

DRAFT PENALTY REGULATIONS



# Table of Contents

Part 1 Preliminary	-----	1
Title	-----	1
Objectives	-----	1
Definitions	-----	1
Part 2	Unauthorized Operation	----- 5
Part 3	Transfer of license/frequency or station	----- 6
Part 4	Radio frequency	----- 6
Part 5	Communication equipment and systems	----- 7
Part 6	Interconnection	----- 8
Part 7	Contravening licensing obligations	----- 9
Part 8	Communication/radio interference	----- 9
Part 9	Inspections	----- 10
Part 10	Misrepresentations/omissions	----- 10
Part 11	Telecommunications And Computer Offences	----- 11
Part 12	Other Matters	----- 11

# Part 1 Preliminary

## Title

This document may be cited as the LTA Regulation on Offences, Penalties and Enforcement.

## Objectives

The objectives of this regulation are to:

- Promote strict adherence to the Telecommunications Act of 2007
- Instill public confidence with compliance to regulatory decisions and sector laws and regulations thereby facilitating stability and development in the sector
- Maintain orders, consistencies and fair-play in the sector
- Deter the service providers from engaging in acts which undermine the LTA's ability to effectively regulate the sector

## Definitions

**Authority**” means the Liberia Telecommunications Authority;

**Authorization**" means an Administrative Act (class or individual license, concession contract or general authorization) which grants a set of rights and obligations to an entity and grants the entity the right to establish and exploit telecommunication networks or to offer telecommunications services;

**Allocation of frequency band**” means entry in the Table of Frequency allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radio communication services or the radio astronomy service under specified conditions. This term shall also apply to the frequency band concerned;

**Provision of a telecommunication network**" means the setting up, operating, overseeing or making available of a telecommunication network;

**Information**" means signs, signals, writings, images, sounds or information of any other kind which make up the content transmitted by means of communication processes including telecommunication services and processes;

**Installation**” means any equipment, apparatus, cable, radio or optical system, item of infrastructure or technical device that may be of use to information and communication technologies, or any other operation directly related thereto;

**License**” means the administrative document (including individual license, concession class license) permitting the operation of a telecommunications network or the provision of communication services or the use of the radio-frequency spectrum.

**Operator**” means any juridical person or entity operating a telecommunication network that is open to the public, or providing a telecommunication service to the public.

**Message**” means communication of any kind in the form of words, sound, data, text, visual image, signal or

code, or in any other form or combination of forms.

**“Radio-communication”** means any emission, broadcasting, transmission or reception of radio waves specifically for telecommunication purposes.

**“Broadcast”** means any radio-communication whose emissions are intended to be received by the public.

**“Information and Communication Services”** mean services that involve the use of information and communication technologies, including telecommunication services.

**“Information and communication technologies (ICTs)”** mean technologies used to gather, store, use and send information, including technologies that involve the use of computers or any communication system, including any telecommunication system.

**“Physical co-location”** means a facility offered by a public telecommunication network operator which consists of making infrastructure, including premises, available to other operators for installing, if applicable, operating their equipment, especially for purposes of interconnection.

**“Provision of interconnection”** means a facility provided by one public telecommunication network operator to another or to a public telecommunication service provider which permits all users to communicate freely regardless of the networks to which they are connected or the services that they use.

**“Dominant operator”** means a company which, either on its own or in connection with other companies holds a position equivalent to a dominant position: that is, a company which has a significant capacity to act in a manner independent of its competitors, its customers and ultimately consumers.

**“Subscriber”** means a person who receives and pays for the communication service over a given period of time pursuant to an agreement in accordance with terms established by the service provider in accordance with the telecommunications laws or act of, and or with the approval of the LTA.

**“Declaration”** means an act of registration of telecommunications activities with the Liberia Telecommunications Authority by a network operator or service provider which does not require the company to obtain an explicit decision from the LTA prior to commencing the operation of the network or provision of the service.

**“Number”** means a series of digits that uniquely identifies a public network termination point. The number contains the necessary information for routing the call to that termination point and may be in a national format or an international format. The international format is known as the international public telecommunication number, consisting of the country code and subsequent digits.

## **PART 2 UNAUTHORIZED OPERATION**

No person or entity shall operate a telecommunications/radio communications equipment or make any use of telecommunications/radio frequencies except in accordance with a valid telecommunications/radio communications license. The following offenses are liable to penalties stipulated hereunder:

1. Installation, establishment and operation of telecommunications or any communication equipment and systems without license/authorization from the LTA

## **Penalty**

- i. First offence: is liable for a minimum fine of 3 times the existing fees; however, where it can be established that the violation has existed for more than 2 years, the offender shall be liable for 1.5 times the existing fees times the number of years of operations;
- ii. Second offense: is liable for a fine of 3 times the penalty for the first offence;
- iii. Subsequent offence: confiscation of all equipment, materials and assets found on the premises or involved in the illegal operations; the LTA may take any additional enforcement action available to it under the Act or other laws of Liberia including referring the matter to the Attorney General - Minister of Justice for the purpose of instituting criminal or other appropriate proceedings.

### **2. Exceeding the scope of approved service and/or authorization granted by the LTA.**

## **Penalty**

- i. A fine of not less than US\$1250 plus the cost of administrative and technical investigation conducted by the LTA or its designated representative in the process. The LTA may institute further regulatory and/or legal actions pursuant to law

### **3. The use of a frequency in a manner that may cause interference within or beyond the limits of the geographical area assigned by the LTA**

## **Penalty**

- i. First offence: is liable for a fine not less than US\$1250 plus the cost of administrative and technical investigation conducted by the LTA or its designated representative in the process.
- ii. Subsequent offence(s), the LTA may institute further regulatory and/or legal actions pursuant to law, as it deems necessary and / or appropriate under the circumstances.

