

Nepal Telecommunication Authority (NTA)

Interconnection Guideline, 2065 (2008)

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Part I: *General Interconnection Principles*

1. Introduction

This Interconnection Guideline (GI) sets out the policy objectives for interconnection of facilities and services between Licensees within the telecommunications sector in Nepal pursuant to Section 52 of the Telecommunications Act, 2053 (1997).

This Guideline is intended to:

- a. encourage the orderly development of Telecommunications Systems and Telecommunications Networks that enhances and strengthens the social and economic welfare of Nepal;
- b. promote and maintain any-to-any connectivity and safeguard against any abuse of market power in the provisioning of Telecommunications Services in Nepal;
- c. prevent and abolish discrimination in the provision of Telecommunications Services in Nepal;
- d. promote and maintain co-operation and fair competition between Licensees in the telecommunications sector in Nepal; and
- e. safeguard the interests of consumers by ensuring that Telecommunications Services are reasonably accessible to all citizens of Nepal.

This Guideline is not intended to:

- (a) limit the matters which may be dealt within an Interconnection Agreement but to provide a minimum set of issues which should be addressed; and
- (b) prevent or delay the Licensees from negotiating or entering into bilateral or multilateral agreements which deal with matters other than those addressed in this Guideline.

This Guideline shall apply to the interconnection of facilities and services between Licensees providing Telecommunications Services in Nepal.

2. Background

The Government of Nepal recognizes that efficient and effective telecommunications networks and services are an essential prerequisite for the continued growth of the Nepalese economy. Telecommunications is also an important public utility for the community. For these reasons, the Government must ensure the commercial activities within the sector are aligned with, and support, national development objectives and priorities. As more and more participants become involved in the sector, a broad regulatory framework needs to be established to govern the operations of the industry in the interest of consumers, fair competition, and the achievement of national goals.

3. Introduction of Competition

- 3.1 NTA has already issued licenses to NDCL for the provision of Basic Telephone Service and Mobile Telephone Service in Nepal. Furthermore, NTA has issued one license each for the provision of Basic Telephone Service based on WLL and Cellular Mobile Telephone Service. Apart from the national operator, there is one operator who is providing Rural Telephone Service. And NTA is planning to issue one license each for the provision of Second Rural Telephone service provider and Basic Telephone Service provider.
- 3.2 In overseeing the implementation of this new competitive regime, the NTA is responsible for maintaining fair competition between network operators, whilst safeguarding the interests of consumers and ensuring that all network operators contribute to universal service objectives and the rapid expansion of telecommunications infrastructure throughout the country. In carrying out this role, the NTA must balance conflicting pressures and interests in order to ensure that the sector delivers the greatest possible benefits for the country.
- 3.3 The Government's competition policy in Telecommunications Sector, therefore, exposes the sector to market disciplines, whilst implementing safeguards to ensure that healthy competition and national policy priorities are achieved.
- 3.4 From a national perspective, the Government looks to the entry of new operators and the emergence of a competitive market to deliver substantial benefits including the rapid expansion of service available and the elimination of unsatisfied demand, through increasing the total level of capital investment in the sector.
- 3.5 Interconnection between telecommunications networks to provide connectivity between any-to-any and safeguards against any abuse of market power, are fundamental concepts of competition.

4. Duty to interconnect with other Licensees

- 4.1 Every Licensee has a duty to provide access to and interconnect with another Licensee on fair and reasonable terms and conditions.
- 4.2 In providing interconnection, the Licensees shall have regard to the following principles:
 - a. the Licensees shall contribute towards the achievement of the national objectives of extending the availability and usage of Telecommunications Services and the provision of quality services;
 - b. the Licensees shall deploy high quality and advanced telecommunications infrastructure to serve the diverse needs of different customer groups;

- c. the deployment and usage of the telecommunications sector's infrastructure and resources should be directed towards the development of an economically efficient telecommunications industry, minimize uneconomic duplication of infrastructure facilities and encourage the shared usage of common infrastructure facilities; and
- d. The interconnection arrangements between the Licensees shall be based on the principles of symmetrical arrangements, transparency and reciprocity as between the Licensees.

5. Principles of non-discrimination

5.1 Interconnection between the Licensees shall be:

- a. of at least the same technical standard and quality as the technical standard and quality provided on the Licensees' own facilities and services; and
- b. on an equitable and non-discriminatory basis.

5.2 For the purpose of this Guideline, the term 'non-discriminatory' requires comparison of:

- a. the basis on which a thing is provided by one Licensee to another Licensee; with
- b. the basis on which that thing is provided by one Licensee to itself and to other Licensee who are similarly situated.

6. Charging Principles

6.1 Each Licensee shall be required to make available its Telecommunications Network and Telecommunications Services to any other Licensees wishing to interconnect on an appropriate basis.

6.2 The charges that a Licensee offers for all Interconnection Services must be cost-based and reflect the fact that relationship between Licensees is a carrier-to-carrier relationship. This generally involves the provision of services which are not available to customers or to unlicensed third parties.

