

AN ACT

To amend and restate Title 15 of the Palau National Code to modernize and reform the telecommunications regulatory framework of the Republic.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

1 Section 1. Legislative Findings. The completion of the submarine fiber optic
2 cable by the Belau Submarine Cable Company promises a new era in telecommunications
3 for Palau. With that new era must come new regulatory structure, to ensure that Palauan
4 consumers receive reliable telecommunications services at a reasonable and competitive
5 cost. To that end, the Olbil Era Kelulau finds that the Division of Communications
6 within the Ministry of Public Infrastructure, Industry, and Commerce should be elevated
7 to a new Bureau of Communications. The new Bureau will be charged with facilitating
8 productive relationships between the nation's telecommunications providers that ensure
9 interconnection between providers occurs and infrastructure duplication is unnecessary.
10 The Bureau of Communications will ensure that Palauan citizens are provided reliable
11 telecommunications services at affordable cost.

12 Section 2. Amendment. Section 106 of Title 2 is amended as follows:

13 "§106. Functions of the Ministry of Public Infrastructure, Industries and
14 Commerce.

15 (a) The Ministry of Public Infrastructure, Industries and Commerce shall be
16 responsible for the maintenance, operation, engineering, and design of
17 government-owned facilities and equipment, including public utilities; public works;
18 capital improvement projects; infrastructure; lands; surveys; land, sea, and air
19 transportation, including ports; communications; and for other related matters.

20 (b) There is established a Bureau of Communications, under the Ministry of
21 Public Infrastructure, Industries and Commerce, which shall be responsible for the
22 supervision and regulation of telecommunications in the Republic of Palau. The Bureau
23 of Communications shall have the powers, duties, and responsibilities of a
24 telecommunications regulator, as more fully set out in Chapter 3 of Title 15 of the Palau
25 National Code. Its responsibilities shall include the promulgation of telecommunication

1 regulations, the oversight of telecommunication providers, and the maintenance of a
2 healthy and competitive telecommunications industry, in accordance with the provisions
3 of Title 15.”

4 Section 3. Repealer. Title 15 is repealed in its entirety.

5 Section 4. Amendment. Title 15 of the Palau National Code is restated in its
6 entirety as follows:

7 “Title 15

8 Communications

9 Chapter I

10 General Provisions

11 § 101. Short Title.

12 § 102. Exclusions.

13 § 103. Definitions.

14 §101. Short Title.

15 This Act may be cited as the “Palau National Telecommunications Act of 2017”.

16 §102. Exclusions.

17 This Title shall not apply to:

18 (a) Telecommunications networks operated, for the needs of the defense of and
19 safety within the Republic, by the Bureau of Public Safety and any other national agency
20 furthering such objectives, and related equipment used solely for these purposes;

21 (b) Telecommunications networks and services networks and equipment used to
22 broadcast radio and television services using radio frequencies intended for receipt by the
23 public, regardless of the technical means of transmission and whether in coded or not
24 coded form; provided that, the provisions of Chapter V on the regulation of radio
25 frequencies shall apply to broadcasters; and

26 (c) Telecommunications services provided to and for the benefit of foreign
27 government entities pursuant to international agreement with the government of Palau.

28 §103. Definitions.

29 (a) “Access” means, as the context requires, the provision by one licensee to
30 another of access to a telecommunications network or telecommunications facility for the

1 purpose of the second licensee providing telecommunications services;

2 (b) "Access provider" means a licensee that is asked by another licensee to provide
3 it with access on a non-discriminating wholesale basis to a telecommunications network
4 or a telecommunications facility that it owns or controls;

5 (c) "Access seeker" means a licensee that requests access from an access provider;

6 (d) "Bureau", unless context clearly indicates otherwise, means the Bureau of
7 Communications established under this Title;

8 (e) "Customer" means a person who contracts for telecommunications services, as
9 or on behalf of a user of telecommunication services;

10 (f) "Division" means the Division of Communications within the Ministry of
11 Public Infrastructure, Industries and Commerce;

12 (g) "Exempt network" means a telecommunications network that is:

13 (1) not used to provide any telecommunications services for which a charge
14 is imposed;

15 (2) wholly within one discrete piece of real property, including a ship or
16 aircraft, or a number of such properties which together comprise a campus;

17 (3) used only for a person's private or internal requirements (including the
18 requirements of an organization's staff or an affiliate); or

19 (4) otherwise exempted by law;

20 (h) "Exempt service" means telecommunications services:

21 (1) provided only over an exempt network; or

22 (2) otherwise exempted by law;

23 (i) "Interconnection" means, as the context requires, the physical and logical
24 linking of telecommunications networks operated by the same or different licensees in
25 order to allow the customers of one licensee to communicate with the customers of the
26 same or another licensee, or to access the telecommunication services of another licensee.
27 Interconnection is a specific type of two-way access implemented between
28 telecommunications network operators to exchange messages between
29 telecommunications networks;

30 (j) "Message" means any information transmitted electronically;

1 (k) "Minister" means the Minister of Public Infrastructure, Industries and
2 Commerce, or his designated successor in responsibility for telecommunications;

3 (l) "Network termination point" means the point determined by the regulations
4 for the purposes of this Title or, in the absence of such regulations:

5 (1) the first equipment socket in a private residence;

6 (2) the public network termination point on the main distribution frame in
7 a building;

8 (3) a point agreed between the customer and the owner of the
9 telecommunications facility to which that customer is connected; or

10 (4) the air side of the antenna at the customer equipment, where such
11 customer equipment is connected to a network by means of radio communication;

12 (5) For any submarine cable landing in the Republic, the network
13 termination point is the network interface located where the physical hand-over of
14 capacity from the cable to licensed telecommunications service providers is
15 accomplished.

16 (m) "Nominal location", of a submarine cable or cables, means the nominal
17 location specified in the declaration of the protection zone in relation to the cable or
18 cables;

19 (n) "Palauan waters" means (i) the waters of the territorial sea of the Republic;
20 (ii) the waters of the exclusive economic zone of the Republic; (iii) the sea above that part
21 of the continental shelf of the Republic that is beyond the limits of the exclusive economic
22 zone;

23 (o) "Person" means any natural person or other nongovernmental entity, however
24 organized;

25 (p) "RUS" means the Rural Utilities Service, or its predecessor, the Rural
26 Electrification Administration, of the government of the United States;

27 (q) "Radio communication" means the transmission of messages by radio signals
28 of all kinds between two or more points;

29 (r) "Radio frequency spectrum" means those radio frequencies comprising
30 channels for specific radio transmission technologies usable in the Republic;

1 (s) "Telecommunications" means the conveyance from one device to another of
2 any message by means of any wire, radio, optical, electric, magnetic, electromagnetic or
3 similar system;

4 (t) "Telecommunications network" means a system that uses electricity or
5 electromagnetic energy for providing telecommunications services between network
6 termination points;

7 (u) "Telecommunications service" means a service for the transmission or
8 transport of messages by means of a telecommunications network;

9 (v) "Telecommunications provider" means a person that:

10 (1) owns a legal commercial telecommunications network providing access
11 to third parties;

12 (2) provides or is entitled to provide telecommunications services under a
13 license or exemption; or

14 (3) has applied for a license or exemption under this Title.

15 Chapter II

16 Palau National Communications Corporation

17 § 201. Creation of corporation; general provisions.

18 § 202. Board of Directors, terms, vacancies, quorums, and compensation.

19 § 203. Public meetings and official documents.

20 § 204. Appointment of general manager.

21 § 205. Powers and responsibilities of PNCC.

22 § 206. Status of PNCC.

23 § 207. Fiscal authority of corporation; audits.

24 § 208. PNCC Fund.

25 § 209. Construction of chapter.

26 § 210. Prohibition of free or discounted services to PNCC employees.

27 § 211. Approval of foreign agreements.

28 §201. Creation of corporation; general provisions.

29 (a) There shall continue to be a Public Corporation called the Palau National
30 Communications Corporation ("PNCC"), which shall continue to operate in the form

and manner prescribed by this chapter.

(b) PNCC shall be subject to the corporate laws of the Republic to the extent that such laws do not conflict with this chapter or in any way distort the public character of the corporation.

§ 202. Board of Directors, terms, vacancies, quorums, and compensation.

(a) The affairs of PNCC shall be managed and directed, and its corporate powers exercised, by a Board of Directors.

(b) The Board shall be composed of five members, all citizens of the Palau who shall be appointed by the President of the Republic with the advice and consent of the Senate of the Olbiil Era Kelulau. The Board shall designate one of its members as Chairman. The President shall have the power to remove a Board member only for cause.

(c) Board member appointments shall be for four (4) year terms.

(d) Any Board member appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed by the President, with the advice and consent of the Senate of the Olbiil Era Kelulau, for the remainder of such term.

(e) So long as there are three (3) Board members in office, vacancies on the Board shall not impair the powers of the Board to execute the functions of PNCC, and three (3) of the Board members in office shall constitute a quorum for the transaction of the business of the Board. All decisions of the Board shall be by majority vote.

(f) Board members shall be entitled to compensation and per diem at established national government rates when traveling on the business of PNCC.

§203. Public meetings and official documents.

(a) All meetings of the Board shall be open to the public and official documents shall be available for public inspection and published where required by law.

(b) PNCC shall be subject to all transparency rules for government bodies established by law or regulation unless specifically exempted.

§204. Appointment of general manager.

The Board shall appoint a general manager of PNCC and shall determine his or

her compensation and term of office. The general manager shall manage the operations of PNCC and shall, in accordance with policies established by the Board, retain, direct, and terminate the services of employees.

§205. Powers and responsibilities of PNCC.

