shall be kept till they are licensed.

C- If seized items are not licensed, or if their owner doesn't request their restoration within six months from their seizure date, the Board may issue a decision to confiscate them.

D-

E- Confiscating the nonconforming devices will not prevent imposition of other penalties provided hereunder or under any other law.

Article (61)

If inspection showed presence of a suspicion of committing any of the crimes provided hereunder or under any other law, CITRA shall inform the Public Prosecution to adopt the appropriate measures.

Article (62)

A-CITRA shall have the right to trace the source of any radio waves to assure the licensing of that source without considering it infringement of confidentiality of the messages or violation of the provisions of applicable laws.

B-It is prohibited to publish or circulate the content of the messages that have been picked up during tracking process under the above paragraph (A). The employee who publishes or circulates the content of such messages shall be sentenced to penalties prescribed by law.

Article (63)

Subject to the provisions of other laws, and except for the crimes set forth in articles (67-80) hereunder, the Board may accept reconciliation in any violation of this law before referring it to the competent court against a cash penalty of no less than twice the amount of the fine prescribed in this law to be paid to CITRA directly.

Chapter Ten Penalties and Fines

Article (64)

CITRA may, if violation of the provisions of this law or regulations, or the decisions issued in its implementation is proved, take one or all of the following actions according to the violation volume:

A- Warn the violator to remove the violation within thirty (30) days from the date of warning;

B- Suspend the license granted to the licensee for three (3) months;

C- Remove the violation at the expense of violator;

- D- Reduce the licensed services by no more than one service per violation;
- E- Reduce the granted license term to no more than half the license term;
- F- Collect penalty of no more than one million Kuwaiti dinars per violation;
- G- Placing the seized equipment, devices, and machines under custody and hold them to the final settlement of the dispute; and
- H- Cancel the license.

The fine shall be doubled in case of recurrence or if violator pays twice the amount of the damage, whichever is bigger.

Article (65)

A stakeholder may ask CITRA to reconsider its decision within one month of his notification date based on reasons which were not known to CITRA during the issuing of the decision or measure. CITRA shall decide on the request within thirty (30) working days from its date of submission. CITRA shall respond to the applicant within one week from the decision date.

Chapter Eleven

Crimes and Penalties

Article (66)

Each Board member who violates the provisions of article (5) of this Law shall be punishable by a fine of no more than fifty thousand dinars and no less than five thousand dinars and will his his/her membership will be terminated.

Any CITRA employee who violates the provisions of the referenced article of this Law shall be punishable by a fine of no more than twenty thousand dinars and no less than two thousand dinars and will be dismissed from his job.

Any employer who violates provisions of the referred article in the first paragraph of this article shall be punishable by a fine of no more than one hundred dinars and no less than ten thousand dinars.

Article (67)

Whoever publishes or circulates the content of any communication via a public or private telecommunication network, or phone message, which he accessed out of his position or if he registered it without a legal support shall be punished by imprisonment for no less than one year and fine of no more than five thousand dinars and no less than two hundred dinars or one of them.

Article (68)

A-Whoever intentionally damages the telecommunication installations and causes damage shall be sentenced to imprisonment for no more than three (3) years and penalty of no more than fifty thousand dinars and no less than five thousand dinars or one of them. The penalty shall be doubled if his act causes a breakdown of telecommunication service.

B-Whoever causes out of negligence a sabotage to the telecommunication installations or afflicts damage to them shall be punished by imprisonment for no more than a year and with a fine of no more than five thousand dinars and no less than five hundred dinars or both of them.

In both cases, the court will rule to force the sentenced person to pay the value of repair of such damage.

Article (69)

Whoever uses or assists in of illegal means to make calls without payment of fees shall be punished by imprisonment by no more than two years and a fine of no more than ten thousand dinars or by either penalty.

Article (70)

A-Whoever intentionally abuses telephone telecommunication means shall be punished by imprisonment for a term of no more than a year and by a fine of no more than two thousand Kuwaiti dinars and by no less than two hundred dinars or any of them.

B-Whoever uses any means of telecommunication for sending threats, humiliation, immoral messages, or carries a fabricated news to create panic, shall be punished by imprisonment for no more than two-year imprisonment and fine of no more than five thousand dinars or one of them.