6.3 Where feasible, the Licensees must use an established cost methodology.

6.4 In negotiating Interconnection Agreements or developing a Reference Interconnection Offer, the Licensees shall take into consideration the following charging principles:

- a. any charges or rates imposed shall be such that they cover the costs attributable for providing Interconnection incurred by the Licensee to whom the charges are payable;
- b. calculations of Access Charges shall be based on the costs attributable to the interconnection and shall include the cost of capital employed in the assets used;

- c. the charges or rates imposed shall take into account the need for a Licensee to earn a reasonable rate of return on investment.
- d. the charges or rates imposed shall take into account the universal service obligations of the Licensees being connected to (unless other explicit mechanisms are put in place);
- e. where Telecommunications Services generate usage-sensitive costs, the charges shall be usage sensitive; and
- f. the charges will be based on efficient provisioning standards and internationally acceptable practices.

Part II: Interconnection Negotiations

7. Options for Entering into Interconnection Agreement

7.1 A Licensee that seeks to interconnect with another Licensee may:

- a. negotiate and establish in good faith, with another Licensee, an Interconnection Agreement; or
- b. enter into an Interconnection Agreement with another Licensee by accepting another Licensee's Reference Interconnection Offer.

8. Interconnection Procedures

8.1 Where a Licensee wishes to negotiate and establish an Interconnection Agreement with another Licensee pursuant to Section 7.1 a, the Licensee must comply with the following procedures:

- a. submit a written request to the other Licensee copied to the Authority to negotiate an Interconnection Agreement ("Interconnection Request");
- b. enter into a confidentiality agreement within seven (7) days of receipt of the Interconnection Request by the other Licensee;
- c. begin negotiations within seven (7) days after the execution of confidentiality agreement; and
- d. subject to sub-section c above, conclude and execute the Interconnection agreement within three (3) months from the date of the Interconnection Request ("Negotiation Period").

8.2 For the purpose of Section 8.1 a, the Interconnection Request must:

- a. contain the name and contact details of the Licensee requesting interconnection;
- b. specify the type of interconnection required including *inter alia*:
 - i. information on network configuration;
 - ii. proposed POIs;
 - iii. proposed interfaces;
 - iv. capacity requirements;

- v. proposed traffic routing;
- vi. traffic forecasts;
- vii. traffic types;
- viii. proposed implementation schedules not earlier than six (6) months from the date of the Interconnection Requests; and
- ix. details of initial and further network operations relevant to the interconnection requirements.

8.3 The Interconnection Request must be accompanied by the Bank Guarantee equivalent to the annual subscription fee of the requested no of E1 calculated as per Section 16.3 (i) of this Guideline. The Bank Guarantee shall be released immediately after providing E1 or within 3 months from the date of Interconnection Request, whichever is earlier.

8.4 In the event that the Licensees fail to conclude an Interconnection Agreement within the Negotiation Period, either Licensee may:

- a. make a written request to the Authority to extend the Negotiation Period; or
- b. make a written request for the Authority to determine an Interconnection Agreement between the Licensees in accordance with this Guideline. Such determination by the Authority shall be made in accordance with Section 16 of this Guideline.

8.5 The determination made by the Authority pursuant to Section 8.4 b shall be legally binding on the relevant Licensees.

9. Exchange of interconnection traffic without Interconnection Agreement

9.1 Any exchange of traffic between the Licensees prior to the conclusion of an Interconnection Agreement pursuant to Section 8 shall be subject to suitable billing mechanisms being put in place, and agreement being reached with regard to the keeping of records by the Licensees concerned.

9.2 Where the Interconnection agreement is concluded pursuant to Section 8 above, the Licensees shall effect payments in accordance with the Interconnection Agreement for the Interim Arrangement unless otherwise agreed by both Licensees.

10. Interconnection Agreements

10.1 An Interconnection Agreement should enable Licensees to provide Telecommunications Services to their respective customers and the customer of other Licensees.

10.2 An Interconnection Agreement shall cover at least the following matters:

- a. scope and definition of Telecommunications Services including transit services (if offered);
- b. interconnection and POI requirements and principles;

- c. provision of information including notice of changes in the configuration of its network, numbering, routing and signalling;
- d. interconnection provisioning procedures and cost of interconnection;
- e. network and transmission capacity requirements;
- f. technical service level commitments;
- g. technical specifications and standards;
- h. transmission and performance standards;
- i. fault reporting and resolution procedures
- j. network management, maintenance and measurement, including traffic record on incoming and outgoing call communications;
- k. network safety, protection and related matters;
- l. call handling and operations procedures;
- m. access to interconnection facilities and sharing of infrastructure;
- n. charging mechanisms, billing and settlement procedures;
- o. transmission of calling line identification information;
- p. operator assisted services, directory information and assistance;
- q. commercial terms and conditions;
- r. the universal service contribution of Licensees (if required);
- s. network numbering;
- t. confidentiality of information;
- u. liability and indemnities;
- v. force majeure;
- w. intellectual property rights;
- x. provision for an interconnection agreement liaison committee; and
- y. review periods and terms for review.

10.3 Each Interconnection Agreement shall incorporate:

- a. a technical and implementations manual;
- b. an operations and maintenance manual;
- c. a provision committing each Licensee to the Dispute Resolution Procedures; and
- d. any other necessary manuals to facilitate the implementation of the provisions of the Interconnection Agreement.

