

15/01/97

No. 51 of 1996.

*Telikom PNG Limited Act 1996.*

Certified on : 20.10.96

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1996.

*Telikom PNG Limited Act 1996.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1996.

AN ACT

entitled

*Telikom PNG Limited Act 1996,*

Being an Act relating to the obligations and constitution of Telikom PNG Limited and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I - PRELIMINARY.

1. INTERPRETATION.

- (1) In this Act, unless the contrary intention appears -
- "Board" means the Board of Directors of Telikom;
  - "borrow" includes raise money or credit;
  - "community service obligations" means obligations under Section 5;
  - "convention" means a convention relating to telecommunications matters to which Papua New Guinea or Telikom is a party or an arrangement or agreement between Papua New Guinea or Telikom and a foreign telecommunication administration;
  - "Managing Director" means the Managing Director of Telikom;
  - "PANGTEL" means the Papua New Guinea Telecommunication Authority established under the *Telecommunications Act 1996*;
  - "standard telephone service" means -
    - (a) unless Paragraph (b) applies - a public switched telephone service that -
      - (i) is supplied by a carrier; and
      - (ii) is supplied by means of a telephone handset that does not have switching functions; and

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(b) where the regulations prescribe a telecommunications service, or telecommunications services, for the purposes of this definition - that telecommunication service or any of those telecommunications services;

"subsidiary" has the meaning given by Subsection (4);

"Telikom" means Telikom PNG Limited;

"Telikom PNG Limited" means Telikom PNG Limited a company incorporated or to be incorporated under the *Companies Act* (Chapter 146).

(2) Unless the contrary intention appears, expressions used in this Act and in the *Telecommunications Act 1996* have the same respective meanings as in that Act.

(3) This Act takes effect subject to the *Telecommunications Act 1996* and to the *Radio Spectrum Act 1996*.

(4) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate shall be determined in the same manner as under the *Companies Act* (Chapter 146).

**PART II - TELIKOM AND ITS BOARD.**

**2. CONSTITUTION OF TELIKOM.**

Telikom is to be incorporated as a company limited by shares under the *Companies Act* (Chapter 146).

**3. TELIKOM'S BOARD.**

There shall be a Board of Telikom which shall be appointed in accordance with the Articles of Association of Telikom.

**PART III - TELIKOM'S OBLIGATIONS.**

**4. OBLIGATIONS GENERALLY.**

Telikom has the following obligations:-

- (a) its community service obligations under Section 5; and
- (b) its general governmental obligations under Section 6; and
- (c) its commercial obligation under Section 7.

**5. COMMUNITY SERVICE OBLIGATIONS.**

(1) Telikom shall supply a standard telephone service between places within Papua New Guinea and between Papua New Guinea and other countries as efficiently and economically as practicable.

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- (2) Telikom shall ensure -
- (a) that, in view of the social and economic importance of the standard telephone service, the standard telephone service is, as far as practicable, reasonably accessible to all people in Papua New Guinea, wherever they reside or carry on business; and
  - (b) that the performance standards of the standard telephone service reasonably meet the social, industrial and commercial needs of people residing and carrying on business in Papua New Guinea; and
  - (c) develop and supply infrastructure and facilities for the provision of telecommunication services in the rural sector in accordance with the provisions of the *Telecommunications Act 1996* and with the directions of PANGTEL.

**6. GOVERNMENTAL OBLIGATIONS.**

Telikom shall perform its functions in a way consistent with -

- (a) any general policies of the Government notified to PANGTEL by the Minister under Section 36 of the *Telecommunications Act 1996*; and
- (b) any directions given by the Minister under Section 9; and
- (c) the obligations under any convention.

**7. COMMERCIAL OBLIGATION.**

Telikom shall, as far as practical, perform its functions in a manner consistent with sound commercial practice.

**PART IV. - TELIKOM'S OPERATIONS.**

**8. GENERAL POLICIES OF THE GOVERNMENT.**

(1) The Minister may notify the Board of general policies of the Government approved by the National Executive Council that are to apply in relation to Telikom.

(2) The Board shall, as far as practicable, ensure that policies notified under Subsection (1) are carried out in relation to Telikom and its subsidiaries.

**9. MINISTER MAY GIVE DIRECTIONS TO THE BOARD.**

(1) Subject to Subsection (2), the Minister may, after consultation with the Board, give to the Board such written directions in relation to the performance of Telikom's functions as appear to the Minister to be necessary in the public interest.

(2) The Minister shall not give a direction under Subsection (1) in relation to the amounts or prices to be charged for services, goods or information supplied by, or work done by Telikom.

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(3) The Minister shall not give any direction under Subsection (1) which is inconsistent with the current Government Policy notified to PANGTEL under Section 56 of the *Telecommunications Act 1996* or otherwise with the *Telecommunications Act 1996*.

(4) Where the Minister gives a direction under Subsection (1), the Minister shall cause a copy of the direction to be given to the National Executive Council and to PANGTEL.

(5) Except as provided under this or any other Act, Telikom and its Board are not subject to direction by or on behalf of the State.

**10. CORPORATE PLANS.**

(1) Within 12 months of the date of coming into operation of this Act, the Board shall prepare a corporate plan for Telikom for a period of not less than three years and not more than five years beginning on the date of preparation of the corporate plan.

(2) The Board shall prepare subsequent corporate plans each for a period of not less than three years and not more than five years immediately after the expiry of the period of the previous corporate plan.

(3) The Board may if it thinks fit review and revise a corporate plan at any time.

(4) When the Board approves a corporate plan it shall forthwith give a copy of the plan to the Minister.

**11. PRICES, TERMS AND CONDITIONS.**

(1) Subject to Subsection (2), the terms and conditions, including prices, at which Telikom supplies any service are -

- (a) where Telikom and a person agree on terms and conditions for the supply of the service - the agreed terms and conditions; and
- (b) where there is no agreement on terms and conditions, the terms and conditions determined by the Board that are applicable to the supply of its service.

(2) In determining terms and conditions under Subsection (1) the Board shall have regard to any legislation restricting or controlling prices of telecommunication services.

**12. ACT TO PREVAIL.**

The provisions of this Act prevail over any inconsistent provisions of the articles of association of Telikom.

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13. REGULATIONS.

The Head of State may make regulations, not inconsistent with this Act, prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

I hereby certify that the above is a fair print of the *Telikom PNG Limited Act 1996* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Telikom PNG Limited Act 1996* was made by the National Parliament on 9 October 1996.

Speaker of the National Parliament.