C-Whoever intentionally offends or defames others through a telecommunication device or means in capturing one or more photos or video clips without their knowledge or consent, or uses the potentials of such devices and photos from them without their permission, or falsifies immoral photos for other persons shall be punished by no more than two years and a fine of no more than five thousand dinars and no less than five hundred dinars or one of them.

D-Whoever sends photos through the telecommunication means or devices specified in the preceding paragraph or any amoral picture or video clip to other persons or publishes them or circulates them in any means shall be punished by imprisonment for no more than three years and fine of no more than five thousand dinars and no less than five hundred dinars or any of them.

E-If the acts referred to in items (C-D) above are associated with threat or extortion or included exploitation of photos in any manner to infringe on shyness or honor or instigation for prostitution, shall be imprisoned for no more than five (5) years and by a fine of no more than ten thousand dinars and no less than one thousand.

F-Whoever offers or participates in offering telecommunication services that infringe the public order or public morals shall be punished by the penalties provided under paragraph (B) of this article in addition to application of the provisions provided under article (35) of this law.

In all situations, the means and devices and anything used in committing the crime shall be confiscated by judgment, and all the obtained photos and video clips shall be destroyed and deleted.

Article (71)

Whoever opposed, obstructed, altered or deleted the contents of a message via telecommunication means, or encouraged others to do so, shall be punished by imprisonment for no more than one year and by penalty of no more than three thousand dinars and no less than

three hundred dinars or one of the two penalties.

Article (72)

Whoever conceals a message he was supposed to transmit through the telecommunication networks to another person or rejects to send messages he was asked to transmit either by the licensee or CITRA , or copied, or disclosed a message or manipulated the data pertinent to a subscriber including non-announced telephone numbers, sent or received messages, shall be punished by imprisonment for no more than two years and a fine of no more than five thousand dinars and no less than five hundred dinars or one of them.

Article (73)

A-Whoever established or operated or managed a public telecommunication network for the purpose of providing public telecommunication services contrary to the provisions of the law shall be punished by imprisonment for a term of no more than three years and a fine by no more than fifty thousand dinars and no less than five thousand dinars or by one of the two.

Article (74)

Whoever illegally uses a public or private telecommunication network, or links his network to another telecommunication network without a justifiable reason or blocks the services provided by other telecommunication networks, or endangers the national interests shall be punished by a two-year imprisonment term and a fine by no more than twenty thousand dinars and no less than five hundred dinars or one of them.

Article (75)

A-Whoever intentionally acts in a way to intercept radio waves assigned for third parties or to jam them or interrupt them shall be punished by imprisonment for no more than two years and penalty of no more than twenty thousand dinars and no less than two thousand dinars or one of them.

B-Whoever intentionally uses, without licenses. radio waves, except the radio waves which do not need licensing as per article (76) of this law, shall be punished by imprisonment for no more than one year and a fine of no more than ten thousand dinars and no less than two thousand dinars or one of them. The court may double the punishment if the use of frequencies was for commercial purposes.

Under all circumstances, the court will rule to confiscate the used devices.

Article (76)

Whoever brings telecommunication devices to the country in contravention to the provisions of article (30) of this law shall be punished by imprisonment for no more than one year and a fine of no more than five thousand dinars and no less than five hundred dinars, or one of them. The court will rule to confiscate the non-conforming devices. Radio waves that do not need licensing according to (ITU) shall be excluded.

Article (77)

Whoever brings into the country or traded or kept telecommunication devices that don't meet the technical standards or carry incorrect manufacturing data in contravention to provisions of

articles (43-45) of this law shall be sentenced to imprisonment for no more than one year and a penalty of no more than five thousand dinars or any of them.

Article (78)

Whoever possesses or uses bugging devices or instruments of whatever type shall be punished by imprisonment for no more than one year and penalty of no more than five thousand dinars and no less than five hundred dinars. The penalty shall be doubled against anyone who uses such instruments to record or transfer talks conducted via the telecommunication devices. In all circumstances, the devices and other tools used in this crime shall be confiscated and their recordings shall be deleted and destroyed.