(a) In order to achieve the objectives and to carry out the purposes and provisions of this Chapter, PNCC shall have the following authority to:

(1) operate telecommunications networks and provide telecommunications services within Palau and between points in Palau and points outside thereof;

(2) operate and manage telecommunications services on the basis of commercially and technically accepted practices, treating all users of telecommunications services on equitable terms in accordance with its published tariffs, and requiring all users to pay for the telecommunications services provided;

(3) plan for the expansion and improvement of its telecommunications facilities and telecommunications services;

(4) expand, to the extent practicable, telecommunication services to areas and communities in Palau that are presently unserved or underserved and to improve the quality, reliability, and variety of telecommunications services available to all users in a manner consistent with commercial reasonableness and with promoting economic development, the advancement of education and health care, and the preservation of the cultural identity of the people of Palau; and

(5) provide emergency telecommunication services as may be necessary in the national interest.

(b) PNCC shall execute these powers and responsibilities in a manner consistent with all applicable laws and regulations.

§206. Status of PNCC.

In performing its functions authorized under the laws of the Republic, PNCC shall have the capacity to exercise all powers normally exercised by a corporation, including, but not limited to, the authorities to:

(a) adopt, alter, and use a corporate seal;

1 (b) adopt and amend bylaws governing the conduct of its business and the exercise
2 of its powers;

3 (c) sue and be sued in its corporate name, and to have succession;

4 (d) borrow or raise any sum or sums of money and to issue corporate bonds on
5 such security and upon such commercially reasonable terms as may from time to time be
6 deemed necessary for the expansion and improvement of telecommunications facilities,
7 provided that obligations of the PNCC shall not be the debts and obligations of the
8 national government, nor shall the national government be liable for the debts or
9 obligations of PNCC;

10 (e) invest all surplus revenues of PNCC in the expansion and improvement of
11 telecommunications facilities and telecommunications services;

12 (f) retain and terminate the services of employees, agents, attorneys, auditors, and
13 independent contractors upon such terms and conditions as it may deem appropriate;
14 and

15 (g) do all such other things as may be deemed incidental to or conducive to the
16 attainment of the responsibilities of PNCC.

17 §207. Fiscal authority of corporation; audits.

18 (a) PNCC shall establish and maintain records and accounts of all of its financial
19 transactions, and shall have full charge of its financial affairs.

20 (b) The Public Auditor shall conduct bi-annual audits and reviews of all
21 operations, books, records, procedures, and transactions of PNCC and report the
22 findings to the President of the Republic and the Olbiil Era Kelulau.

23 (c) PNCC shall submit a detailed and itemized annual budget for the upcoming
24 fiscal year to the Olbiil Era Kelulau not later than sixty (60) days before it is to take effect.
25 Such budget shall be deemed approved unless rejected by a joint resolution of the Olbiil
26 Era Kelulau within sixty (60) days of submission. If such budget is rejected, PNCC shall
27 submit a revised budget for approval in accordance with this section.

28 §208. PNCC Fund.

29 PNCC shall establish an account or accounts, to be collectively known as the
30 "Palau National Communications Corporation Fund" into which all appropriations,

1 funds and revenues accruing to PNCC shall be deposited and from which all PNCC
2 expenditures or obligations shall be made; provided, that PNCC is hereby authorized to
3 create any additional accounts as may be required by the RUS subject to whatever
4 conditions the RUS may by law require in order for PNCC to obtain and maintain a RUS
5 loan.

6 §209. Construction of chapter.

7 Nothing in this Chapter is intended to affect the rights, obligations and
8 responsibilities of the United States Government as Administering Authority under the
9 Trusteeship Agreement or Secretarial Order No. 3039, and this Chapter shall be
10 construed accordingly.

11 §210. Prohibition of free or discounted services to PNCC employees.

12 No officer or employee of PNCC may receive free telecommunications service, or
13 any discount for such service not generally available to PNCC customers.

14 §211. Approval of foreign agreements.

15 Any agreement or series of related agreements with a foreign entity, except those
16 which are to be approved by the REA, for the sale, lease, or purchase of any goods or
17 services in excess of two hundred thousand dollars (\$200,000) shall be subject to the prior
18 approval of the Olbiil Era Kelulau by joint resolution. The Olbiil Era Kelulau shall act
19 to approve or disapprove any agreement or series of agreement submitted to it within
20 thirty (30) calendar days of submission. An agreement disapproved by the Olbiil Era
21 Kelulau shall be returned to the PNCC with a written statement of the reasons for such
22 disapproval. Any agreement or series of agreements not disapproved of within thirty
23 (30) days of submission to the Olbiil Era Kelulau shall be deemed approved.

24 Chapter III

25 Responsibilities for the Telecommunications Sector

26 § 301. The Bureau of Communications.

27 § 302. Functions, duties and powers of the Bureau of Communications.

28 § 303. The Director of the Bureau of Communications; Interim Director.

29 § 304. Annual reports, accounts and audit.

30 § 305. Public consultation.

1 § 306. Publication and use of information.

2 § 307. Reconsideration of decisions.

3 § 308. Appointment of experts.

4 § 309. Powers and duties of the Minister.

5 §301. The Bureau of Communications.

6 (a) The Bureau is designated as the State Commission for the Republic for all
7 domestic and international purposes, including but not limited to, designating
8 telecommunications common carriers as eligible telecommunications carriers and to
9 make related certifications regarding such carriers, and is granted all regulatory
10 jurisdiction and authority with respect to intrastate operations of carriers in the
11 Republic of Palau.

12 (b) Except as otherwise provided by this Title, all duties and responsibilities of the
13 national government pertaining to regulation and management of telecommunications
14 and radio frequency spectrum issues shall be transferred to the Bureau of
15 Communications, as defined in Section 106(b) of Title 2.

16 (c) The Bureau shall:

17 (1) perform its functions and exercise its powers and duties in accordance
18 with this Act and the principles of transparency, neutrality with respect to
19 telecommunications service providers and technologies, and proportionality in
20 decision making;

21 (2) promote efficient investment in advanced telecommunications
22 technologies;

23 (3) promote efficient use of radio frequencies and the numbering space
24 resource; and

25 (4) ensure that in similar circumstances there is no discrimination in the
26 treatment of different telecommunications providers.

27 §302. Functions, duties and powers of the Bureau of Communications.

28 (a) For the purpose of achieving the objectives referred to in §301, the Bureau of
29 Communications shall, as necessary:

30 (1) issue licenses and supervise and enforce compliance with this Title and

1 the conditions of licenses;

2 (2) regulate interconnection and facility access issues arising between
3 licensees where such matters are not agreed to by the licensees;

4 (3) regulate minimum requirements for subscriber contract terms and
5 conditions;

6 (4) monitor and enforce compliance with competition requirements, define
7 relevant telecommunications markets and analyze competitive conditions therein,
8 identify licensees having a presence in a relevant telecommunications market,
9 develop and assess whether to impose appropriate regulatory conditions on such
10 licensees, and determine when industry consolidation is permissible;

11 (5) regulate the protection of consumers, the charges levied by licensees
12 for telecommunications networks, the telecommunications services and attributes
13 of telecommunications services;

14 (6) specify and approve technical standards and procedures for
15 interconnection, the operation of telecommunications networks, and the
16 provision of telecommunications services;

17 (7) regulate types and characteristics of equipment which may be
18 connected to a telecommunications network;

19 (8) monitor and report to the Minister, the President, and the Olbiil Era
20 Kelulau on the development and performance of the telecommunications sector
21 in supplying services and the contribution of the telecommunications sector to the
22 overall development of Palau;

23 (9) monitor the Quality of Services (QoS) provided by licensees and ensure
24 that licensees conform to standards of service consistent with agreements between
25 licensees and customers or licensees and other licensees;

26 (10) manage the radio frequency spectrum required to provide
27 telecommunications services, including numbering and electronic addressing, and
28 where practicable and feasible respond to licensees' requests for assistance in
29 obtaining access to land for telecommunication networks;

30 (11) administer universal service arrangements for the supply of

telecommunications services throughout Palau;

(12) give effect to policies approved by the Minister or the President;

(13) respond to requests for information and assistance from national and international operators and telecommunication services providers, including those from potential investors;

(14) where required by the Minister, represent the government in international conferences or international and other organizations concerned with telecommunications;

(15) advise the government on policies and legislative measures in respect of telecommunications;

(16) develop and enforce standards for the disclosure and publication of information by licensees to promote transparency in the telecommunications sector;

(17) undertake public consultations on matters relating to telecommunications;

(18) mediate telecommunications-related disputes between licensees where requested;

(19) specify and approve technical standards for all equipment used in public telecommunications networks in Palau;

(20) provide alternative dispute resolution services related to telecommunications licensees, providers, and consumers where requested;

(21) work in consultation with other industry experts and other government entities to create a Cybersecurity Framework, including but not limited to, keeping pornographic and other morally harmful material out of the hands of minors and addressing potential national security concerns to the Republic of Palau.

(22) take enforcement action under this Title;

(23) make rules and regulations as provided for under this Title; and

(24) perform such other functions as are consistent with this Title.

(b) In addition to the matters which are specifically prescribed in this Title, the

1 Bureau may make such rules and regulations as are contemplated by or necessary for
2 giving full effect to the provisions hereof. Rules and regulations shall be promulgated in
3 accordance with the Palau Administrative Procedure Act, 6 PNCA §§ 101 – et seq. (the
4 “Administrative Procedures Act”).

5 (c) The Bureau may employ, consult, or contract such officers, employees,
6 consultants, attorneys, and agents as shall be necessary to carry out the provisions of
7 this Title. No such officer, employee, consultant, attorney, or agent may have a financial
8 interest in or own any entity affected by the activities they are employed or contracted to
9 conduct.