11. Renegotiation of Interconnection Agreements

11.1 Subject to Section 11.2 below, any Licensee may at any time after the Interconnection Agreement comes into force, request in writing and agree to negotiate in good faith any proposal to replace, revise or amend the Interconnection Agreement in accordance with this Guideline and the review provisions of the Interconnection Agreement.

11.2 The terms and conditions of the current Interconnection Agreement shall remain in force and effect during any negotiations until commencement of the replaced, revised or amended Interconnection Agreement.

11.3 If the Licensees fail to reach an agreement on any such proposal pursuant to Section 11.1 above within one month, either Licensee may make a written request to the Authority to make a determination on any proposal necessary to give effect to a workable and equitable Interconnection Agreement in accordance with Section 16.

12. Existing interconnection agreements and arrangements

12.1 Any Interconnection Agreement or arrangement related to interconnection issues (including a Memorandum of Understanding) entered into between the Licensees before this Guideline shall be enforceable unless in contradiction to this guideline .

12.2 However, the Licensees shall renegotiate such agreements and arrangements to ensure that the agreements and arrangements comply with this Guideline.

12.3 Where the Licensees renegotiate the existing Interconnection Agreements or arrangements:

- a. the Licensees shall use their best endeavours to conclude the revised Interconnection Agreement or arrangement within ninety (90) days from the date of coming into force of this Guideline (“Revision Period”);
- b. if renegotiations are not complete within the Revision Period, either Licensee may:
 - i. make a written request to the Authority to extend the Revision Period; or
 - ii. make a written request for the Authority to determine a revised Interconnection Agreement (or part thereof) between the Licensees in accordance with this Guideline.
- c. The determination made by the Authority pursuant to Section 12.3 b. ii above shall be legally binding on the relevant Licensees.

12.4 Where it becomes necessary for the Authority to determine a revised Interconnection Agreement (or part thereof) between the Licensees, the Authority will have regard to the matters set out in Section 16 of this Guideline.

12.5 Any exchange of traffic between the Licensees during the period of renegotiation of a revised interconnection agreement shall be subject to suitable metering and charging mechanisms being put in place, and agreement being

reached with regard to the keeping of records by the Licensees concerned (“Interim Arrangement”).

12.6 Where the Interconnection agreement is revised and concluded pursuant to Section 12.3 above, the Licensees shall effect payments in accordance with the revised Interconnection Agreement for the Interim Arrangement unless otherwise agreed by both Licensees.

Part III: Reference Interconnection Offer

13. Duty to Develop a Reference Interconnection Offer

13.1 Each Licensee is required to develop a Reference Interconnection Offer, setting out the terms and conditions for interconnection of its Telecommunications Networks and Telecommunications Services.

13.2 The Reference Interconnection Offer must be submitted to the Authority for approval within one hundred and twenty (120) days from the effective date of this Guideline.

14. Contents of the Reference Interconnection Offer

The Reference Interconnection Offer shall:

- a. be in writing (including legible electronic format);
- b. be accurate;
- c. be organised in a logical and consistent manner
- d. be modular, allowing the Licensee to purchase only those Interconnection Services that it wishes to obtain;
- e. be consistent with:
 - i. the Act; and
 - ii. the Regulations;
- f. as a minimum, cover the matters set out in Section 10 of this Guideline;
- g. be sufficiently detailed such that another Licensee is able to accept the prices, terms and conditions to obtain Interconnection Services without having to engage in negotiations with the Licensee; and
- h. be made available to a Licensee on request in paper form at the Licensee’s principal place of business and on a publicly accessible website.

Part IV: Register of Interconnection Agreements and Determinations

15. Lodgement of all Interconnection Agreements to Authority

15.1 The Licensees must lodge with the Authority a copy of all Interconnection Agreements into which they enter within seven (7) days from the date of execution of the Interconnection Agreements.

15.2 Upon lodgement, the Interconnection Agreements only becomes effective and are enforceable in law after the Authority approves in writing the terms and conditions of Interconnection Agreement.

15.3 Within thirty (30) days from lodgement of the Interconnection agreement in accordance with Section 15.2, the Authority shall:

- a. approve the Interconnection Agreement with or without amendment ;
or
- b. reject the Interconnection Agreement and direct the Licensee to file a revised Interconnection Agreement.

15.4 Where the Authority rejects the Interconnection Agreement pursuant to Section 15.3 b, the Authority shall state the reasons for its rejection.

15.5 The Interconnection Agreements approved pursuant to Section 15.3 shall be kept in a register of Interconnection Agreements which shall be maintained by the Authority.

16. Determinations by the Authority

16.1 Any determination by the Authority under this Guideline shall to the extent possible:

- a. be taken only after Licensees have had any opportunity to come to a commercial agreement;
- b. take into account of international best practices and lessons from relevant experiences;
- c. involve consultation with the relevant parties;
- d. avoid distorting industry economics;
- e. discourage uncommercial or anti-competitive behaviour; and
- f. take account of operational realities and the objectives detailed in the Act.

16.2 In determining the terms and conditions of an Interconnection Agreement, the Authority shall have regard to:

- a. the Act;
- b. submissions made to the Authority by the involved parties (who shall be given at least fourteen (14) days to prepare such submissions);
- c. the Authority's objectives in the Act including but not limited improving the competitive scenario;
- d. The rights and obligations of the Licensees in terms of their Licences;
- e. The promotion of economic and technical efficiency;
- f. The interests of consumers and the public interest;

- g. The overall reasonableness and stated requirement of each Licensee including but not limited to its justification of charges in terms of costs for Interconnection Services.