Article (79)

Whoever keeps or operates a radio station in contravention to the provisions of this law shall be punished by imprisonment for no more than a year and a penalty of no more than five thousand dinars and no less than five hundred dinars or by one of the them.

Article (80)

In addition to the penalties provided under articles (74) and (75) of this law, the court of jurisdiction may, at the request of CITRA , decide to order the violator to pay an amount of no less than twice the licensing fees that service if they were licensed as civil liabilities of CITRA .

Article (81)

The preceding article shall not deprive the affected person from his right to claim compensations and the personal right for any violation of the provisions of such articles.

Article (82)

Without prejudice to the liability of natural persons, the judicial person will be criminally accountable if he commits any crime of those provided under this law in his name or for his account or by using its devices or network. That was the result of an act or gross negligence or approval or cover from a member of the Board of Directors, Manger or any other official or whoever acts in this capacity.

The judicial person shall be punished by twice the fine prescribed for the crime in accordance with the provisions of this law. This shall not infringe the criminal liability of the natural persons in accordance with the provisions of this law.

Chapter Twelve Final Provisions

Article (84)

CITRA may, by a caused decision, if the licensee violates the licensing conditions or abstains from providing the service, supervise the operation of the licensed telecommunication network or give its management to a third party for the period it deems fit.

Article (85)

The licensees or the affected parties are not entitled to claim any compensations for any damages that may result from the procedures adopted under provisions of article (84) of this law.

Article (86)

A- All licensees or the licensed to own and operate telecommunication networks or use radio waves shall reconcile their conditions with the provisions of this law and obtain the required licenses in accordance with the provisions of this law within a period of no more than one year after its effective date provided the new licensing contracts contain a detailed list of the fines and penalties contained in the law.

B- From the date of enforcement of this law, CITRA shall be the legal successor of the Ministry of Communications or any other entities in all matters pertaining to regulation of the telecommunication and information technology sector, issuing licenses or permits to operate telecommunication networks or use radio frequencies and transfer to them the information and documents pertinent to licenses and effective permits.

C-The Council of Ministers shall set the controls, foundations, and procedures necessary to transfer to CITRA the Regulatory Communications and Information Technology all financial and property assets, instruments/devices, equipment and registers related to the telecommunication and information technology sectors owned by the Ministry of Communications.

Implementation of such controls and procedures shall be supervised by a Higher Committee to be chaired by the competent Minister and composed by decision to be issued by the Council of Ministers.

Article (87)

The capital of CITRA shall consist of the movable and immovable assets. The capital shall be fixed or adjusted by decree.

A specialized independent entity selected by the Council of Ministers shall assess all the real estate and financial assets. The Implementing regulations shall regulate and organize the measures with which this entity shall comply in its work. It shall discharge its duty in the fixed timeframe in concluded contracts to be concluded therewith. The assessment shall be approved by the Council of Ministers after presentation thereof to the Audit Bureau.

Article (88)

A-The Board may, by upon approval of the Council of Ministers, create fund in CITRA to assure financial independence and shall have special account.

B-The Fund aims at increasing the comprehensiveness of the telecommunication and information technology services in the State and contribution to expansion of infrastructure and development of such services in accordance with the actual needs of the demographic gathering areas.

C-The Fund's financial resources shall consist of:

- 1-The funds allocated for it by the Council of Ministers resolution, from the proceeds provided under paragraph (a) of Article (12) of this law;
- 2-The support given to the Fund from the licensees in issuing and renewing licenses;

3-Any other source approved by the Board.

D-Matters related to organization of the Fund operation, management and supervision shall be determined by a special law to be enacted for this purpose.

Article (89)

A-The Council of Ministers shall enact the required regulations and rules to implement the law within six months from the date of its publication in the Official Gazette.

B-Until the implementing regulations specified under paragraph (a) of this article is issued, application of the regulations issued under effective laws or revoked under this law shall continue to the extent that such provisions do not conflict with the provisions of this law.

Article (90)

Every provision in convention with the provisions of this law shall be cancelled.

Article (91)

The Prime Minister and the Ministers, each in his competence, shall implement this law.

