

## **MINISTERIAL ORDER N° 5/DC/04 OF 07/06/2004 ON THE GENERAL CONDITIONS AND PRICING PRINCIPLES TO BE RESPECTED IN INTERCONNECTION AGREEMENTS**

**The Minister of Infrastructure,**

Given the Constitution of the Republic of Rwanda of 4 June 2003, as amended to date, especially in Articles 120 paragraph one and 121 paragraph one-2°;

Given Law n° 44/2001 of 30 November 2001 governing Telecommunications, especially in Article 39 paragraph 6;

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

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

### **ORDERS :**

#### **CHAPTER ONE : GENERAL PROVISIONS**

##### **Article one : Definitions**

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

Board	The Board of Directors for the Rwanda Utilities Regulatory Agency established by Law n° 39/2001
Interconnection	Reciprocal services, not necessarily the same, offered by two Operators, in order to allow all users to communicate freely amongst themselves, regardless the telecommunications networks which they are connected to.
Law n° 39/2001	Law n° 39/2001 of 13 September 2001 establishing an 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
Standard Interconnection Offer	An Interconnection Agreement (as defined in Article 2 of this Order) prepared pursuant to Article 40 Law n° 44/2001 by a Dominant Organisation
Operator	A private person or organization operating a telecommunications network
Public Network Operator	An Operator operating a Public Network
Dominant Organization	A private person or organization designated as a dominant organization by the Board pursuant to Article 49 of Law n° 39/2001.
Republic	The Republic of Rwanda
Non-Public Network	A telecommunications network not accessible to the public
Public Network	A telecommunications network accessible to the public

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

##### **Article 2 : Scope**

In application of Article 39 of Law n° 44/2001, this Order specifies the general conditions and pricing principles that an agreement for Interconnection between Public Telecommunications Operators (hereinafter "Interconnection Agreement") should meet.

Except as provided :

- (i) by the provisions of this Order, as modified by any decision made pursuant to Article 16 ("List Modification") below; and
- (ii) by any applicable legislative text,

interconnection modalities shall be freely worked out by concerned Public Telecommunications Operators through negotiations.

The following shall be excluded from the scope of application of this Order:

- (i) Interconnection between Non-Public Networks ;
- (ii) Interconnection between a Public Network and a Non-Public Network ;
- (iii) "access", in the sense of making available to another Operator, in a non-reciprocal manner, resources and/or services, in order to allow the provision of telecommunications services.

## **CHAPTER II : GENERAL INTERCONNECTION CONDITIONS**

### **Article 3 : Minimum conditions**

Except with the special agreement of the Board, any Interconnection Agreements shall specify, at the very least, the general principles relating to the agreement, the characteristics of the Interconnection services, and the manner in which the Interconnection is to be implemented.

### **Article 4 : General principles**

All Interconnection Agreements shall specify :

- (i) the circumstances in which each party will be obliged to provide Interconnection to the other party ;
- (ii) the terms and conditions for re-negotiation of the Interconnection Agreement ;
- (iii) commercial and financial relations including billing and recovery procedures as well as payment terms ;
- (iv) transfers of essential information between the two parties and the corresponding rules concerning how and when such transfers occur ;
- (v) terms for modification of the Interconnection Agreement ;
- (vi) conditions for transfer of the parties' rights and obligations ;
- (vii) liability and compensation between the parties.

### **Article 5 : Nature of the interconnection services**

All Interconnection Agreements shall indicate :

- (i) the measures put in place to ensure users' equal access to the different networks and services, format standardization, and number portability (i.e. the possibility for a user to use the same subscriber number, independent of the Public Telecommunications Operator to whom he subscribes) ;
- (ii) measures designed to ensure respect of people's health and security, electromagnetic compatibility between telecommunications equipment and installations and, where applicable, a proper use of the radio electric frequency spectrum through the avoidance of harmful interference for third parties ;
- (iii) a complete description of the Interconnection interface ;
- (iv) the quality of the services provided, in particular availability, securitization, efficiency, synchronization ;
- (v) the manner in which traffic is carried ;
- (vi) the measures put in place to anticipate the possibility of pre-selection, i.e. the configuration by a user of his telephone line in order to systematically use a given Public Telecommunications Operator for long-distance calls.

## **Article 6 : Interconnection implementation modalities**

All Interconnection Agreements shall specify :

- (i) the conditions for the implementation of the services, including how traffic is predicted, how Interconnection interfaces are installed, how leased line extremities are identified, and commissioning deadlines;
- (ii) the designation of Interconnection points and a description of the physical means by which Interconnection is effected ;
- (iii) sizing of interface equipment and of the common mechanisms of each network, in order to maintain the quality of service provided for by the Interconnection Agreement ;
- (iv) the manner in which tests for interface functioning and service interoperability are performed ;
- (v) procedures for intervention and error correction (receipt of calls, processing of calls and diagnosis, reconnection of the line).

## **Article 7 : Principle of non-discrimination**

In application of Article 39 of Law n° 44/2001, discrimination by Public Telecommunications Operators in matters of Interconnection is forbidden.

Accordingly, every Public Telecommunications Operator must, *inter alia*, apply similar Interconnection conditions to natural persons and organisations supplying identical services.