16.3 While determining the terms and conditions of an Interconnection pursuant to Section 8.4 b of this Guideline, the following Interconnection Usage Charge (IUC) shall be fixed by the Authority.

- i. Port Charge: It is the charge payable by the Interconnection Seeker to the Interconnection Provider.

Port charges on pro rata basis (Rs)
Charge / year
N* 35,000, where N is no of E1.

- ii. Transmission Lease Charge for STM-4: Rs. 6, 00,000 per year per kilometer on pro-rata per E1 basis.
- iii. Set Up Charge: Rs 200,000/per location
- iv. Interconnection Usage Charge
- a. National Call:

Area	Operator A	Operator B	Operator A Pays per minute to			
			Operator B (Terminal) Paisa		Operator C For Carriage Charge Paisa	
			Cat. A	Cat. B	Intra-zonal	Inter-zonal
Local Charge Area (Intra-District Calls or Same Numbering Areas)	FS	FS	14		0	
	FS	MS	54		0	
	FS	LMS	34		0	
	LMS	LMS	34		0	0
	LMS	FS	14		0	0
	LMS	MS	54			
	MS	LMS	34			
	MS	MS	54			
Different Charging Area (Intra Zonal and Inter Zonal Calls, i.e. different)	FS	FS	14	32	48	50
	FS	MS	54		0	0
	FS	LMS	34		48	50
	LMS	LMS	34		48	50
	LMS	FS	14	32	48	50
	LMS	MS	54		0	0
	MS	LMS	34		48	50
	MS	MS	54		0	0

numbering areas)	MS	FS	14	32	48	50

b. International

Incoming

1. International termination up to PoI (for circuit switch): NRs. 1.80 per minute.

Outgoing: The international gateway operator will receive 75% of the retail tariff.

- v. SMS: NRs. 0.27 per SMS.

Legend:

FS: Fixed Subscriber

LMS: Subscriber with Local Mobility

MS: Mobile Subscriber

Cat. A: Calls terminated in Kathmandu Valley (Area Code 01), Morang (Area Code 021), Kaski (Area Code 061) and Parsa (Area Code 051) districts.

Cat B: Calls terminated in other districts apart from mentioned in Cat. A.

16.4 The operators may fix their own mutually agreed Interconnection Charges.

However, the Interconnections Charges shall not exceed the rates mentioned in Section 16.3 of this Guideline.

Part V: Technical Matters

17. Technical considerations

17.1 A Licensee who interconnects with other Licensees shall take reasonable measures to ensure that the interconnection does not cause physical or technical harm to the other Licensees' Telecommunications Systems and Telecommunications Networks.

17.2 In negotiating Interconnection Agreements, the Licensees shall take into consideration the following technical matters:

- a. ensure compliance with international standards and recommendations where feasible;
- b. ensure the offering of technical and operational interconnection facilities on the basis of suitably unbundled system components, in accordance with general practice in the industry;
- c. ensure that the Licensees' switching and transmission facilities have the capacity to interconnect with other Telecommunications Systems and Telecommunications Networks;
- d. ensure the preservation of network integrity and network security;

- e. consider the reasonableness of lead times for network provisioning;
- f. comply with the provisions and requirements of the national numbering plan;
- g. allow for differences in the interconnecting Telecommunications Systems and Telecommunications Networks;
- h. apply good engineering principles and practices; and
- i. ensure timely and efficient deployment of sufficient numbers and capacity of links to support the required grade of service for customers.

18. Infrastructure Sharing

- 18.1 A Licensee who controls Telecommunications Systems and Telecommunications Networks used to support the provision of Telecommunications Services shall allow other Licensees to jointly use the same Telecommunications Systems and Telecommunications Networks, at cost based prices and on non-discriminatory terms and conditions to be mutually agreed by the Licensees involved, provided it has the capacity to do so.
- 18.2 A Licensee may include as part of the Interconnection Agreement access to and shared use of physical space at the premises and facilities of the Licensees including but not limited to buildings, land, ducts, pipelines, equipment, installations and wires.

19. Point of Interconnection

- 19.1 The Licensees shall mutually agree on the Points of Interconnection ('POIs') including the number and physical locations. Until agreed in writing by the Authority, such POIs shall be located at least at the trunk or tandem exchanges in the Regional Offices of the Licensee.
- 19.2 The Licensees shall ensure that sufficient POIs are established to enable agreed diversity of routing for interconnected domestic and international traffic.
- 19.3 In the event that no agreement is reached between the Licensees pursuant to Section 19.1 above, the Authority shall determine the number of their physical locations in consultation with the Licensees.

Part VI: Promotion of customer interests

20. Interest of customers

- 20.1 In negotiating Interconnection Agreements, the Licensees shall take into consideration the interests of the telecommunications users including:
- a. involve the least possible cost to the customer to ensure the provision of affordable Telecommunications Services;
 - b. support improved access for currently under-provided communities in Nepal, pursuant to the objective of universal access to Telecommunications Services;

- c. be made in the interest of rapid and effective supply of the Telecommunications Services;
- d. enable any customer to communicate with any other customer on a seamless and transparent basis (the any-to-any principle);
- e. ensure the availability of the widest possible range of Telecommunications Services at the lowest possible prices;
- f. ensure the protection of customer's privacy and the confidentiality of customer information; and
- g. enable the customers to choose their preferred Licensee of network access for Telecommunications Services without artificial or anti-competitive constraint limiting their choices.