10 (d) The Bureau shall have the power to use, with consent, the available services,
11 equipment, personnel, and facilities of other agencies of the government of the Republic
12 of Palau, on a reimbursable basis when appropriate, and on a reciprocal basis to
13 cooperate with those agencies in the establishment and use of services, equipment, and
14 facilities of the Bureau.

15 §303. The Director of the Bureau of Communications; Interim Director.

16 (a) The Director of the Bureau shall:

- 17 (1) possess at least a bachelors degree;
18 (2) never have been convicted of a felony or crime of moral turpitude;
19 (3) have a combination of legal, managerial, technical, and other relevant
20 experience sufficient to perform the duties of the position; and be a citizen of the
21 Republic of Palau.

22 (b) Neither the Director, nor any person who is related by marriage or to the
23 second degree of consanguinity to the Director, may:

24 (1) be members of or hold, in the aggregate, the majority of interests or
25 shares, directly or indirectly, in any entity directly subject to the jurisdiction of
26 the Bureau.

27 (2) hold a direct or indirect financial or other interest in any
28 telecommunications services provider other than through a fund over which the
29 person has no control or influence.

30 (c) The Director shall be responsible for the exercise of all powers and the

1 discharge of all duties of the Bureau and shall have control over all personnel and
2 activities of the Bureau.

3 (d) The Minister may appoint an Interim Director who shall immediately assume
4 the position of Director for a total period of no more than two (2) years.

5 (1) An Interim Director shall have the same authority as a Director.

6 (2) An Interim Director shall have a combination of skill and experience
7 that justifies his or her appointment in the early phase of the Bureau's existence.

8 (3) No requirement, including that of citizenship or residency, shall
9 preclude the appointment of an otherwise competent Interim Director.

10 (e) The Director and any Interim Directors shall be exempt from the National
11 Public Service System Act.

12 §304. Annual reports, accounts and audit.

13 (a) The Bureau shall be funded on an annual basis by license fees and other fees it
14 is entitled to charge under this Title, from grants and donations, and from moneys
15 appropriated.

16 (b) Notwithstanding the provisions of any other Act, charges and fees payable to
17 the Bureau pursuant to this Title shall be payable to the Bureau's nominated bank
18 account.

19 (c) Charges and fees payable to the Bureau under this Act constitute a debt,
20 which may be recovered by the Bureau in a court of competent jurisdiction, subject to
21 penalties and interest accrued as per Chapter 17 of Title 40 of the Palau National Code.

22 (d) The Bureau shall:

23 (1) by March 31st of each year, cause its accounts for the previous
24 financial year to be audited by the Public Auditor;

25 (2) by May 31st of each year, submit to the President and publish the
26 audited accounts and an annual report on its activities for the previous financial
27 year;

28 (3) by June 30th of each year, submit to the President and the Olbiil Era
29 Kelulau an annual report on all significant matters relating to the performance
30 and efficiency of the telecommunications sector, with particular reference to the:

(A) adequacy and Quality of Services (QoS);

(B) the state of competition in the sector; and

(C) contribution of the telecommunications sector to economic development of Palau; and

(4) by the 2nd Tuesday of July of each year, submit its annual budget for the next fiscal year and budget forecasts for the subsequent two (2) fiscal years to the President for inclusion in the national budget process;

(e) The annual report of the Bureau shall include:

(1) a list of the licenses issued under this Act and then in force, together with the names, addresses, and other contact details for all individual licensees;

(2) a list of the interconnection and access agreements then in force;

(3) a summary of any material litigation involving the Bureau; and

(4) a description of the activities carried out during the year in respect of the Universal Access Plan.

(f) The Bureau shall transfer to the Universal Access Special Revolving Fund any monies that it receives under this Act in excess of its approved budget and forecast funding needs, unless the Minister directs the Bureau to retain or otherwise transfer such excess funds.

§305. Public consultation.

(a) The Bureau shall carry out such consultations as are required by this Title. The Bureau may also carry out such other consultations with interested persons as it deems appropriate in the circumstances.

(b) Where this Title requires the Bureau to conduct a public consultation, it shall publish a written notice in English and Palauan specifying:

(1) the power which the Bureau intends to exercise;

(2) the way in which the Bureau intends to exercise that power; and

(3) the reasons for the intended exercise of that power.

(c) Where this Title requires the Bureau to conduct consultation with a particular person, the Director shall also provide the written notice specified in subsection (b) to that person.

(d) A person shall be entitled to provide a submission to the Bureau in response to a notice published under subsection (b). The due date to lodge such a submission shall be fourteen (14) days from the date of the notice or such longer period as the Bureau may specify in the notice.

(e) The Bureau shall take into account any submission it receives under subsection (d) by the due date. The Bureau is not prohibited from taking into account a submission it receives after the due date.

(f) Subject to §313, the Bureau shall make publicly available a copy of any submission it receives under subsection (d).

(g) The Bureau shall, before making a final decision:

(1) publish a draft decision; and

(2) provide a copy of such draft decision to every person who has made a submission under subsection (d), where required by this Title or where the Bureau otherwise considers it appropriate.

(h) If the Bureau issues a draft decision, subsections (b) to (f) shall apply to the draft decision, as if references to the written notice provided under subsection (b) were references to the draft decision.

(i) After making a final decision, the Bureau shall promptly:

(1) publish that decision; and

(2) provide a copy of such decision to every person who has made a submission under subsection (d).

§306. Publication and use of information.

(a) Subject to subsection (c), the Bureau shall publish:

(1) all rules or other instruments made under this Title;

(2) all licenses and exemptions issued under this Title, including the names, addresses, and other contact details of individual licensees and the names and addresses of exempted entities; and

(3) such other documents it is required to publish by law or regulation.

(b) Where required to publish a document, the Bureau:

(1) shall publish the document on its website;

1 (2) shall post a notice in English and Palauan, which summarizes the
2 document and direct interested parties to the website or the office of the Bureau to
3 see a full copy, at the President's Office, the Judiciary Building, the Old Olbiil Era
4 Kelulau Building, and the Post Office; and

5 (3) may publish the document in such other manner as the Bureau deems
6 appropriate.

7 (c) Subject to subsections (h) and (i), neither the Bureau nor any agent of the
8 Bureau shall knowingly publish or disclose sensitive information to any person,
9 knowingly allow sensitive information to be disclosed with any person, or use sensitive
10 information for personal advantage. A breach of this prohibition shall be grounds for
11 termination.

12 (d) Subsection (c) shall also apply to a person who publishes, discloses or uses
13 sensitive information after ceasing to be an employee of the Bureau.

14 (e) Subject to subsection (h), 'sensitive information' means information that is
15 submitted to the Bureau by a person, where the information:

16 (1) is not already in the public domain; and

17 (2) has been designated as confidential or proprietary by that person
18 because:

19 (A) the person has a legal obligation to keep the information
20 confidential;

21 (B) the information is commercially sensitive to the person;

22 (C) disclosure would compromise effective competition in a
23 telecommunications market; or

24 (D) disclosure would create a risk to a person's safety or national
25 security.

26 (f) The Bureau may, by notice given to the person supplying information under
27 subsection (e) within seven (7) days of the information being submitted, determine that
28 the information and any data derived from that information is not confidential or
29 proprietary and as of the date of such notice that information shall not be sensitive
30 information.

(g) Where information is provided to the Bureau voluntarily, upon receipt of a notice issued under subsection (f) the submitter may within three (3) days of receipt by notice to the Bureau withdraw the information, in which case:

(1) the Bureau shall not have regard to the information; and

(2) subsections (c) and (d) shall apply as if the information were sensitive information.

(h) 'Sensitive Information' shall not include the terms of an interconnection and access agreement, including prices for interconnection and access services.

(i) The Bureau may aggregate sensitive information in such a manner that the identity of the provider of the sensitive information is not readily apparent and:

(1) publish such information in reports concerning the state of a telecommunications market in Palau; and

(2) provide such information to other persons for the purposes of research or the preparation and publication of reports for non-commercial purposes concerning telecommunications markets including such telecommunications markets in Palau.

(j) Where sensitive material is contained in a document that is required to be published under this Title, the Bureau shall redact such material from the document prior to the publication and include a statement of the reason for the redaction in its place.

(k) The Bureau may, in the course of taking any action or making any decision in regard to an interconnection or access dispute, supply any sensitive information provided by a party to that dispute to representatives of another party to the dispute where the Bureau is satisfied that the confidentiality of the information is protected by legal privilege or that other steps have been taken to ensure that the use of that information is restricted to the proper conduct of the dispute.

§307. Reconsideration of decisions.

(a) Any person directly affected by a decision of the Bureau may apply to the Director for reconsideration within fourteen (14) days of the decision of which review is sought.

1 (b) An application under subsection (a) must specify:

2 (1) the determination, decision, or order of the Bureau to which the
3 application relates;

4 (2) the reasons for which the reconsideration is sought; and

5 (3) the action sought on reconsideration.

6 (c) The Director shall, within thirty (30) days from receipt of an application under
7 subsection (a), consider the application and notify the applicant as to whether the
8 determination, decision or order will be reconsidered.

9 (d) If, within thirty (30) days after the filing of an application for reconsideration,
10 the applicant has not received a response to the application, the Director shall be deemed
11 to have affirmed the determination, decision or order in respect of which the application
12 for reconsideration was made.

13 (e) If the Director reconsiders the determination, decision, or order, it shall
14 comply with the same procedures to be complied with when the determination, decision,
15 or order was first made.

16 §308. Appointment of experts.