The Amir of Kuwait

Sabah Al Ahmad Al Jaber Al Sabah

Issued at Al Seif Palace, on: 9 Rajab, 1435 A.H. corresponding to: May 8, 2014.



CITRA

الهيئة العامة للاتصالات وتقنية المعلومات
COMMUNICATION & INFORMATION TECHNOLOGY REGULATORY AUTHORITY



CITRA

الهيئة العامة للاتصالات وتقنية المعلومات
COMMUNICATION & INFORMATION TECHNOLOGY REGULATORY AUTHORITY

Law No. 98 of the Year 2015
Amending some Provisions of the Law 37 of 2014
On the Establishment of Communication and Information Technology
Regulatory Authority (CITRA)

- Having perused the Constitution,
- The Amiri Decree No. 8 of 1959 regulating the Use of Wireless Communications Equipment
- The Law No. 16 of 1960 promulgating the Penal Code, and the amending laws thereof,
- The Penal Procedures and Trials Law promulgated by Law No. 17 of 1960, and the amending laws thereof.
- Law no. 1 of 1993 on the Protection of Public Funds, and the amending laws thereof,
- The Law No. 24 of 2012 on the establishment of the Public Authority for Combating Corruption and provisions for financial disclosure
- The Law No. 37 of 2014 on the establishment of Communication and Information Technology Regulatory Authority
- The National Assembly has approved the following Law, which we hereby ratify and promulgate as follows: -

Article No. (1)

The provisions of Articles - (3/ Item M) –(5/ Item A) - (5/ Item B) –(10) - (11 2nd Paragraph) (17) - (34/ Item A/1) - (42) – (51) (53/ Item B) - (59/ Item B) - (60/ Item A) - (63) (70/ Item E) - (87) – of the Law No. 37 of the year 2014, shall be replaced by the following texts: -

Article (3/ Item M) (M) to track the source of any radio waves to check that such source is licensed without compromising the confidentiality of messages, taking into account the provisions of the laws in force, especially the Law No. 9/ 2001 referred to, in implementation of the constitutional right that ensures personal freedom.

Article (5/ Item A) (A) During their term of membership or employment, the Members of Board or employees of the Authority may not enjoy any direct or indirect benefit relevant to the investment in the communications sector for themselves or any of their relatives of the first kin, as well as any other interest that conflicts with their positions or jobs.

All employees of the Authority shall be subject to the Decree No. (24) of the year 2012 referred to.

Article (5/ Item B) (B) During their term of membership or employment, the Members of the Board and the employees of the Authority are prohibited to perform any job or

advisory service or the like for their own account or the account of a third party in relation to the communications' sector in the State, and outside the scope of the tasks and duties which they perform to the Authority. Likewise, none of them may perform such job or service during six months with effect from leaving the work except upon the approval of the Council of Ministers with regard to the Members of the Board and the approval of the Authority's Chairman with regard to the employees of the Authority. Any Employer is prohibited to employ or assign any job or service to any of the Members of the Board or employees of the Authority in violation to this Article.

Article (10)

The Board of Directors may enter into contracts with organizations or bodies or institutions or specialized companies – scientific as well as technical or legal – or cooperate with them to perform some of the works or tasks of the Authority, provided that would be in conformity with the procedures of presenting the bids as determined by the internal regulations of the Authority.

Article (11- 2nd Para) The Chairman of the Board shall call for the Meeting in

pursuance to a written Application from at least three of its members within a period that does not exceed seven days with effect from the date of receiving the Application. The Board may decide to invite any person with experience and competence to be guided by his opinion. The Board may form one or more technical or advisory committee to give advice to the Board as well as the Authority after it becomes certain that such persons or members do not have direct or indirect interests with the Authority. The Board may also decide to pay remunerations to those who give their opinions and expertise and to the members of such committees other than the employees of the Authority, and the Chairman would choose a Secretary of the Board among the employees of the Authority in order to develop its Agenda and record the minutes of its sessions and keep the references and transactions, and to do any tasks entrusted to him by the Board of Directors. The Board may publish the decisions pertaining to the Service Providers as well as the Licenses and the major decisions in the Official Gazette.