21. Customer relationship principles

21.1 In relation to a customer:

- a. a customer will be regarded as a customer of a Licensee when the customer utilised a Telecommunications Service provided to that customer by the Licensee;
- b. the same person may be a customer of more than one Licensee
 - i. in respect of the same or different Telecommunications Services provided by different Licensees; or
 - ii. because the customer is directly connected to one Licensee's Telecommunications System or Telecommunications Network but utilised the Telecommunications Services provided by another Licensee.

Part VII: Protection of Information

22. Provision of Information

22.1 All Licensees who are parties to any Interconnection Agreement shall provide on a timely basis all available and relevant information to the extent reasonably required for *inter alia* the following purposes:

- a. to ensure efficient network interconnection;
- b. to determine rates and charges to be billed by the Licensees for use of each Licensee's Telecommunications Networks and Telecommunication Services;
- c. to determine rates and charges to be billed by a Licensees to its customers;
- d. in relation to likely changes to the Licensee's network which will affect the Telecommunications Systems, Telecommunications Networks or Telecommunications Services of the other Licensee; and

- e. in relation to conditions affecting the quality of service experience by customers upon request for such information;

22.2 For the purpose of inter-operator billing reconciliation, the Licensees shall provide Calling Line Identification (CLI) and network charging information associated with each call communication on the terms and conditions to be set out in the Interconnection Agreement.

23. Preservation of Confidential Information

23.1 The Licensees must protect from disclosure any Confidential Information provided by another Licensee in the course of negotiating or concluding an Interconnection Agreement.

23.2 The Licensees may only use such Confidential Information for the provision of the Telecommunications Services and for the specific purpose for which the Confidential Information was provided.

23.3 The Licensees shall adopt appropriate procedures to ensure that the Confidential Information is not used for the development or marketing of other Telecommunications Services or Telecommunications Networks by the Licensees or any third party.

Part VIII: Dispute Resolution

24. Resolution of disputes between licensees related to interconnection

24.1 Subject to Section 24.2 below, where Licensees are unable to resolve disputes in relation to or in connection with the supply of Interconnection Services including but not limited to the negotiation of an Interconnection Agreement or amendments thereto (“Interconnection Dispute”), either Licensee may submit the matter in writing to the Authority to resolve the Interconnection Dispute in accordance with the Dispute Resolution Procedures. The Dispute Resolution Procedures is mentioned in Annex-1 to this Guideline.

24.2 The Authority may decide on its own motion to determine the terms of dispute related to interconnection issues.

24.3 The Authority shall only resolve an Interconnection Dispute referred to it in Section 24.1, where it is satisfied that:

- a. the Licensees have had reasonable opportunity to resolve the Interconnection Dispute and all attempts to resolve the Interconnection Dispute have failed;
- b. an Interconnection Agreement will not be reached, or will not be reached within a reasonable time;
- c. the notification of the Interconnection Dispute is not trivial, frivolous or vexatious; and
- d. the resolution of the Interconnection Dispute would promote the objectives of the Act

25. Decision on Interconnection Dispute

- 25.1 The Authority shall decide on any Interconnection Dispute referred to it in Section 24.1, within twenty-one (21) working days from the date of receipt of the request to resolve the Interconnection Dispute.
- 25.2 Prior to deciding on any Interconnection Dispute, the Authority shall provide the Licensees with an opportunity to make written submissions addressing the relevant issues in the Interconnection Dispute.
- 25.3 The terms and conditions of any resolution of an Interconnection Dispute by the Authority shall be in writing and accompanied by reasons.
- 25.4 Consistent with section 31(2) of the Act, the decision of the Authority on any Interconnection Dispute referred to it in Section 24.1 or under its own motion in Section 24.2, shall be binding on the Licensees who are parties to the Interconnection Dispute.

26. Register of Decisions on Interconnection Dispute

- 26.1 The Authority shall maintain a register of all decisions it makes on Interconnection Disputes.
- 26.2 The register of Interconnection Disputes shall contain:
- a. the names of the Licensees to the Interconnection Dispute;
 - b. a general description of the Interconnection Dispute;
 - c. the decision on the Interconnection Dispute and a general description of the reasons for the decision; and
 - d. the date of the decision on the Interconnection Dispute.

27. Compliance with Determinations by NTA

- 27.1 The Licensees shall be obligated to comply with the interconnection determinations of NTA, and these and other relevant determinations shall be duly incorporated as part of any Interconnection Agreement.
- 27.2 If any Licensee fails or refuses to comply with its obligations under its licence of the lawful determinations, NTA shall take such steps and impose such penalties as are within his powers to ensure compliance.

28. Penalties

- 28.1 The penalties, which may be imposed by NTA, shall include but not limited to:
- a. Pecuniary penalties commensurate with the breach;
 - b. Suspension of further actions on any pending and future applications for permits, licences or authorizations of the offending Licensee; and
 - c. Compensation for the pecuniary losses suffered by a Licensee as a direct result of non-compliance by the violating Licensee.