17 (a) The Minister, with the consultation of the Bureau and all relevant
18 telecommunications service providers, shall establish and maintain a register of experts
19 who shall be available to act as advisors to the Bureau.

20 (b) The Director or any telecommunications service provider may, from time to
21 time, nominate additional persons for inclusion in the register. Such additional person
22 or persons shall be added to the register unless there is an objection by any
23 telecommunications service provider.

24 (c) The register of experts at all times shall comprise at least three (3) persons
25 who collectively have commercial, technical, and legal expertise in the field of
26 telecommunications.

27 (d) A person may be included in the register only if the person:

28 (1) has at least ten (10) years international experience in the regulation of
29 telecommunications markets; and

30 (2) is not a member, officer, employee, agent, or consultant of the Bureau

1 or the state or national government and has not been such a person for at least
2 twelve (12) months.

3 (e) There is no requirement that a person must be a citizen of the Republic to be
4 eligible to be included in the register of experts.

5 (f) The Minister shall remove a person from the register of experts if the person
6 no longer meets the criteria for appointment under subsection (d).

7 §309. Powers and duties of the Minister.

8 (a) The Minister shall have the following responsibilities and functions pursuant to
9 this Title:

10 (1) formulation, determination, and monitoring of the general policy for
11 the telecommunications sector in Palau, including the utilization of the sector to
12 promote national economic and social development;

13 (2) negotiation on behalf of the Republic, of international
14 telecommunications treaties and agreements between sovereign countries and
15 international organizations and bodies;

16 (3) issuance of appropriate orders in the event of a declared war, natural
17 disaster, or other state of emergency prescribing measures that must be
18 implemented by all licensed telecommunications network operators and
19 telecommunications services providers to manage the response to the event;

20 (4) representation of the Republic, at proceedings of international
21 organizations and forums on matters relating to telecommunications; and

22 (5) the development and designation of universal access policies and
23 objectives.

24 (b) Before recommending to the President any general policy in relation to
25 telecommunications, the Minister shall consult with licensees and other interested
26 persons and allow a reasonable period for consultation.

27 (c) The Bureau shall give effect to a government policy notified under subsection
28 (b), to the extent possible, consistent with this Title, and having regard to obligations
29 under any convention to which the Republic of Palau is a party.

30 (d) The Minister shall, in writing, from time to time notify the Bureau and express

his or her views on the general policy direction of the government in respect of the telecommunication sector.

Chapter IV

Regulation of Telecommunications

- § 401. License for Telecommunications Networks or Services.
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- 26 § 452. Corporations or other entities.
- 27 § 453. Forfeiture of device.
- 28 § 454. Prosecution.
- 29 § 455. Exclusion of liability.
- 30 §401. License for Telecommunications Networks or Services.

1 (a) No person may, in Palau or between any place in Palau and any place outside
2 Palau, except in accordance with an operating license:

3 (1) own or operate a telecommunications network (except an exempt
4 network); or

5 (2) provide a telecommunications service (except an exempt service).

6 (b) Notwithstanding subsection (a), those persons who were operating a
7 telecommunications network or providing a telecommunications service prior to the
8 adoption of this Title may continue to do so until January 31, 2018, by which time an
9 application for a license must be submitted to the Bureau. Proper submission of an
10 application will allow such network or service to continue until such time as the Bureau
11 decides the application.

12 (c) The Bureau may issue operating licenses pursuant to the requirements of the
13 licensing rules, including but not limited to:

14 (1) an individual license, to authorize the ownership or operation of any
15 specified telecommunications network and the provision of any
16 telecommunications service; and

17 (2) a class license, to authorize the provision of any telecommunications
18 service.

19 (c) The Bureau may issue an individual license to a specified person for a
20 specified period but not exceeding ten (10) years.

21 (d) A class license shall:

22 (1) be issued by the Bureau setting out the terms and conditions of the
23 license and any applicable eligibility criteria; and

24 (2) come into force with respect to any person upon registration by that
25 person under a class license issued under this Chapter.

26 (e) No license shall be required under subsection (a) to own or operate an exempt
27 network or to provide an exempt service, subject to compliance with any conditions set
28 out in the licensing rules.

29 (f) No additional license under this Title shall be required for the construction or
30 ownership of a telecommunications network where the operator of that

telecommunications network already holds the required operating license.

(g) Operating licenses shall not specify or restrict the technology or network type to be used by the licensee to provide telecommunication services.

(h) Notwithstanding the foregoing, for reasons of national security, the Bureau may, after consulting with the Minister, restrict the number of individual licenses issued for the establishment of submarine cables or telecommunications network infrastructure in Palau.

§402. Licensing rules for telecommunications networks or services.

(a) The Bureau may make licensing rules specifying:

(1) additional exempt services and exempt networks and conditions attaching to such exemption;

(2) the process for submitting an individual license application or application for registration, including the intended time frame for the Bureau to process an application;

(3) the eligibility criteria for individual licenses and registration under class licenses;

(4) a fair and transparent method or methods of selecting applicants in circumstances where applications for licenses may exceed the restrictions set out in subsection (b); and

(5) general license conditions which apply to all operating licenses.

(b) The licensing rules may set out restrictions or limitations on the issuance or scope of licenses necessary to give effect to the objectives of this Title, including promoting competitive telecommunications markets.

§403. Obtaining a license for telecommunications networks or services.

(a) Any person may, in accordance with the licensing rules, apply to the Bureau:

(1) for an individual license; or

(2) for registration under a class license.

(b) The Bureau shall promptly issue an individual license to an applicant provided that:

(1) the applicant's application complies with the licensing rules;

1 (2) the applicant signs an agreement certifying that applicant will be
2 subject to the universal access levy in §436;

3 (3) the applicant pays any applicable application fee to the Bureau;

4 (4) the applicant meets the eligibility criteria for the license; and

5 (5) the license is not of a type that is restricted in number.

6 (c) An applicant for an individual license may combine that application with an
7 application for a radio frequency license. In such case, the Bureau shall progress the two
8 applications in concert and issue the licenses together or under such arrangement as the
9 Bureau and the applicant agree.

10 (d) The Bureau must provide reasons for any refusal to issue an individual license
11 to an applicant in writing within thirty (30) days of the application.

12 (e) The Bureau shall promptly register an applicant under a class license provided
13 that:

14 (1) the application for registration complies with the licensing rules; and

15 (2) the applicant meets the eligibility criteria for the license.

16 (f) The Bureau shall maintain and publish a register of licensees and licenses.
17 The entry in the register shall be the authoritative record of the status of any license.

18 (g) Any restrictions under other laws concerning foreign investment in the
19 Republic shall not apply to carrying on the business of owning or operating a
20 telecommunications network or providing a telecommunications service by a licensee.

21 (h) Except as set out in this section, an operating license shall not discharge the
22 licensee from any obligation to obtain any other licenses, permits or approvals required
23 by law.

24 §404. Radio frequency licensing.

25 (a) The Bureau shall have sole responsibility for licensing the use of and for
26 allocating and assigning the radio frequency spectrum for the provision of
27 telecommunications services in the Republic of Palau.

28 (b) No person may use radio frequencies in a manner that is inconsistent with an
29 allocation and assignment of radio frequencies by the Bureau under this section.

30 (c) In performing its functions and duties and exercising its powers under this

1 section, the Bureau shall ensure that radio frequency spectrum is managed and used in a
2 manner that:

3 (1) is open, non-discriminatory, competitively neutral, objective, and
4 transparent;

5 (2) is consistent with any applicable international treaties, commitments,
6 recommendations, or standards legally binding on the Republic; and

7 (3) is economically efficient and permits evolution to new technologies and
8 services.

9 §405. Radio frequency licensing rules.

10 (a) The Bureau may make radio frequency licensing rules relating to the use of
11 radio frequency spectrum for the provision of telecommunications services specifying:

12 (1) the types of frequency licenses that may be issued in relation to
13 spectrum blocks or particular frequencies;

14 (2) the technical requirements that apply to the use of parts of the radio
15 frequency spectrum or particular frequency licensees;

16 (3) the parts of the radio frequency spectrum for which a frequency license
17 may only be issued following a request for applications published by the Bureau;

18 (4) the process for submitting an application for a frequency license
19 including the intended timeframe for the Bureau to process an application;

20 (5) the eligibility criteria for a frequency license;

21 (6) a fair and transparent method or methods of selecting applicants in
22 circumstances where applications for frequency licenses exceed the available
23 frequencies;

24 (7) procedures for a declaration that assigned frequencies are assigned on a
25 non-exclusive basis and the making of further allocations of frequencies in the
26 same frequency band;

27 (8) prohibitions against warehousing, hoarding, or other uses of assigned
28 frequencies for anticompetitive purposes;

29 (9) procedures for the vacation of frequencies that have been assigned to
30 any person and the assignment of those frequencies to another person; and

(10) general license conditions for frequency licenses.

(b) In accordance with the Administrative Procedures Act, the Bureau shall promulgate appropriate rules and regulation governing the use of the radio frequency spectrum.

§406. Revocation, suspension, dealing or surrender of a license.

(a) An operating or frequency license continues in effect until:

(1) it is revoked by the Bureau; or

(2) the expiration of any term specified in the license.

(b) The Bureau may revoke or suspend an individual license or registration of a person under a class license for a telecommunications network or telecommunications service:

(1) with the consent of the licensee;

(2) if the licensee is in material breach of a license condition; or

(3) if the licensee has made false or misleading statements to the Bureau-in:

(A) its license application;

(B) material information submitted to the Bureau; or

(4) if the licensee is insolvent, in receivership, bankrupt, or being wound up.