Article (17)

The Board may issue instructions to define the types of special networks and the technical guidelines and conditions for their establishment and operation, and the

Authority may make a condition that its approval is essential regarding the establishment of some kinds of such networks, as deemed necessary after getting the approvals from the Ministry of Health and other bodies responsible for the safety of the residential areas in case of the existence of towers in such networks.

**Article (34/ Item
A/1)**

The Board of Directors shall notify the Licensee by means of a written notice of the amendment and its reasons and the duration prescribed for its implementation, and the Licensee would have the right to submit his objection to such amendment within (15) fifteen days, and in case it is rejected, he shall resort directly to the Disputes Settlement Committee.

Article (42)

The License shall be considered as personal and non-transferable, and the Board may agree to transfer the License or lease it to another person in conformity with the prescribed conditions and rules.

Article (51)

Telephone calls and the private communications shall be considered as one of the confidential matters which sanctity may not be violated, and may not be subject to control in any manner whatsoever except upon getting a

permission from the competent judicial authority.

If the interest of investigations in a certain crime so require, the Public Prosecution may issue an order to track the source of the waves, and it may seek the assistance of specialized persons from the Authority to carry out such job, provided that it would be under its supervision. The Investigator may entrust police men to listen to that source and record it to deliver its formula to him.

The Order must include a clear description of the wave to be tracked, and such order may not continue for a period beyond the period required by investigation.

Article (53/ Item B)

Item (B): Communications service shall not in any case be disconnected from the beneficiaries as a result of financial, administrative or technical differences between the licensees, except in accordance with the procedures provided for under interconnection agreements concluded in conformity with the provisions of Article No. 25 of this Law. As an exception, the service may be disconnected in pursuance to an authorization issued by the competent judicial Authority, provided that the cutting would be for a temporary period and justified and in accordance with the law.

The Public Prosecutor or the President of the competent Criminal Court may issue an order to prevent or stop or withhold any material or links or sites related to the communications or information technology as required by the investigation on temporary basis for a period of two weeks which may be renewed for further terms.

Article (59/ Item B)

Item (B): Without prejudice to the Law No. (17) of the year 1960, referred to, and other laws in force in the State, the Authority' employees referred to in Item (A) of this Article shall have the power to monitor the implementation of the provisions of this law and the regulations, decisions and orders issued in pursuance to its provisions, and they have the right to enter the places where there are - or are suspected to have - the devices or networks, or communications facilities, or all or part of the Infrastructure used in the communications services in order to inspect and control any unlicensed communications devices or equipment or any hardware or equipment which are not licensed or authorized or used in an unlicensed activity, or would be used for disruption or causing damage to the existing communications systems. In doing so, the employees would have the right to take the following actions: -

- 1 To request and examine the Licenses, books, records and documents, and all papers related to the communications' activity
- 2 To preview and examine any communications equipment or facility or any other facilities related to the provision of communications service or establish or run or own a communications network.
- 3 To view any other information or documents in any form whatsoever in relation to the provision of communications services

Article (60/ Item A) (A): The employees of the Authority would have the right to control any unlicensed communications devices and equipment which are illegal or used in an unlicensed activity, in exchange for a written receipt that shows the type and specifications of the hardware, given that such devices would be delivered to the Authority and he would be referred to the competent authority

Article (63) Subject to the provisions of other laws, with the exception of crimes stipulated in Articles (67-80) of this law, the Board may accept the conciliation in any violation to the provisions of this law before they are referred to the competent court, in exchange for a monetary fine of not

more than are the amount of the fine prescribed in the law, to be paid directly to the Authority.

Article (70/ Item E) (E): If the acts referred to in Items (C & D) of this Article were coupled with threats or blackmail or included the exploitation of images in any way that results in breach of modesty or prejudice to honor or incitement to immorality, the penalty shall be imprisonment for a period not exceeding five years and a fine not exceeding ten thousand Kuwaiti Dinars, or either of them.

Article No. (87) The Capital of the Authority consists of two portions, cash and in kind:

First The Cash Share: the amount of fifty million Kuwaiti Dinars to be paid from the General Reserve money of the State at one go.