28.2 A Licensee shall be deemed to have breached its Licence conditions if, after having been officially required to do so by NTA such terms and conditions as shall be stated by NTA within the period provided in such an order and if, within no more than thirty (30) days of such notice the Licensee fails to provide evidence of due cause for such refusal or breach to the satisfaction of NTA.

28.3 If the Interconnection Provider does not provide Interconnection Facility within the stipulated time pursuant to Section 8 of this Guideline, the Interconnection Provider shall have to pay 10% of the Bank Guarantee amount to the Interconnection Seeker.

29. Review and Variation

29.1 The Licensees concerned may, at any time after the Interconnection Agreement comes into force, request in writing and agree to negotiate, in good faith, any proposal to replace, revise or amend the Interconnection Agreement in accordance with the review provisions of the Interconnection Agreement.

29.2 This guideline shall be subject to review, from time to time, by NTA, who may add to, vary or revoke any paragraph after consultation with the Licensees. In the first phase, this Guideline will be reviewed within 6 months from the date of implementation.

30. Definitions and Interpretations

“Access Charges” means the sums payable by one Licensee to another Licensee for accessing the facilities and services of the Licensees for interconnection traffic derived from that interconnection.

“Act” means the *Telecommunications Act 1997*.

“Call Communication” means a communication from or to, or involving a fixed number or mobile number for use in the operator of a Licensee’s network and as allocated by the Authority in accordance with the Licensee’s licence and the Act.

“Cellular Mobile Network Service” means a Telecommunications Service where:

- (a) an end-user can use a Telecommunication Service while moving continuously between places;
- (b) the cellular mobile access device used for or in relation to the supply of Telecommunications Service is not in physical contact with any part of the Telecommunications Network by means of which the Telecommunications Service is supplied; and
- (c) the Telecommunications Service is supplied by the use of a Telecommunications Network that has intercell hand-over functions.

“CLI” means calling line identification whereby information generated by a Telecommunications Network identifies the calling number and forwards that information through the Telecommunications Network to another Telecommunications Network directly or indirectly.

“Confidential Information” means all information, know-how, ideas, concepts, technology, manufacturing processes, industrial, marketing and commercial knowledge of a confidential nature (whether in tangible or intangible form) relating to or developed in connection with or in support of the business of the relevant Licensees but does not include:

- (a) information which is or becomes part of the public domain (other than through any breach of an interconnection agreement); or
- (b) information rightfully received by another person from a third person without a duty of confidentiality being owed by the other person to the third person, except where the other person has knowledge that the third person has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the first mentioned person; or
- (c) information which has been independently developed by another person;
- (d) information required by law or the business rules of any stock exchange to be disclosed, provided that:
 - (i) the receiving party gives twenty-four (24) hours notice to the disclosing party of the particulars of the required disclosure;
 - (ii) the receiving party provides the disclosing party with all assistance reasonably required by the disclosing party (at the disclosing party’s cost) to enable the disclosing party to take any steps available to it to prevent that disclosure or to ensure that it occurs subject to a reasonable obligation of confidence.

“Customer” means in relation to a Licensee, a person having a contractual relationship with the customer for the provision of Telecommunications Services.

“Dispute Resolution Procedures” means the procedures outlined in Annex-1 to this Guideline.

“Effective Call” means a call in which the calling exchange line is in connection with the called exchanged line and communications may proceed.

“Effective International Call” means an outbound Effective call made between two (2) exchange lines connected through switching centres in Nepal with any switching centres outside Nepal.

“Effective Local Call” means an Effective Call between two (2) exchange lines which are:

- (a) connected to the same switching centre;
- (b) connected to switching centres within the same charging area;

“Effective National Call” means an Effective Call between two (2) exchange lines connected through switching centres which are not within the same charging area.

“Interconnection” means the interconnection of the Licensees’s networks for the purpose of a Licensees providing access to its facilities and services to another Licensees in relation to a Call Communication via a POI and using agreed interfaces and signalling systems.

“Interconnection Agreement” means an agreement:

- (a) entered into between the Licensees pursuant to a Licensee’s Reference Interconnection Offer; or
- (b) which is commercially negotiated between the Licensees,

and which sets out the terms and conditions for interconnection of the facilities and services of the Licensees.

“Interconnection Services” means PSTN services and Cellular Mobile Network Services, and covers the licensed operations for Effective Local Calls, Effective National Calls and Effective International Calls.

“Licensee” means an operator who has been granted a licence under section 24 of the Act.

"Limited Mobility Service" means the service which is confined to a specific area.

“POI” means point of interconnection which is a point at or between tandem switches which demarcates the network of the Licensees and is a point of which communication is transferred between the interconnecting networks.

“PSTN” means public switched telephone network which is a domestic public telecommunications network usually accessed by telephones, key telephone systems and private automatic branch exchanges, and the completion of circuits between the calling party and called party in such a network requires network signalling in the form of dial pulses or multi-frequency tones.

“Telecommunications Network” means the network or networks providing Telecommunications Services as described in a Licence.

