

PRESIDENTIAL ORDER N° 04/01 OF 15/03/2004 DETERMINING SPECIFIC DUTIES OF THE REGULATORY BOARD IN TELECOMMUNICATIONS MATTERS

**We, KAGAME Paul,
President of the Republic;**

Given the Constitution of the Republic of Rwanda of 4 June 2003, as amended to date, especially in its Article 112 paragraph One and 121 paragraph One;

Given Law n° 44/2001 of 30 November 2001 governing Telecommunications, especially in its Articles 3 and 4;

Given Law n° 39/2001 of 13 September 2001 establishing an Agency for the Regulation of certain public utilities, especially in its Articles 13 and 14 ;

Upon the proposal by the Minister of Infrastructure;

After consideration and approval by Cabinet, meeting in its session of 28 January 2004;

HAVE ORDERED AND HEREBY ORDER:

CHAPTER I: GENERAL PROVISIONS

Article One: Definitions

In this Order, the terms referred to below shall have the following meanings :

Regulatory Agency	The Rwanda Utilities Regulatory Agency created by the Law n° 39/2001
Board Law n° 39/2001	The Board of Directors of the Regulation Agency Law n° 39/2001 of 13 September 2001 establishing the Agency for the Regulation of certain public utilities
Law n° 44/2001	Law n° 44/2001 of 30 November 2001 governing Telecommunications
Minister	Minister responsible for Telecommunications
Operator	A natural person or organization which operates a Telecommunications network
Number Portability	Possibility for a user to use the same subscriber number, independently of the public network Operator to which he subscribes
Republic	The Republic of Rwanda

For all other terms, except as provided otherwise by this Order, the definitions set forth in Law n° 39/2001 and Law n° 44/2001 shall, where applicable, apply to this Order.

Article 2: Scope

This Order determines, in accordance with Article 4 of Law n° 44/2001, the specific duties to be carried out by the Board, in order to give effect to the provisions of Article 3 of the same law.

CHAPTER II : TELECOMMUNICATIONS

Article 3: Monitoring and enforcement of obligations

The Board shall perform the following tasks in respect of monitoring and enforcing the obligations of natural persons and organisations undertaking telecommunications activities within, to or from the territory of the Republic :

- (i) ensure that Operators licensed to install and/or operate a telecommunications network and/or to provide a telecommunications service fully comply with the obligations appearing in their license, and in particular that such Operators undertake the installation and/or operation of their network, and/or the provision of their service, within the time period specified in their license ;
- (ii) address any breach of license conditions and impose penalties ;
- (iii) ensure that, except in the case of pre-paid services, Operators providing telecommunications services supply to each of their clients a fair and non-discriminatory written contract, specifying all the terms and conditions governing the supply of the services in question, such contract setting forth, in particular, full details concerning prices, service criteria, dispute resolution procedures and the reimbursements which may be made where service quality criteria are not met ;
- (iv) ensure that users who pay for their telecommunications services in advance are informed of the prices applying to each advance payment method, the service quality which such users can expect to receive, the amount of reimbursement which may be claimed where service quality is not respected and the procedures to be followed for resolving disputes with the Operator ;
- (v) ensure, in conjunction with the Operators, that personal data concerning users is protected ;
- (vi) ensure that Operators provide sufficient telephone lines within the Republic to meet all reasonable needs of current and potential users ;
- (vii) ensure that directories listing all numbers belonging to users, and a directory service, are created and maintained, except to the extent that individual users request otherwise ;
- (viii) determine, introduce, monitor and apply price controls and issue guidelines concerning prices for telecommunications services and interconnection ;
- (ix) - ensure that Operators comply with service quality criteria,
- monitor the general performance of Operators in respect of the said quality criteria,
- implement a system for processing complaints made by users against Operators, and
- determine a compensation procedure applicable where there is a failure to comply with service quality obligations ;
- (x) monitor the behaviour of Operators and of terminal equipment suppliers, in particular those designated as dominant organisations, with a view to preventing or halting anti-competitive activities and to better process and resolve complaints concerning anti-competitive behaviour in the sector ;
- (xi) ensure that all Operators operating public telecommunications networks provide interconnection of their networks with the networks of other Operators operating public telecommunications networks, in accordance with the provisions of Chapter VIII of Law n° 44/2001 and with the orders and decisions issued pursuant to these provisions ;

- (xii) ensure that telecommunications equipment is compliant with technical conditions for safety and marking and with other conditions stated by ministerial order and take appropriate measures to prevent the use of terminal equipment which is unapproved or for which approval has been withdrawn ;
- (xiii) ensure that Operators provide leased lines in accordance with Chapter VII of Law n° 44/2001.

Article 4: Licensing, declarations, accreditation

The Board shall perform the following tasks in respect of licensing natural persons and organisations undertaking telecommunications activities within, to or from the territory of the Republic, receiving their declarations and accrediting their equipment:

- (i) implementing the procedures and exercising the powers conferred upon it in respect of telecommunications license management, applying license granting criteria and determining precise license content, consulting with license holders, processing the offers and conducting the auctions for the grant of licenses where rare resources are at stake ;
- (ii) maintaining a register of holders of licenses for the installation and/or operation of telecommunications networks and a register of holders of licenses for the provision of telecommunications services, as well as a register of natural persons and organisations which have declared the installation and/or operation of a telecommunications network and a register of those who have declared the provision of a telecommunications service;
- (iii) modifying, where appropriate, the licenses granted to Operators in accordance with the provisions of Article 22 of Law n° 44/2001 and examining any possible objections to such modifications from the concerned Operators;
- (iv) ensuring that all telecommunications terminal equipment intended for use on telecommunications networks receives prior accreditation ;
- (v) processing requests concerning telecommunications terminal equipment in accordance with Chapter IX of Law n° 44/2001.