Second In Kind Share: consists of the movable and real estate assets, which accrue or which are allocated to it and an independent specialist Body to be chosen by the Council of Ministers shall evaluate all assets allocated to the Authority or devolved to it. The Executive Regulations of this Law shall regulate the procedures which such Body is committed to

follow in its work, provided that it would finish its task on the date fixed in the contracts concluded with it, and the Evaluation shall be approved by the Council of Ministers after being presented to the State Audit Bureau (SAB).

A Decree shall be issued to finally determine the Capital of the Authority, and it may be amended in the future by means of a Decree.

The losses of the Authority – if any – amended within the first three budgets from the State General Reserve

Article No. (2)

Items Nos. C – D – G – I – shall be added to Articles (3/ Item D) and (8) and a last paragraph to Article No. (9), and a new Article shall be added under number (13 bis), and a last Item shall be added to Article No. (26) of the Law No. 37 of the year 2014 referred to, and their texts are as follows: -

Article No. (3) –New Item under No. (D): -

(D) To qualify and provide training to the employees of the Authority to the degree that enables them to perform their tasks (Article No.8/ new Items)

(C) To adopt the Regulations of the Board of Directors so as to organize the work of the Board and to show the rights and duties of its members.

(D) To adopt the Regulations of the Employment Affairs at the Authority which includes the rules of appointment and promotion and disciplinary actions and salaries and bonuses and the financial benefits and the benefits in kind and all other affairs pertaining to the Civil Service.

(G) To develop the rules and provisions of conducting the tenders and auctions related to the Authority.

(I) To adopt the Bylaws (Rules of Procedures) of the Authority and the financial, administrative and accounting Regulations which are necessary for the Authority's business

Article No. (9) – Last Paragraph: -

Any party whose Application was excluded may resort to the Disputes Settlement Committee to challenge the rejection decision within (60) sixty days, and in case he did not resort to the Committee, his case would be considered as unacceptable before the Administrative Judiciary.

Article No. (13 bis): -

The Chairman of the Authority would have the powers vested in the Minister of Finance with regard to the implementation of the Authority's Budget.

The Board of Directors shall practice the competences prescribed to the Civil Service Council and the Civil Service Diwan with regard to the Authority' employees.

Article No. (26): - Last Paragraph: -

In case of proven infringement on those frequencies without getting License, the Authority would have the right to refer the users to the Public Prosecution for interrogation, in accordance with the Law No. (1) of the year 1993 referred to.

Article No. (3)

Any provision that conflicts with the provisions of this Law shall be cancelled.

Article No. (4)

The Prime Minister and the Ministers – each according to their areas of jurisdiction – shall put this Law into force, and it shall take effect from the date of publication in the Official Gazette.

.....

Crown Prince of Kuwait

Nawaf Al-Ahmad Al-Jaber Al-Sabah

Issued at Al Seif Palace on 26 Shawwal 1436 AD

Corresponding to 11 August 2015 AD

**The Explanatory Memorandum
Of the Law No. (98) of the year 2015
Amending some Provisions of the Law No. (37) of 2014
Regarding the Establishment of**

Communication and Information Technology Regulatory Authority

As the practical application of the Law of establishment of the Communications and Information Technology Regulatory Authority aims at regulating these two sectors has proven the existence of gaps that prevented the provision of the best services to the beneficiaries, and out of the desire to develop the performance and make more effectiveness to such Law that suits the development of the modern era, it was considered necessary to amend some of its provisions and articles and to add some paragraphs to some of its articles and clauses, so the Law has introduced several amendments in terms of the wording and has replaced some texts, provided that it would not be inconsistent with the provisions of the Constitution and the Law, as follows:

- Amendment of Article (3/Item M) by adding the words (in implementation of the constitutional right that ensures the personal freedom), and adding Item (D) regarding the qualification and training to the employees of the Authority to the degree that enables them to perform their tasks
- Amendment of Article (5/ Item A) by replacing the letter "From" by the letter "until" next to the phrase of "any of their relatives", and to add the

phrase "All employees of the Authority shall be subject to the Decree No. (24) of the year 2012 referred to) at the end of the Item.