### **4. The use of communication services for purposes that contravene and undermine national security or public safety.**

## **Penalty**

Penalty shall be subject to the enforcement provisions of the Act to include Suspension or Revocation of License/Authorization and/or referring the matter to the Attorney General - Minister of Justice for the purpose of instituting criminal or other appropriate proceedings.

1. Transfer, assignment or delegation of the rights, interests or obligations of Licenses or Authorizations without the prior written approval of the LTA.

### **Penalty**

Revocation of the License by the LTA.

2. Transfer of broadcast frequencies from one geographical limit to another without the prior written approval of the LTA.

### **Penalty**

A fine of not less than US\$1500 plus the cost of administrative and technical investigation conducted by the LTA or its designated representative.

## **PART 4 UNAUTHORIZED USE OF FREQUENCY**

1. Use of any frequency not assigned by the LTA.

### **Penalty**

- i. First offence: is liable for a minimum fine of 3 times the existing fees; however, where it can be established that the violation has existed for more than 2 years, the offender shall be liable for 1.5 times the existing fees times the number of years of operations;
  - ii. Second offence: is liable for a fine of 3 times the penalty for the first offence;
  - iii. Subsequent offence: confiscation of all equipment, materials and assets found on the premises or involved in the illegal operations; the LTA may take any additional enforcement action available to it under the Act or other laws of Liberia including referring the matter to the Attorney General - Minister of Justice for the purpose of instituting criminal or other appropriate proceedings.
2. Conveyance or acquisition of any frequency without the written consent and approval of the LTA.

### **Penalty**

Nullification of the transaction.

3. Alteration of an authorized installation, operation or characteristics for the use of frequency, the transmitting power and other technical parameters related to the use of a radio frequency without the prior written approval of the LTA.

## **Penalty**

This offence is liable for a fine of not less than US\$1250.

4. Effecting changes in the design of a radio equipment or frequency without the prior written approval of the LTA.

## **Penalty**

This offence is liable for a fine of not less than US\$1250

5. Transmission of signals not done in accordance with the duly authorized output power, bandwidth, frequency or band.

## **Penalty**

A fine of not less than US\$1250

## **PART 5 COMMUNICATION EQUIPMENT AND SYSTEMS**

1. Importation of communication equipment and systems without the prior written approval of the LTA.

## **Penalty**

- i. A fine of not less than two (2) times the landed price of the equipment but not exceeding five (5) times its landed price.
- ii. Seizure and confiscation of the communication equipment and systems

2. Assembling or manufacturing of communication equipment and systems without authorization from the LTA.

## **Penalty**

Seizure and confiscation of the communication equipment and systems

3. Using communications equipment for the purpose of interfering with any communications station.

## **Penalty**

- i. This offense is liable to a fine of not less than \$250USD or a term of imprisonment to be decided in accordance with the new penal code of the Republic of Liberia or to both on first conviction; and

## **PART 6 INTERCONNECTION**

1. Any violation of interconnection requirements promulgated by the LTA.

### **Penalty**

A fine of between US\$1000 - US\$10,000.

## **PART 7 CONTRAVENING LICENSING OBLIGATIONS**

1. Contravening the obligations in a License or Authorization.

### **Penalty**

- i. First Offense: Application of penalties specified in the relevant License and imposition of a fine between US\$500 – US \$1,000,000, as determined by the LTA.
  - ii. Subsequent offences: Stacking of penalties for First Offense plus prosecution in accordance with the new Penal Code and any other relevant / applicable Law of the Republic of Liberia.
2. Service outages for more than twenty-four (24) hours, without notice to or consent of the LTA.

### **Penalty**

A fine of US\$100 – US\$150,000.

## **PART 8 COMMUNICATION/RADIO INTERFERENCE**

1. Unlawfully intercepting and/or disclosing private and confidential information and communications in contravention of the letter and intent of the Law.

### **Penalty**

Application of penalties specified in the relevant License and imposition of a fine between US\$500 – US \$1,000,000, as determined by the LTA; and prosecution in accordance with the applicable provisions of the new Penal Code and any other applicable Law of the Republic of Liberia.

2. Failing to employ internationally recognized standards and/or industry best practices when operating telecommunications equipment, which causes radio interference.

### **Penalty**

- i. First Offense: A fine of US\$250 – US\$250,000 as may be determined by the LTA.



- ii. Second Offense: Stacking of penalties for First Offense plus confiscation of the appliance or equipment used in the commission of the offence through an order of a court of competent jurisdiction.

## **PART 9 INSPECTIONS**

1. Obstructing, impeding (including failure to respond within the time required by the LTA) or hindering the conducting of an inspection or the production of information intended for the LTA.

### **Penalty**

A fine of US\$250 – US\$250,000 as may be determined by the LTA.

2. Offering an inspector, agent or employee of the LTA a material inducement, directly or indirectly to vary the result of an inspection.

### **Penalty**

- i. A fine of US\$250 – US\$250,000 as may be determined by the LTA.

## **PART 10 MISREPRESENTATIONS/OMISSIONS**

1. Misrepresentation or omission of material information in responses and statements to the LTA.

### **Penalty**

A fine of US\$500 – US\$500,000 as may be determined by the LTA.

## **PART 11 OTHER MATTERS**

1. Failure of operator to attend LTA proceedings or requested meetings of which the operator has had reasonable advance notice. It may be deemed a failure to attend if the operator's representatives are not knowledgeable about the subject matter of the meeting when the operator has been given reasonable advance notice of the subject matter, or if the operator's representatives lack adequate decision-making authority.

### **Penalty**

At the discretion of the LTA, a fine not exceeding US\$20,000.