Article 5: Universal access

In accordance with Article 28 of Law n° 44/2001 and in compliance with governmental telecommunications policy, the Board shall perform the following tasks relating to universal access in the Republic :

- (i) define the principles guiding, and the methods for, introduction of universal access ;
- (ii) set and administer the payments to and from the universal access fund ;
- (iii) determine the programs which will benefit from such fund ;
- (iv) manage procedures to obtain sufficient funds ; and
- (v) ensure that programs are undertaken within specified periods of time.

Article 6: Other telecommunications-related obligations

The Board shall also perform the following other tasks in respect of telecommunications activities undertaken within, to or from the Republic :

- (i) in consultation with the Minister, taking responsibility for the international telecommunications agreements, conventions and treaties to which the Republic has adhered and representing the Republic on an international level, in application of the Board's role of national organisation responsible for telecommunications issues. In this regard, the Board shall also attend meetings of the international organisations concerned by telecommunications laws, developments, policies and standards;
- (ii) advising the Minister in telecommunications matters;
- (iii) collecting and publishing information on the telecommunications industry which would benefit users and help to promote competition ;

- (iv) encouraging training and national training standards for Operators and monitoring compliance with training standards ;
- (v) giving general advice and offering assistance to Operators including as regards the resolution of disputes ;
- (vi) collaborating, in respect of issues of general interest, with other organisations in the Republic ;
- (vii) undertaking private and public consultations with telecommunications users and operators about telecommunications issues and handling information enquiries from the public in respect thereof ;
- (viii) paying contributions due to sub-regional, regional and international organisations of which the Republic is a member.

CHAPTER III : RARE RESOURCES

Article 7: Radiocommunications

The Board shall manage radiocommunications in the Republic. In this regard, it shall :

- (i) ensure an efficient and proper use of the radio frequency spectrum ;
- (ii) revise and update the national frequency plan ;
- (iii) at a national level, define the standards regarding radio electric interference ;
- (iv) issue licenses for the construction, installation and/or use of radiocommunications stations, radiocommunications terminal equipment and infrastructure, and radio frequencies, and monitor their performance ;
- (v) maintain a register of holders of radiocommunications licenses et ensure the performance of the obligations therein, remedy breaches of license conditions and impose penalties ;
- (vi) in accordance with Articles 33 to 37 of Law n° 44/2001, take appropriate measures to eliminate unauthorised radiocommunications activities and all breaches of licenses issued pursuant to Article 33 of Law n° 44/2001;
- (vii) take measures to eliminate, or cause the user or owner to eliminate, radio interference from electric equipment and monitor its compliance with technical standards and conditions ;
- (viii) ensure that a sufficient number of frequencies are reserved for the implementation of new technologies ;
- (ix) coordinate with neighbouring countries on questions of frequency distribution and use.

Article 8: Numbering

The Board shall be responsible for numbering in the Republic. In this regard, it shall :

- (i) prepare, manage and publish the numbering plan for the Republic ;
- (ii) organize and, where appropriate, modify the numbering plan according to requirements to meet international obligations and numbering requests within the Republic, and prepare for new users and Operators as well as for the introduction of new services ;
- (iii) ensure that users have the opportunity to present their opinion before changes to the numbering plan are introduced ;
- (iv) allocate appropriate codes, numbers and series of numbers to public telecommunications services ;

- (v) ensure that an Operator to which a series of numbers has been allocated does not discriminate in respect of the number of sequences used to allow access to the services of other Operators ;
- (vi) communicate the numbering plan, including any changes made thereto, to the international organisations concerned by numbering decisions ;
- (vii) take account of international developments in numbering when determining numbering plans for the Republic ;
- (viii) communicate international developments in numbering to Operators ;
- (ix) ensure that Operators attribute numbers or series of individual numbers to users rapidly and without discrimination ;
- (x) consult with Operators regarding the development of numbering plans and the changes made to them.

Article 9: Number portability

The Board shall look into the possibility of introducing Number Portability within the Republic and in other countries, and shall communicate a feasibility report thereon each year to the Minister.

Prior to the introduction of Number Portability, the Board shall consult with users and take account of their opinions when the decision is made as to whether or not to encourage or require public network Operators, to introduce Number Portability.

The Board shall issue guidelines for the introduction of number portability within the Republic and in other countries.

CHAPTER IV: STANDARDS

Article 10: Obligations in respect of standards

The Board shall :

- 1) regularly keep in touch with international telecommunications standards organisations ;
- 2) determine, and get information about the details regarding international standards provided for in Law n° 44/2001;
- 3) encourage new telecommunications standards for Operators and terminal equipment suppliers within the Republic ;
- 4) certify new telecommunications standards in the Republic ;
- 5) ensure that new standards are correctly applied in the Republic ;
- 6) communicate national standards to interested international organisations.

CHAPTER V : FINAL PROVISIONS

Article 11: Delegation of functions

The Board may, at any time, delegate to the Managing Director of the Regulation Agency, for a set period of time, one or more of its functions under this Presidential Order, in order to ensure proper regulation of the telecommunications sector.

Article 12: Non-exhaustive list

The list of functions and duties set forth in this Presidential Order is not exhaustive and, in particular, shall draw up without prejudice any functions and duties of the Board provided for in any applicable legislative text.

Article 13: Entry into force

This Order shall come into force on the day of its publication in the Official Gazette of the Republic.

Kigali, on 15/03/2004

The President of the Republic
KAGAME Paul
(Sé)

The Prime Minister
MAKUZA Bernard
(Sé)

The Minister of Infrastructure
Dr. NTAWUKULIRYAYO Jean Damascene
(Sé)

Seen and sealed with the Seal of the Republic:
The Minister of Justice
MUKABAGWIZA Edda
(Sé)