- Amendment of Article (5/ Item B) by replacing the word "One year" by the words "Six months" that follows the word "during".
- To add the following Items to Article No. (8): -
 - I) To adopt the Regulations of the Board of Directors to organize the work of the Board and to show the rights and duties of its members.
 - D) To adopt the Regulations of the Employment Affairs at the Authority which includes the rules of appointment and promotion and disciplinary actions and salaries and bonuses and the financial benefits and the benefits in kind and all other affairs pertaining to the Civil Service.
 - G) To develop the rules and provisions of conducting the tenders and auctions related to the Authority.
 - (I) To adopt the Bylaws (Rules of Procedures) of the Authority and the financial, administrative and accounting Regulations which are necessary for the Authority's business
- To add a last paragraph to Article No. (9) that reads as follows: -

"Any party whose Application was excluded may resort to the Disputes Settlement Committee to challenge the rejection decision within (60) sixty days, and in case he did not resort to the Committee, his case would be considered as unacceptable before the Administrative Judiciary."
- The text of Article No.(10) shall be replaced by the following Text: -

|The Board of Directors may enter into contracts with organizations or

bodies or institutions or specialized companies – scientific as well as technical or legal – or cooperate with them to perform some of the works or tasks of the Authority, provided that would be in conformity with the procedures of presenting the bids as determined by the internal regulations of the Authority."

- The text of Article No. (11 – 2nd Paragraph) shall be replaced by the following Text: -

"The Chairman of the Board shall call for the Meeting in pursuance to a written Application from at least three of its members within a period that does not exceed seven days with effect from the date of receiving the Application. The Board may decide inviting any person with experience and competence to be guided by his opinion. The Board may form a technical or advisory committee – or more – to give the advice to the Board as well as the Authority after it becomes certain that such persons or members do not have direct or indirect interests with the Authority. The Board may also decide to pay remunerations to those who give their opinions and experience and to the members of such committees other than the employees of the Authority, and the Chairman would choose a Secretary of the Board among the employees of the Authority in order to develop it Agenda and record the minutes of its sessions and keeping the references and transactions, and to do any tasks entrusted to him by the Board of Directors. The Board may publish the decisions pertaining to the Service Providers as well as the Licenses and the main resolutions in the Official Gazette."

- To add a new Article under number (13 bis) which reads as follows: -
(The Chairman of the Authority would have the powers vested in the Minister of Finance with regard to the implementation of the Authority's Budget.
The Board of Directors shall practice the competences prescribed to the Civil Service Council and the Civil Service Diwan with regard to the Authority' employees.)
- The text of Article No. (17) shall be replaced by the following Text: -
"The Board may issue instructions to define the types of special networks and the technical guidelines and conditions for their establishment and operation, and the Authority may make a condition that its approval is essential regarding the establishment of some kinds of such networks, as deemed necessary after getting the approvals from the Ministry of Health and other bodies responsible for the safety of the residential areas in case of the existence of towers in such networks."
- To add a last paragraph to Article No. (26), that reads as follows: -
"In case of proven infringement on those frequencies without getting License, the Authority would have the right to refer the users to the Public Prosecution for interrogation, in accordance with the Law No. (21) of the year 1993 referred to."
- The text of Article No. (34) – Item (A-1) shall be replaced by the following Text: -
1: "The Board of Directors shall notify the Licensee by means of a written Notice of the amendment and its reasons and the duration prescribed for

its implementation, and the Licensee would have the right to submit his objection to such amendment within (15) fifteen days, and in case it is rejected, he shall resort directly to the Disputes Settlement Committee."

- The text of Article No. (42) shall be replaced by the following Text: -
"The License shall be considered as personal and non-transferable, and the Board may agree to transfer the License or lease it to another person in conformity with the prescribed conditions and rules"

- The text of Article No. (51) shall be replaced by the following Text: -
"Telephone calls and the private communications shall be considered as one of the confidential matters which sanctity may not be violated, and may not be subjected to control in any manner whatsoever except upon getting a permission from the competent judicial Authority.

If the interest of investigations in a certain crime required so, the Public Prosecution may issue an order to track the source of the waves, and it may seek the assistance of specialized persons from the Authority to do that job, provided that it would be under its supervision. The Investigator may charge the Policemen to listen to that source and record it to bring its formula to him.