Annex-1

DISPUTE RESOLUTION PROCEDURES

1. Introduction

- 1.1 Subject to sub-clause 1.2.3, all Licensees shall adopt and comply with this Dispute Resolution Procedure in relation to any dispute which may arise between Licensees in relation to or in connection with the supply of Interconnection Services or to any facilities or services to which these Rules applies (“**Interconnect Dispute**”).
- 1.2 The following Dispute Resolution mechanisms are discussed in this Procedure:
 - 1.2.1 inter-party working groups;
 - 1.2.2 Resolution attempt at CEO/MD Level;
 - 1.2.3 subject specific resolution of disputes, being:
 - (a) technical disputes (which must follow the procedure set out in Clause 5 of this Annex if they cannot be resolved through the application of the general dispute resolution provisions in Clauses 3 and 4 of this Annex);
 - (b) Billing Disputes (as defined in sub-clause 6.19), which must follow the procedures set out in Clause 6 of this Annex; or
 - (c) Any other types of disputes, which, if the dispute cannot be resolved through the application of the general dispute resolution provisions in Clauses 2, 3 and 4 of this Annex, must be referred to the Authority for adjudication.
- 1.3 Licensees shall always be entitled to seek resolution of the dispute by the Authority in accordance with section 16 of the Act.

2. General

- 2.1 Until expiry of these Dispute Resolution Procedures, a Licensee may not commence court proceedings to that dispute, other than an application for

urgent interlocutory relief. Nothing in this sub-clause shall be construed as ousting the jurisdiction of any court.

- 2.2 A Licensee shall ensure that its representatives acting in relation to a dispute has the authority to settle an Interconnection Dispute on behalf of the Licensee. If in the course of the Dispute Resolution Procedure it is identified that the matters to be resolved are outside the initial term of reference for which authority was given to the representative, a Licensee may require that those matters be referred to more senior officers of that Licensee who have authority to settle those matters.
- 2.3 During a dispute and any Dispute Resolution process invoked in accordance with this Annexure, Licensees must continue to fulfill their obligations under the Interconnection Agreement between them.
- 2.4 Subject to sub-clause 2.5, the Licensees to a dispute shall exchange information of a type described in this Guideline during the course of, and to facilitate, resolution of such a dispute.
- 2.5 Confidential Information of a Licensee which is disclosed, and any other oral or written submissions made by a Licensee or a Licensee's representatives during the course of any Dispute Resolution process will be subject to the confidentiality restrictions in relevant confidentiality provisions contained in any Confidentiality Agreement or the Interconnection Agreement.
- 2.6 A Licensee must not use information obtained under sub-clause 2.4 or described in sub-clause 2.5 above for any purpose other than to resolve the dispute.

3. Inter-party working group

- 3.1 In the first instance the Licensees should attempt to resolve the Interconnection Dispute between themselves.
- 3.2 Licensees shall establish a working group, or working groups, to fulfill the requirements of sub-clause 3.1.
- 3.3 The working group(s) shall comprise of technical and commercial representatives of the Licensees ("Working Group"). . Immediately after these guidelines come into force all the licensees will provide information to other licensees regarding their representatives for the "Working Group".
- 3.4 The Licensees shall use reasonable endeavours to attempt to settle an Interconnection Dispute in the Working Group context for a period of no

longer than sixty (60) days, subject to a party's right to seek urgent interlocutory relief.

4. **Resolution Attempt at CEO/MD Level**

If the Working Groups, constituted as per clause 3, above, fails to reach a consensus with sixty (60) days, the CEOs/MDs of concerned Licensees should deliberate on the disputed issues and should attempt to resolve the matter within twenty one (21) working days.

5. **Final Decision by the Authority**

If even CEOs/MDs of concerned Licensees fail to resolve the dispute, the affected party/Parties may approach the Authority to mediate between the concerned Licensees and award the final decision. If necessary, the Authority may take help/assistance of an outside technical expert. The Technical Expert:

- (a) will be an expert appointed by the Authority from among the panel of technical experts with the Authority;
- (b) will have the appropriate qualifications and experience to arbitrate the dispute, including knowledge of the communications industry;
- (c) will not be an officer, director, or employee of a communications company or otherwise having potential for conflict of interest.

The decision of the Authority will be binding on the Licensees in the absence of manifest error of fact or law.

6. **Billing dispute resolution**

- 6.1 A Licensee ("**the Invoicing Licensee**") shall provide to the Other Licensee ("**the Invoiced Licensee**") an invoice in writing, or in such electronic form as may be agreed from time to time, for amounts due in respect of the supply of Interconnection Services during such Billing Period.
- 6.2 If the Invoiced Licensee wishes to dispute in good faith an invoice prepared by the invoicing Licensee ("**Billing Dispute**"), the Invoiced Licensee must notify the Invoicing Licensee in writing ("**Billing Dispute Notice**") within one hundred twenty (120) Days after the date of that invoice ("**Billing Dispute Notification Period**"). Such notices must be sent to the Billing Representatives nominated in sub-clause 6.16 below.