(c) Subject to subsection (d), the Bureau may revoke or suspend a frequency license:

(1) in the circumstances specified in subsection (b); or

(2) if it is necessary to implement a variation to the radio frequency spectrum plan or any other spectrum planning instrument made by the Bureau and is consistent with international spectrum planning or the international obligations of the Republic, provided that in the case of the required migration from one frequency spectrum band to another, an existing licensee in good standing shall be entitled to a license for the use of equivalent radio frequencies in the new band.

(d) The Bureau may only revoke a license under subsection (b)(2) or (b)(3) if it is satisfied that a suspension is not appropriate in the circumstances, having regard to the

seriousness of the breach of license condition or the false or misleading statements.

(e) A licensee may surrender a license, other than a class license, by written notice to the Bureau.

(f) A license is personal to the licensee and shall not be assigned, transferred, sub-licensed, or otherwise have its ownership or control obligated to another without the Bureau's written consent.

§407. Commercial negotiation.

Subject to law and regulation, licensees may negotiate, agree to and vary agreements with one another for interconnection of telecommunication networks, access to and sharing of telecommunications facilities and other related infrastructure, and other services, in such manner and on such conditions as are mutually acceptable to the licensees.

§408. Interconnection, facility sharing, and other infrastructure sharing.

(a) The Bureau shall prescribe regulations to sanction licensees who willfully fail in their negotiated or arbitrated obligation to interconnect, share facilities or services, or provide other services to licensees. Such sanctions may include fines, offsetting damages payable to the damaged licensee, and a revocation of license if the failure is not corrected.

(b) If two licensees are unable to negotiate an agreement for interconnection of telecommunication networks or access and sharing of telecommunications facilities, a licensee may request that the Bureau arbitrate an agreement between the two.

(c) If the Bureau arbitrates an agreement between two licensees, it shall determine the terms of the agreement based upon the following factors:

(1) Whether one of the licensees refused to negotiate in good faith for fair terms and whether the agreement is necessary for economically efficient service.

(2) The financial investment made by each licensee in the networks and facilities that are to be interconnected or shared.

(3) The ongoing maintenance and upkeep costs for each licensee in the networks and facilities that are to be interconnected or shared.

(4) Any possible effects negatively affecting quality of service or cost of providing service to customers that a licensee could experience from

interconnection or facility sharing.

(5) Agreement with the National Information and Communications Technology (ICT) policy and with any other policies directed by the Minister or President.

§409. Interconnection.

(a) An access provider must, on written request from an access seeker, promptly negotiate an interconnection agreement providing for the following, as applicable:

(1) interconnection of the licensees' telecommunications networks at any economically and technically feasible point in the access provider's telecommunications network where interconnection would not affect the security, performance or efficiency of the access provider's telecommunications network;

(2) conditions that maintain end-to-end operability to facilitate the provision of telecommunications services by the second licensee to a customer notwithstanding that the customer is directly connected to the first licensee's telecommunications network;

(3) standard terms contained in the interconnection rules enacted by the Bureau;

(4) subject to subsection (3), otherwise reasonable conditions, including with respect to timing, Quality of Service (QoS), technical, operational and fault handling terms;

(5) conditions that do not unfairly discriminate between licensees and are no less favorable to the access seeker than those the access provider provides for its own telecommunications services or those of its affiliates;

(6) the provision on a timely basis by each licensee of information, including technical specifications and commercially relevant information reasonably required for interconnection and the operation of telecommunication services for each licensee's customers; and

(7) a commitment from each licensee not to disclose or use information received from the other licensee in connection with the interconnection and access agreement for any purpose other than that for which it was supplied.

(b) A licensee who enters an interconnection agreement with another licensee must promptly submit a copy of the interconnection agreement to the Bureau.

§410. Access to networks.

(a) Where an access provider owns or controls a telecommunications facility declared to be essential by the Bureau, it must, on written request from an access seeker, promptly negotiate an access agreement providing for the following, as applicable:

(1) access to its telecommunications facilities, telecommunications networks, telecommunications software and telecommunications services, in a manner that is sufficiently unbundled, including co-location, to enable the access seeker to access the telecommunications facilities and wholesale services that it reasonably requires in order to provide telecommunication services to its customers;

(2) the provision of wholesale services on comparable terms to the terms on which the access provider provides such services for use in its own retail operations or those of its affiliates;

(3) conditions that maintain end-to-end operability to facilitate the provision of telecommunication services by the access seeker to it regardless of how the connection to the network is configured;

(4) the standard terms contained in the access rules enacted by the Bureau under this Chapter;

(5) subject to subsection (a)(4), otherwise reasonable conditions, including with respect to the timing, Quality of Service (QoS), technical, operational and fault handling terms;

(6) conditions that do not unfairly discriminate between licensees and are no less favorable to the access seeker than those the access provider provides for its own telecommunications services or those of its affiliates;

(7) the provision on a timely basis by each licensee of information, including technical specifications and commercially relevant information reasonably required for interconnection and the operation of telecommunications services for each licensee's customers; and

1 (8) a commitment from each licensee not to disclose or use information
2 received from the other licensee in connection with the interconnection and access
3 agreement for any purpose other than that for which it was supplied.

4 (b) A licensee who enters into an access agreement with another licensee must
5 promptly provide a copy of the agreement to the Bureau.

6 §411. Transparency in interconnection and access.

7 (a) Licensees in negotiations for an interconnection and access agreement must:

8 (1) act at all times in good faith;

9 (2) promptly provide information reasonably requested by the other party;

10 (3) avoid obstructing or delaying negotiations;

11 (4) comply with any direction given by the Bureau as to the conduct of the
12 negotiations; and

13 (5) not seek to cause the other party to withhold from the Bureau
14 information concerning the negotiations.

15 (b) The Bureau may instruct specific telecommunications licensees that are
16 dominant services providers to ensure transparency with regard to interconnection or
17 access by requiring them to publish specific information relating to technical
18 specifications, network characteristics, and conditions for use, prices and other
19 information relating to interconnection or access in advance.

20 (c) Any telecommunications licensee that is a dominant services provider in a
21 market is obliged, within thirty (30) days from the date when the decision determining
22 them to be a dominant services provider is issued, to submit to the Bureau a proposed
23 reference offer for interconnection and a reference offer for access to its
24 telecommunications network, which must sufficiently unbundle the elements of its
25 telecommunications network in order that other telecommunications licensees requesting
26 a specific service relating to interconnection or access need not to pay for the use of
27 telecommunications network elements that are not necessary for the service requested.

28 (d) A reference interconnection offer and the reference access offer must describe
29 the services offered by the dominant services provider in relation to interconnection
30 and/or access, separated into discrete components in accordance with market needs and

1 conditions, including the prices relating thereto. If such reference offer is not in
2 compliance with the provisions of this Title, the Bureau shall have the right to request
3 amendment of the offer. The dominant services provider shall be obliged to act
4 according to the request of the Bureau pertaining to the amending of the proposed
5 reference offer within thirty (30) days from the date of receiving the request.

6 (e) The reference offers of subsections (c) and (d) shall be approved by the Bureau
7 within thirty (30) days from their submission and the telecommunications licensee shall
8 publish the reference offer within five (5) days from the date of receiving the approval by
9 the Bureau.

10 (f) The Bureau shall, by a regulation based on this Title, prescribe the level of
11 detail of information to be published from the reference offers, as well as the manner of
12 publication.

13 (g) A dominant services provider shall not retreat from the terms of the approved
14 reference offer while executing approved agreements on interconnection and/or access.

15 (h) The Bureau may request a dominant services provider to make changes in the
16 approved reference offers, such as to prepare and submit updated reference offers as
17 commanded by the market conditions, such by the regulation in accordance with this
18 Title, but the telecommunications licensees may also do so at their own initiative.

19 §412. Disputes between licensees.

20 (a) If an interconnection and access agreement has not been reached within thirty
21 (30) days of a request under §410 the Bureau may, on written request by either licensee:

22 (1) determine the terms of the interconnection and access agreement
23 including the terms contemplated by §410; or

24 (2) direct the licensees to take specified action to reach agreement, such as
25 to engage a mediator or arbitrator, by written notice to both licensees, and the
26 licensees shall comply with such a direction.

27 (b) An interconnection and access agreement determined by the Bureau must:

28 (1) include the provisions referred to in §410;

29 (2) apply the interconnection and access terms specified in the
30 interconnection and access rules;

(3) not provide for interconnection or access to telecommunications facilities or the provision of wholesale services where interconnection or access or the provision of wholesale services is not technically, economically, or legally feasible or would materially adversely affect the security, performance, or efficiency of the access provider's telecommunications network; and

(4) have regard to the best interests of consumers, aim to have a positive impact on competition between licensees and encourage efficient and sustainable investment in telecommunication networks and telecommunications services in the Republic.

(c) The Bureau must consult with both licensees and provide both licensees with a draft interconnection and access agreement or a draft direction before determining the terms of the interconnection and access agreement or making the direction.

(d) A licensee may apply for reconsideration under §307 of the terms of any interconnection and access agreement determined by the Bureau that applies to it.

(e) The Bureau shall publish copies of all interconnection and access agreements.

§413. Interconnection and access rules.

(a) The Bureau shall make interconnection and access rules specifying standard terms to apply to all interconnection and access agreements, including wholesale prices and other pricing principles.

(b) The interconnection and access rules made under subsection (a) may designate mandatory services, including roaming services, which licensees must provide between interconnected telecommunications networks and which must be included in interconnection and access agreements.

(c) In specifying interconnection and access prices or pricing principles for interconnection and access rules made under subsection (a), the Bureau shall take into account internationally accepted principles for determining regulated prices, including methodologies designed to reflect actual costs.