## **CHAPTER III : PRICING PRINCIPLES**

### **Article 8 : Pricing components**

Pricing shall comprise two elements :

- (i) a fixed fee, depending on the capacity made available and which corresponds to the costs for installation and/or connection as well as the costs for operation and maintenance independent of the traffic. Such a fee shall be paid in periodic installments.
- (ii) a variable fee, depending on the volume of traffic, and which varies according to whether the traffic is local, national or international, or is carried to a third party operator being neither the supplier nor purchaser of the Interconnection.

### **Article 9 : Pricing guidelines**

Pricing conditions in Interconnection Agreements :

- (i) shall respect the principles of objectivity, transparency and non-discrimination. In particular, in the application of Article 41 of Law n° 44/2001, all Public Telecommunications Operators shall apply the same charges, terms and conditions to their own subsidiary or affiliated companies as they offer to other Public Telecommunications Operators.
- (ii) shall not have the effect of unduly imposing excessive charges on Public Telecommunications Operators using the Interconnection ; and
- (iii) must be capable of being justified upon request by the Board.

### **Article 10 : Accounting and cost sharing**

Public Telecommunications Operators must keep analytical accounts allowing them to identify the following different types of costs:

- (i) overall network costs, i.e. costs related to services for the Operator's users and costs related to Interconnection services ;
- (ii) costs specific to Interconnection services, i.e. costs attributable to these services alone ;
- (iii) costs specific to services of the Operator other than Interconnection, i.e. costs attributable to such services alone.

This information is made available to the Board on request.

Overall network costs are divided between the costs of Interconnection services and the costs of other services on the basis of the actual use of the entire network by each of these services.

Costs specific to Interconnection services are attributed in full to the Interconnection services.

Costs specific to services of the Public Telecommunications Operator other than Interconnection are excluded from the basis for calculation of costs for Interconnection services.

Costs attributed to Interconnection shall be based on the principle of causality, direct or indirect, in relation to the Interconnection service provided.

The assessment of Interconnection costs shall be undertaken annually by Public Telecommunications Operators on the basis of the accounts of the previous financial year. Such an assessment must be communicated to the Board.

## **CHAPTER IV : ADDITIONAL OBLIGATIONS OF DOMINANT ORGANISATIONS**

### **SECTION ONE : STANDARD OFFERS**

#### **Article 11 : Content of standard interconnection offers**

Upon the application of Article 40 of Law n° 44/2001, according to which each Dominant Organization must provide the Board with details of Standard Interconnection Offers which to be submitted to public telecommunications operators, Dominant Organizations shall itemize within such Offers each Interconnection service offered, together with the associated terms and conditions, including tariffs.

#### **Article 12 : Modification of standard interconnection offers**

Dominant Organizations shall modify their Standard Interconnection Offers to take into account commercial and technological changes and the introduction of new facilities and services.

The Board may require that a Standard Interconnection Offer be modified where necessary for the purposes of fair competition and/or service interoperability.

#### **Article 13 : Possibility of negotiation**

Dominant Organizations cannot invoke the existence of any Standard Interconnection Offer to justify a refusal to conduct, with another Public Telecommunications Operator, commercial negotiations for determining Interconnection conditions which are not provided for by such Standard Interconnection Offer.

### **SECTION 2 : PRICING**

#### **Article 14 : Pricing principles**

Upon the application of Article 40 of Law n° 44/2001, Dominant Organizations' charges for Interconnection:

- shall be cost-oriented ; and
- shall be sufficiently unbundled so that the applicant is not required to take or pay for any facility not strictly related to the service requested.

These principles are applicable whether the Interconnection is provided within the context of a Standard Interconnection Offer, or in addition to it..

#### **Article 15 : Price restrictions**

The Board may subject Dominant Operators' Interconnection prices to restrictions. Such restrictions shall be defined with due regard not only to cost calculations provided by such Operators, but also to a comparison with levels set by Operators in countries with economic situations comparable to that of the Republic. The aim of such comparison is to guarantee the competitiveness of Rwandan Operators' offers.

#### **CHAPTER V : FINAL PROVISIONS**

#### **Article 16 : List modification**

Upon the proposition by the Board, the Minister shall add or remove conditions to or from the lists of general and pricing conditions to be incorporated into Interconnection Agreements, as set forth in this Order.

In such event, the Minister shall publish a modification decision in the Official Gazette at least two (2) months prior to the introduction of such modifications.

#### **Article 17 : Form of communication**

Unless the context requires otherwise, all notifications and communications required or possible under this Order shall be :

- (i) sent to the recipient by registered post with return receipt requested ; or
- (ii) hand delivered to the recipient, and a duly signed delivery receipt obtained. Where the recipient is an organisation, the delivery receipt shall also be duly stamped.

#### **Article 18 : Previous any contrary provisions**

All prior provisions contrary to this Order are hereby repealed.

#### **Article 19 : Entry into force**

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

Done at Kigali, on 07/06/2004

The Minister of Infrastructure  
**Dr. NTAWUKULIRYAYO Jean Damascène**  
(sé)

**Seen and sealed with the Seal of the Republic :**

The Minister of Justice  
**MUKABAGWIZA Edda**  
(sé)