- 6.3 A Billing Dispute may only arise where the Invoiced Licensee has reasonable grounds to believe that an error has arisen from one of the following circumstances:
- (a) the Invoicing Licensee's Billing System is, or has been, defective or inaccurate in respect of the recording of the calls which are the subject of the dispute;
 - (b) there is, or has been, a discrepancy between the invoice in dispute and the records generated by the Invoicing Licensee's Billing System;
 - (c) There is, or has been, a fraud perpetrated by the Invoicing Licensee; or
 - (d) The Invoicing Licensee has made some other error in respect of the recording of the calls or calculation of the charges which are the subject of the Billing Dispute.
- 6.4 A Billing Dispute Notice given under this Clause 6 must specify:
- (a) the reasons for which the Invoiced Licensee disputes the invoice;
 - (b) the amount in dispute; and
 - (c) details required to identify the relevant invoice and charges in dispute including:
 - (i) the account number;
 - (ii) the invoice reference number;
 - (iii) the invoice date;
 - (iv) the invoice amount; and
 - (v) billing verification information; and
 - (d) evidence in the form of their outgoing report and indicate the relevant traffic data which is in dispute.
- 6.5 For the avoidance of doubt, no invoices may be disputed after the expiration of the Billing Dispute Notification Period.
- 6.6 Notwithstanding the dispute, the Invoiced Licensee agrees to pay the amount stated in any invoice in accordance with the normal payment

procedures. If the dispute is resolved against the Licensee initiating the dispute, that Licensee shall be required to pay interest at the rate specified in the Interconnection Agreement (if any).

- 6.7 Where the Invoiced Licensee has paid an amount and subsequently notifies the Invoicing Licensee of a Billing Dispute in relation to that amount within the Billing Dispute Notification Period, the Invoicing Licensee is not obliged to refund any or entire amount until the Billing Dispute is resolved in respect of that amount. The Invoicing Licensee is not required to pay interest on any amount refunded under this Clause 6.
- 6.8 The Licensees agree to use their reasonable endeavours to promptly resolve any Billing Dispute notified under this Clause 6.
- 6.9 If the Licensees are unable to resolve any Billing Dispute within thirty (30) Business Days (or such other period as the Licensees may agree) from the date on which the Billing Dispute Notice is received, either Licensee may seek the consent of the Other Licensee to extend the period for resolution of the Billing Dispute stating the exceptional reasons for such extension. The Other Licensee is, however, under no obligation to agree to such extension.
- 6.10 To the extent that a Billing Dispute notified under this Clause involves a Billing Dispute with an international correspondent of the Invoicing Licensee, the Dispute Resolution Procedures shall be suspended for a reasonable period of time pending resolution of the dispute with that international correspondent. As a general rule, the period of suspension will not exceed one hundred twenty days. However, the Licensees recognise that some Billing Disputes with international correspondents may take longer to resolve, in which case the Invoicing Licensee must promptly inform the Invoiced Licensee of the likely period required for resolution.
- 6.11 Once the negotiation period and any extension granted under sub-clause 6.10 has expired, the Billing Dispute may be referred by the Invoiced Licensee to the procedure described in sub-clause 6.12 of this Annexure (“**Billing Dispute Escalation Procedure**”).
- 6.12 The Invoiced Licensee may refer to a Billing Dispute to the Billing Dispute Escalation Procedure under this sub-clause 6.12 by notifying the Invoicing Licensee’s Billing Representative. Each of the Licensees shall then appoint a designated representative that has authority to settle the Billing Dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussion will be left to the discretion of the

Billing Representatives, however all reasonable requests for relevant information made by one Licensee to the Other Licensee shall be honoured.

- 6.13 Once any Billing Dispute has been resolved to the Licensees' satisfaction, any sum to be paid or repaid shall be paid within ten (10) Business Days by the relevant Licensee.
- 6.14 Although it is the good faith intention of the Licensees to use the above Billing Dispute Resolution Procedures to the fullest extent to try to solve Billing Disputes, nothing in this Annexure shall prevent either Licensee from pursuing any other remedy in law or equity that may be available to them if a Billing Dispute cannot be resolved to their satisfaction.
- 6.15 A Licensee may request a joint investigation of invoice discrepancies after that Licensee has conducted comprehensive internal investigation, including an examination of its own Billing System. The joint investigation may include the generation of test calls to the Other Licensee's Network.
- 6.16 Enquiries relating to billing, collecting and settlement arrangement or in relation to Network and operational issues may be directed to the Billing Representatives nominated by each Licensee.
- 6.17 Either Party may at any time nominate another Billing Representative, provided that fourteen (14) Business Days; prior notification of such appointment is given.
- 6.18 If the Licensees are unable to resolve any Billing Dispute within thirty (30) Business Days from any extended date as might be agreed upon under sub-clause 6.9 of this Annexure, or if they are unable to agree any such extension, either Licensee may refer the Billing Dispute to the Authority for resolution in accordance with section 16 of the Act.
- 6.19 In this Clause 6 of the Annexure:
 - (a) **"Billing Dispute"** means the dispute of an invoice prepared by a Licensee to the Other Licensee which is made in good faith;
 - (b) **"Billing Dispute Notice"** means the written notification made by a Licensee to the Other Licensee in relation to a Billing Dispute;

- (c) **“Billing Dispute Notification Period”** means the one hundred twenty (120) day period after the date of an invoice which is the subject of a Billing Dispute;
- (d) **“Billing Representative”** means a representative of the Licensee appointed in accordance with the billing procedures set out in sub-clause 6.16; and
- (e) **“Billing System”** means a system to issue invoices relating to charges payable by each Licensee under these Rules.