(d) The Bureau may determine interim interconnection and access prices, based on benchmarking against cost-based prices set by regulators in comparable countries, to apply to all interconnection and access agreements, including agreements that have been

1 agreed between the parties or have been determined by the Bureau. Such interim prices
2 shall apply until:

3 (1) interconnection and access prices or pricing principles are made under
4 subsection (a); or

5 (2) different prices are set by the Bureau as to interim prices.

6 (e) A licensee may apply for a review of any interconnection and access rules made
7 by the Bureau under subsection (a).

8 §414. Passive infrastructure sharing.

9 (a) The Bureau may make regulations establishing a regime requiring the sharing
10 of passive infrastructure between and among telecommunications licensees in
11 circumstances where passive infrastructure sharing would bring the proposed
12 construction and deployment of telecommunications infrastructure and
13 telecommunications facilities into compliance with land use planning, zoning, or
14 sustainable development requirements then in effect under any applicable national or
15 state policy, and law.

16 (b) Passive infrastructure regulations shall be consistent with guidelines and
17 strategic objectives of the National Master Development Plan (PNMDP), or any
18 subsequent national infrastructure plan, and shall ensure compliance with state zoning
19 legislation or other land use plans adopted pursuant to applicable law.

20 §415. Prohibition of anti-competitive conduct.

21 (a) A licensee shall not engage in conduct having the purpose or effect, or likely to
22 have the effect, of substantially lessening competition in a telecommunications market,
23 and no provision of a contract or agreement having such purpose or effect, or likely to
24 have such effect, will be enforceable.

25 (b) Without limiting subsection (a), conduct has the purpose, effect or likely effect
26 of substantially lessening competition in a telecommunications market if it involves any of
27 the following:

28 (1) supplying a telecommunications service at a price below cost for a
29 substantial period of time for the purpose or with the effect or likely effect of
30 limiting competition in a telecommunications market;

(2) cross-subsidizing a telecommunications service in a competitive telecommunications market from a telecommunications service that is supplied in a telecommunications market that is not competitive;

(3) imposing restrictions on the other persons that a person may deal with in a telecommunications market or otherwise hindering the willingness of a supplier to provide goods or services to another licensee, without legitimate commercial justification;

(4) pre-emptively acquiring scarce facilities or resources, including land and radio frequencies, that are required or likely to be required by another licensee for the operation of its business, for the purpose of restricting the use of the telecommunications facilities or resources by the other licensee; or

(5) designing or installing a telecommunications facility or telecommunications network with the purpose of preventing or hindering another licensee from acquiring interconnection or access.

(c) Without limiting subsection (a), an arrangement between two or more licensees has the effect or likely effect of reducing competition in a telecommunications market if it directly or indirectly:

(1) fixes the prices or other conditions for the supply of a telecommunications service or access service;

(2) apportions, shares or allocates a telecommunications market or markets among themselves or other licensees; or

(3) prevents, restricts or limits the supply or acquisition of a telecommunications service or access service to or from a person or class of persons.

§416. Contravention of competition provisions.

(a) If the Bureau considers that a licensee is engaging in anti-competitive conduct, it may serve a notice of contravention on the licensee specifying the conduct that the Bureau deems to be in contravention of the law and requiring the licensee to cease or modify that conduct.

(b) A licensee specified in the notice under subsection (a) shall comply with the

1 notice within such time period and on such conditions as is specified in the notice.

2 (c) A licensee specified in a notice issued under subsection (a) may apply for
3 reconsideration under §307 seeking relief including setting the notice aside or varying
4 any conditions specified in the notice.

5 (d) If a licensee complies with subsection (b) in relation to a notice served under
6 subsection (a), the Bureau shall not take enforcement action under this Title in respect of
7 the conduct specified in that notice.

8 §417. Industry consolidation.

9 (a) A licensee shall not acquire or obtain an interest in shares or assets related to
10 telecommunications facilities or the provision of telecommunications services of another
11 licensee without the prior written consent of the Bureau.

12 (b) A licensee obtains an interest in shares or assets if the licensee becomes the
13 legal or beneficial owner of the shares or assets or it or its affiliate is in a position to
14 control the shares or assets.

15 (c) A licensee who wishes to acquire, directly or indirectly, shares in or assets of
16 another licensee shall:

17 (1) apply to the Bureau for consent to the acquisition;

18 (2) disclose such information as the Bureau may require concerning any
19 affiliate of the licensee; and

20 (3) provide such additional information as the Bureau may request for the
21 purposes of determining the effect or likely effect of the proposed acquisition on
22 competition in a telecommunications market.

23 (d) The Bureau may make rules specifying the form and information required for
24 an application under subsection (c).

25 (e) The Bureau shall consent to an application lodged under subsection (c) unless
26 it believes, after consultation with the licensee proposing to make the acquisition, that the
27 proposed acquisition would have the effect or likely effect of reducing competition in a
28 telecommunications market.

29 (f) A licensee may apply for reconsideration under §307 of a decision of the
30 Bureau not to consent to an application it has provided under subsection (c).

1 §418. Publication of terms and conditions.

2 (a) Before offering a telecommunications service to the public, or altering the
3 terms of any such telecommunications service, a dominant services provider shall:

4 (1) publish on its website and make available for inspection at its offices,
5 the terms and conditions, including the price, for that telecommunications service
6 in clear and simple terms; and

7 (2) provide a copy to the Bureau at least ten (10) business days prior to the
8 announcement of the tariff.

9 (b) Subject to the provisions of §418, the requirements of subsection (a)(2) as to
10 approval of the Bureau shall not apply to:

11 (1) any proposed reduction in a retail tariff; or

12 (2) the inclusion in an offer of a price discount either on a time-bound basis
13 or to an objectively identifiable group of consumers.

14 (c) If the Bureau does not take action to intervene within the time period set forth
15 in subsection (b), the tariff may take effect. If the Bureau determines that the proposed
16 tariff requires further review and analysis it shall notify the dominant services provider
17 that the effectiveness date of the tariff is suspended pending the conduct of the Bureau
18 review, provided that the review shall be completed by no later than thirty (30) days from
19 the date of the notice of suspension.

20 (d) The Bureau shall publish its decisions made under subsection (c).

21 (e) The Bureau may, by written notice to a dominant services provider, dispense
22 with the requirements of subsection (a) in respect of any telecommunications service or
23 telecommunications market if in the opinion of the Bureau the state of competition in the
24 market is such that tariff changes are unlikely to harm competition or to be substantially
25 detrimental to consumers.

26 §419. Pricing rules.

27 (a) The Bureau shall make pricing rules applicable to telecommunication services
28 providers in a market where the prices for the telecommunications services in such
29 market exceed the prices that would exist in a competitive market where prices are set on
30 the basis of economically efficient costs.

(b) Pricing rules established under subsection (a) shall specify:

(1) the telecommunications services to which this section applies; and

(2) the methodology to be applied by the telecommunication services providers in assessing the prices that it will charge for those telecommunication services.

(c) Any methodology for pricing adopted by the Bureau pursuant to subsection (a) shall:

(1) identify the relationship between the telecommunications service prices of all telecommunication services providers in the market and the reasonably economically efficient costs of providing that telecommunications service;

(2) promote efficient and sustainable investment in telecommunication networks and telecommunications services in the Republic; and

(3) reasonably protect the interests of consumers and other licensees.

(d) If the Bureau adopts pricing rules under this section, the licensee shall not charge a price for its telecommunications services greater than the maximum price as determined by the methodology contained in the pricing rules.

(e) Before making pricing rules under subsection (a), the Bureau shall consult with the all telecommunication services providers in the market.

(f) Telecommunication services providers affected by pricing rules made under subsection (a) may apply for reconsideration under §307 of the pricing methodology specified by the Bureau in pricing rules issued under subsection (a).

(g) The Bureau shall publish and notify the licensee of its determination, reconsideration under §307 of which may be applied for by the licensee.

(h) Where a licensee subject to pricing rules for a market issued under subsection (a) files a petition and in a proceeding demonstrates to the satisfaction of the Bureau that it is no longer a dominant services provider, the Bureau shall repeal or adjust the pricing rules that are the subject of the petition.

§420. Confidentiality of customer information.

(a) Subject to subsections (b) and (c), a licensee:

(1) shall not, without a customer's consent, collect, use, maintain, or

1 disclose information about a customer for any purpose; and

2 (2) shall apply reasonable security safeguards, including any safeguards as
3 the Bureau may mandate by regulation, to prevent the collection, use,
4 maintenance or disclosure of such information without the customer's consent.

5 (b) A licensee may disclose a customer's name, address and telephone number in a
6 printed or electronic directory or as provided for by law or regulation, provided that a
7 licensee shall permit customers on request to have their name omitted from such
8 directory.

9 (c) A licensee shall ensure that information it discloses or retains concerning a
10 customer is accurate and complete for the purposes for which it is to be used.

11 (d) A licensee shall permit a customer to inspect its records regarding a
12 telecommunications service provided to that customer and shall promptly correct or
13 remove information that is shown to be incorrect.

14 (e) A licensee shall retain accurate records of all customer invoices for six (6)
15 months from their billing date and shall make them available to the Bureau on a request
16 made in writing.

17 (f) A licensee shall, upon request, disclose to a customer the purpose of requesting
18 or collecting any information about that customer, and shall not use or maintain
19 information about customers for undisclosed purposes.

20 (g) The Bureau may make consumer protection rules requiring a class of licensees
21 to retain or not retain specified information relating to customers, including information
22 about billing, beyond a specified period.

23 §421. Confidentiality of customer communications.