The Order must include a clear description of the wave to be tracked, and such Order may not continue for a period beyond the period required by the Investigation."

- The text of Article No. (53) – Item (B) shall be replaced by the following Text: -
"Item (B): The communications service shall not in any case be

disconnected from the Beneficiaries as a result of financial, administrative or technical differences between the licensees, except in accordance with the procedures provided for in the interconnection Agreements concluded in conformity with the provisions of Article No. 25 of this Law. As an exception, the service may be disconnected in pursuance to an authorization issued by the competent judicial Authority, provided that the cutting would be for a temporary period and justified and in accordance with the law.

The Public Prosecutor or the President of the competent Criminal Court may issue an order to prevent or stop or withhold any material or links or sites related to the communications or information technology as required by the investigation on temporary basis for a period of two weeks which may be renewed for further terms

- The text of Article No. (59) – Item (B) shall be replaced by the following Text: -

"Item (B): Without prejudice to the Law (17) of the year 1960, referred to, and other laws in force in the State, the Authority' employees referred to in Item (A) of this Article shall have the power to monitor the implementation of the provisions of this law and the regulations, decisions and orders issued in pursuance to its provisions, and they have the right to enter the places where there are - or are suspected to have - the devices or networks, or communications facilities, or all or part of the Infrastructure used in the communications services in order to inspect and control any unlicensed communications devices or equipment or any hardware or

equipment which are not licensed or authorized or used in an unlicensed activity, or would be used for disruption or causing damage to the existing communications systems. In doing so, the employees would have the right to take the following actions: -

- 1 To request and examine the Licenses, books, records and documents, and all papers related to the communications' activity
 - 2 To preview and examine any communications equipment or facility or any other facilities related to the provision of communications service or establish or run or own a communications network.
 - 3 To view any other information or documents in any form whatsoever in relation to the provision of communications services
- The text of Article No. (60) – Item (A) shall be replaced by the following Text: -

"(A): The employees of the Authority would have the right to control any unlicensed communications devices and equipment which are illegal or used in an unlicensed activity, in exchange for a written receipt that shows the type and specifications of the hardware, given that such devices would be delivered to the Authority and he would be referred to the competent authority"
 - The text of Article No. (63) shall be replaced by the following Text: -

"Subject to the provisions of other laws, with the exception of crimes stipulated in Articles (67-80) of this law, the Board may accept the conciliation in any violation to the provisions of this law before they are referred to the competent court, in exchange for a monetary fine of not

more than are the amount of the fine prescribed in the law, to be paid directly to the Authority."

- The text of Article No. (70 – Item E) shall be replaced by the following Text:-

(E): If the acts referred to in Items (C & D) of this Article were coupled with threats or blackmail or included the exploitation of images in any way that results in breach of modesty or prejudice to honor or incitement to immorality, the penalty shall be imprisonment for a period not exceeding five years and a fine not exceeding ten thousand Kuwaiti Dinars, or either of them.

- The text of Article No. (87) shall be replaced by the following Text: -

The Capital of the Authority consists of two portions, cash and in kind:

First The cash share: the amount of fifty million Kuwaiti Dinars to be paid from the General Reserve money of the State at one go.

Second In Kind Share: consists of the movable and real estate assets, which accrue or which are allocated to it and an independent specialist Body to be chosen by the Council of Ministers shall evaluate all assets allocated to the Authority or devolved to it. The Executive Regulations of this Law shall regulate the procedures which such Body is committed to follow in its work, provided that it would finish its task on the date fixed in the contracts concluded with it, and the Evaluation shall be approved by the Council of Ministers after being presented to the State Audit Bureau (SAB)

A Decree shall be issued to finally determine the Capital of the Authority, and it may be amended in the future by means of a Decree.

The losses of the Authority – if any – amended within the first three budgets from the State General Reserve

Articles No. (3) and (4) have – of course – provided for executive issues which are found in every law (Every provision in conflict with the provisions of this law shall be cancelled – and the Prime Minister and the Ministers – each according to their areas of jurisdiction – shall put this Law into force, and it shall take effect from the date of publication in the Official Gazette.