24 A licensee shall take all reasonable steps to ensure the confidentiality of its
25 customers' communications except as permitted by law and shall not, without the prior
26 consent of the customer, divulge any information concerning the customer's communica
27 tions unless required by law or regulation.

28 §422. Access by government authorities.

29 Nothing in this Chapter shall be interpreted to prohibit or infringe upon the rights
30 of government authorities under the laws of the Republic to exercise such rights to access

otherwise confidential information or communications in a lawful manner.

§ 423. Terms of service, complaints and disputes.

(a) The Bureau may make consumer protection rules requiring licensees to take any of the following steps in a telecommunications market:

(1) establish fair and reasonable standard conditions for the provision of telecommunications services to customers, including procedures for dealing with complaints from and disputes with customers, and provision for customers' remedies, including refunds and compensation, where circumstances warrant;

(2) submit such conditions, procedures and remedies, or proposed amendments to the Bureau for its approval;

(3) make such changes to such conditions, procedures and remedies as may be reasonably required by the Bureau;

(4) publish such conditions, procedures, and remedies on its website and circulate them to points of sale for publication in a manner that ensures that prospective customers are able to be clearly informed of them;

(5) comply with such conditions, implement such procedures, and provide such remedies in accordance with their terms as approved by the Bureau;

(6) report to the Bureau on the types and volumes of customer complaints and disputes, the application of complaints procedures and manner in which complaints have been resolved; and

(7) take such other measures as the Bureau considers appropriate to ensure that customers' complaints and disputes are satisfactorily addressed.

(b) If a licensee fails to establish, submit or make changes to conditions, procedures or remedies if so required under subsection (a), the Bureau may do so and the licensee shall comply with such conditions, implement such procedures, and provide such remedies.

(c) A customer whose complaint or dispute has not been treated by a licensee in accordance with its procedures for dealing with complaints may apply to the Bureau for a determination:

(1) requiring the licensee to comply with those procedures; or

(2) addressing the complaint or dispute and providing for a remedy, if such remedy is not inconsistent with any reasonable conditions and procedures established by the licensee pursuant to this section.

(d) Before making a determination under subsection (c), the Bureau shall consult with the licensee and the affected customer.

§424. Directory assistance.

(a) The Bureau may make consumer protection rules requiring a licensee or class of licensees to establish and provide customers with directory assistance services on conditions prescribed in those rules, requiring licensees to co-operate for the provision of directory assistance services, and providing for the costs of providing directory assistance services to be shared between licensees whose customers may access the service.

(b) In this section, 'directory assistance services' means such services to provide access to a customer's name, telephone number and such other information about a customer as is set out in the consumer protection rules.

§425. Quality of Service (QoS).

(a) The Bureau may make consumer protection rules requiring a telecommunications provider to:

(1) establish key performance indicators for the quality of its service to users, which may be required to comply with minimum standards set out in the consumer protection rules;

(2) submit the indicators, and any subsequent amendments, to the Bureau for approval;

(3) make such changes to such indicators as may be required by the Bureau; and

(4) ensure that its services comply with such indicators.

(b) If a licensee fails to make performance indicators as required by consumer protection rules made under subsection (a), the Bureau may issue performance indicators and the licensee shall comply with such indicators.

§ 426. Technical standards.

Where necessary for interconnection purposes, the Bureau may, by regulation, set

standards for equipment used by or connected to telecommunications providers and telecommunications networks. These standards shall not be more restrictive than is necessary to preserve the ability of providers to interconnect in an economically feasible manner.

§427. Customer equipment standards.

(a) A person shall not sell, or offer for sale, equipment, and a person other than the licensee that owns or operates a telecommunications network shall not attach equipment to a telecommunications network, if the equipment:

(1) does not conform to a relevant equipment standard in the technical standards made under §426;

(2) does not conform with a relevant international standard; or

(3) would adversely affect the operation, reliability, security, or integrity of the telecommunications network or cause a health or safety risk to a person.

(b) A licensee may:

(1) disconnect from its telecommunications networks any customer equipment; and

(2) cease or refuse to supply a telecommunications service to a customer who has connected customer equipment to its telecommunications network, if that customer's equipment does not comply with the standards referred to in subsection (a).

§ 428. Numbering plan.

(a) The Bureau shall administer the numbering resource for all telecommunications network operators and telecommunication services providers in Palau.

(b) The Bureau shall make rules for the efficient use of the numbering resource specifying matters that include:

(1) a numbering plan for telecommunications services, including, without limitation of the foregoing, a numbering plan for Voice over Internet Protocol (VoIP) services;

(2) annual fees for the right to use allocated numbers in order to recover

the costs of the administration of the numbering plan;

(3) rules regarding the assignment and use of numbers;

(4) provision for any telecommunications provider using numbering ranges as of the date of this Act to retain such numbering ranges, subject to the amendment of those ranges by the addition of further digits, where the Bureau considers that to be necessary in order to ensure an adequate supply of numbers;

(5) the assignment of numbers for emergency services;

(6) requirements for the allocation of priority, quality and capacity for calls to emergency services; and

(7) prohibitions against warehousing, hoarding, or other uses of assigned numbers for anticompetitive purposes.

(c) The Bureau may make numbering rules specifying provisions for number portability if the Bureau:

(1) has conducted a public consultation about the inclusion of the provisions;

(2) determines that there is a reasonable likelihood of demand for number portability; and

(3) determines that the benefit outweighs the costs of introducing number portability.

(d) The Bureau may invite individual licensees to develop a number portability scheme in accordance with any directions given by the Bureau as to the content of such a scheme and to submit the scheme to the Bureau for approval.

(e) If the Bureau approves a number portability scheme submitted under subsection (d), such scheme shall have effect as a decision of the Bureau.

(f) A licensee that allocates central office codes to another licensee shall apply identical standards and procedures for processing all central office code assignment requests and for assigning such codes, regardless of the identity of the entity making the request, and shall not charge fees for the assignment or use of central office codes unless it charges one uniform fee for all carriers, including itself and its affiliates.

§429. National emergency numbers.

1 The Bureau may, by regulation, require a licensee that provides voice
2 telecommunications services to provide its subscribers with access to the numbers
3 specified in the numbering rules as being assigned for emergency services free of charge.

4 §430. Universal access policy.

5 (a) The Minister shall develop a policy for improving access to telecommunications
6 services of the nature described in subsection (c) for areas of Palau that are not
7 adequately served by existing services.

8 (b) The policy referred to in subsection (a) shall be promulgated pursuant to the
9 Administrative Procedures Act, and shall be implemented by the Bureau using such
10 procedures, plans, and contractual agreements as the Bureau believes will best further
11 the policy.

12 (c) The telecommunications services to be considered for the purposes of the
13 universal access policy shall be:

14 (1) data services which permit access to the Internet at minimum download
15 speeds to be set by the Bureau taking into account the technical feasibility, cost,
16 and economic affordability of the Internet access speeds in Palau;

17 (2) emergency services with priority routing enabling contact with police,
18 fire services, ambulance and marine rescue services;

19 (3) disaster relief services;

20 (4) operator assistance for call set-up and faults reporting;

21 (5) satellite backup contracts maintained in case of submarine cable failure
22 or other emergency; and

23 (6) such other telecommunications services designated by the Minister.

24 §431. Universal access eligibility.

25 (a) The Minister shall annually identify, publish and update a list of underserved
26 geographic areas or user groups that are eligible under the universal access policy for the
27 application of universal access obligations and funding under the universal access policy.

28 (b) The Minister shall invite proposals from licensees or prospective licensees to
29 introduce or improve telecommunications services and shall take into account such
30 proposals in identifying eligible universal access areas under subsection (a).

1 §432. Universal access obligation.

2 (a) A licensee shall become subject to a universal access obligation if:

3 (1) the provision of those universal access services is a requirement of the
4 license; or

5 (2) the licensee has assumed that obligation under this Chapter.

6 (b) The Bureau may enforce a universal access obligation by giving notice to the
7 licensee concerned requiring that the licensee take any action or meet any timetable
8 described in that notice and in the reasonable opinion of the Bureau required to comply
9 with that obligation.

10 (c) The Minister, upon recommendation of the Bureau, may defer the
11 commencement of a universal access obligation for such period and to such an extent as
12 deemed necessary where the Bureau has determined that the licensee concerned is
13 building telecommunications facilities at its cost in an area subject to the universal access
14 policy or the licensee has voluntarily undertaken to provide additional
15 telecommunications services or to construct additional telecommunications facilities at its
16 cost in such an area.

17 §433. Eligibility for universal access funding.

18 (a) Subject to subsection (b), a licensee subject to a universal access obligation as a
19 result of a successful tender under this Chapter is entitled to receive funding from the
20 Universal Access Revolving Fund.

21 (b) No licensee is entitled to funding from the Universal Access Revolving Fund for
22 the provision of services in a geographic area, and any entitlement previously established
23 shall cease, where a substantial level of access to comparable telecommunications services
24 is, in the opinion of the Bureau, available in that area from another licensee.

25 §434. Administration of universal access obligations.

26 The Bureau shall ensure that universal access obligations are administered in an
27 open, transparent, non-discriminatory, objective, and competitively neutral manner, and
28 are not more burdensome than necessary to achieve the objectives of the Universal Access
29 Plan.

30 §435. Universal Access Revolving Fund.

1 (a) A Universal Access Revolving Fund (the Fund) is established within the
2 National Treasury as a separate and distinct fund and shall be administered by the
3 Bureau.

4 (b) The Fund shall be used in accordance with the Universal Access Plan.

5 (c) The following shall be deposited in the Fund:

6 (1) any amounts transferred under Chapter III of this Title;

7 (2) any amounts available under any levy established for the specific
8 purposes of funding universal access projects, after any disbursements under
9 §437;

10 (3) any amounts available under frequency license fees paid as a result of a
11 competitive tender process;

12 (4) any grants or donations made to or for the benefit of the Fund;

13 (5) appropriations by the national government to the Fund; and

14 (6) any other amounts provided by law.

15 (d) The Bureau shall cause to be maintained books of account and records in
16 accordance with general accounting principles for funds administered by the government
17 in respect of the Fund and any monies paid into or out of the Fund.

18 (e) In the event of a submarine cable failure, the Bureau may pay monies out of the
19 Universal Access Special Revolving Fund only to provide subsidies or concessional loans
20 in accordance with a contract or to maintain satellite internet capacity or other backup
21 contracts.

22 (f) The Fund and any transactions from the Fund are not subject to any tax, rate,
23 charge or impost under any other law.

24 §436. Universal access levy.

25 (a) There is established a universal access levy on March 1, 2018, to be collected
26 on the retail provision of telecommunication services to customers.

27 (b) The initial rate of the levy shall be fifteen percent (15%) on gross revenue
28 from provision of telecommunications services to customers or based on the capacity sold
29 by the Belau Submarine Cable Corporation, as determined by the Bureau.

30 (c) The Bureau shall on or before January 1, 2019, review and consider adjusting

1 the levy and submit a report to the Minister and the Olbiil Era Kelulau detailing its
2 finding. The Bureau may make adjustments to the levy from time to time, as necessary
3 to satisfy existing Universal Access obligations and implement the Universal Access
4 Policy mandated by §430.

5 §437. Universal access levy cash waterfall.

6 (a) The Bureau shall on a regular basis distribute funds collected through the
7 universal access levy in accordance with the following priorities:

8 (1) The first priority shall be periodic debt payments for completed
9 universal access projects, specifically the REA/RUS debt held by PNCC, upon
10 which PNCC is currently making regular monthly payments.

11 (2) The second priority, when funds are available, shall be to pay for
12 satellite or other backup contracts to be maintained in case of a submarine cable
13 failure or other emergency affecting telecommunications service in the Republic.

14 (3) The third priority, when funds are available, shall be used to pay down
15 the principal of debts in subsection (a)(1).

16 (4) Remaining funds, when available, shall be used to fund new universal
17 access projects.

18 (b) The assistance with or making of a periodic payment on universal service debt
19 held by a service provider shall not constitute a guarantee of or pledge to repay such debt.
20 Such payments shall be made only when funds are available, and no payment shall create
21 a right or the expectation of any future payment.

22 §438. Universal access rules.

23 The Bureau shall make universal access rules consistent with this Title and
24 prescribing the operation of the Universal Access Revolving Fund and provision of
25 services pursuant to a Universal Access Plan and other project plans.

26 §439. Universal Access Plan.

27 Upon receipt from the Minister of a list of underserved geographic areas and user
28 groups that are eligible under the universal access policy for the application of universal
29 access obligations and funding under the universal access policy, the Bureau shall
30 prepare and publish a Universal Access Plan in accordance with the policy directives of

1 the Minister.

2 §440. Universal access projects.

3 The Bureau shall prepare and publish one or more project plans to address a
4 Universal Access Plan. A project plan shall specify:

5 (a) the timing by which deployment of such telecommunications services, or
6 telecommunications facilities to enable such telecommunications services, in particular
7 areas or segments of society of Palau should take place; and

8 (b) any general requirements or specifications for the provision of such
9 telecommunication services or telecommunications facilities.

10 §441. Provision of universal access services.

11 (a) The Bureau may contract with a person and provide such person a subsidy or
12 concessional loan for the provision of telecommunication services or telecommunications
13 facilities in accordance with a project plan.

14 (b) The Bureau shall, before entering a contract under subsection (a):

15 (1) consider whether there is likely to be competition for the subsidy or
16 concessional loan offered under subsection (a) for the provision of
17 telecommunications services or telecommunications facilities in accordance with the
18 project plan; and

19 (2) if the Bureau believes there would be such competition, conduct a
20 competitive tender for the provision of those telecommunications services or
21 telecommunications facilities in accordance with the universal access rules.

22 (c) If the Bureau considers that there is not likely to be competition for the provision
23 of the telecommunications services or telecommunications facilities for the maximum
24 subsidy or concessional loan the Bureau could offer in fulfillment of the relevant project
25 plan, the Bureau shall negotiate with any person the Bureau considers has the capability
26 of providing those telecommunications services or telecommunications facilities and may
27 enter into a contract for the provision of those telecommunications services or
28 telecommunications facilities in accordance with the project plan.

29 (d) If, after attempting to negotiate under subsection (c), the Bureau determines that
30 an agreement cannot be reached, the Bureau may, by written notice, require a licensee to

1 enter into a specified contract with the Bureau for the provision of the relevant
2 telecommunications services or telecommunications facilities for a subsidy or
3 concessional loan.

4 (e) The Bureau shall be guided by the following principles in requiring a licensee to
5 enter into a contract and specifying the terms of the contract under subsection (d):

6 (1) the licensee shall be chosen based on the Bureau's assessment of its
7 capability to provide the telecommunications services or telecommunications
8 facilities;

9 (2) the obligation to provide the relevant telecommunications services or
10 telecommunications facilities shall not unfairly discriminate between licensees;

11 (3) the licensee shall receive reasonable compensation having regard to the
12 costs of providing the telecommunications services or telecommunications facilities
13 and the revenues likely to be achieved from those services or facilities;

14 (4) the obligation to provide the relevant telecommunications services or
15 telecommunications facilities shall not be more burdensome than is reasonably
16 necessary to achieve the objectives of the relevant Universal Access Plan; and

17 (5) the Bureau shall endeavor to ensure that any contract entered into under
18 this section does not diminish the incentives of licensees to maximize the availability
19 of telecommunication services.

20 §442. Existing telecommunications facilities.

21 (a) Should any telecommunications services provider as of the date of the entry into
22 force of this Act, an existing provider, enjoy any rights to a lease or other land use land
23 for the purpose of erecting or installing telecommunications facilities or equipment, any
24 other telecommunications services provider may, by notice to the former
25 telecommunications service provider, the land owner, and any lessee of the land, or
26 parties with land rights, elect to share the use of that land with the former
27 telecommunications services provider.

28 (b) On receipt of a notice under subsection (a), the existing telecommunications
29 service provider and the parties with land rights shall enter into good faith negotiations
30 with the other telecommunications services provider to agree on terms for the sharing of

1 use rights that will preserve competitive neutrality as between the existing
2 telecommunications services provider and the other telecommunications services
3 provider.

4 (c) Should parties be unable to reach agreement to the reasonable satisfaction of the
5 other telecommunication services provider, the other telecommunications services
6 provider may apply to the Bureau for assistance in the form of alternative dispute
7 resolution services.

8 (d) Upon receipt of an application for assistance under subsection (c), the Bureau
9 shall consult with the existing telecommunications services provider and parties with land
10 rights and attempt to find a solution acceptable to all parties.

11 (e) Should the actions of the Bureau under subsection (d) fail to produce an
12 agreement between the parties within such time as the Bureau considers reasonable, the
13 Bureau may determine the terms for the sharing by the existing telecommunications
14 services provider and the other telecommunications services provider of use rights and
15 may direct the parties with land rights to take such action as the Bureau deems proper in
16 order to implement that determination.

17 (f) A determination under subsection (e) may include provision for defined amounts
18 by way of compensation to any of the parties with land rights or may provide for
19 compensation to be determined by the Supreme Court of the Republic.

20 (g) The existing telecommunications services provider, the other
21 telecommunications services provider or any party with land rights may apply for
22 reconsideration under §307 of a determination under subsection (e).

23 §443. New telecommunications facilities.

24 (a) Should an agreement be reached to share a new telecommunications facility, a
25 party to the said agreement may, by notice to the other parties to that agreement and to
26 the owner or occupier of third party land, require that the owner or occupier of the third
27 party land provide access to and use of that land to the extent required to give effect to the
28 agreement and on the same terms and conditions as those enjoyed by other parties to that
29 agreement.

30 (b) Should the owner or occupier of the third party land fail, without reasonable

excuse, to provide access to and use of the land under subsection (a), the Bureau may direct the owner or occupier to take such action as the Bureau deems fit in order to implement the requirements of subsection (a), and the owner or occupier shall comply with any such direction. A direction under this subsection may include provision for defined amounts by way of compensation to any of the parties with land rights or may provide for compensation to be determined by the Supreme Court of the Republic.

(c) It shall be a reasonable excuse under subsection (b) that the land concerned:

(1) is residential land and the access and use rights sought by a party to the agreement would be unreasonably intrusive on the residential occupants of the land;

(2) has significant traditional or historical value; or

(3) is not residential land but the provision of the access and use rights sought would not be technically feasible.

(d) Any party to the sharing agreement or the owner or occupier of the third party land may apply for reconsideration under §307 of a direction issued under subsection (b).

§444. Land access charges.

(a) Charges proposed by land owners or land occupiers may include:

(1) actual or average administrative costs as a result of a telecommunications services provider being granted permission to use land, and maintaining land to the extent costs result from the use of the land by telecommunications services providers; and

(2) for each telecommunications services provider, a pro rata share (based on the percentage of total capacity used or occupied) of capital improvements such as ducts, fixtures and other permanent improvements to lands, based on historic cost of the improvements.

(b) The Bureau may make rules governing a fair and reasonable allocation of charges under this Chapter

§445. Restoration after use.

If the relevant land owner or land occupier so requires, the telecommunications services provider shall, at the end of the permitted use, promptly remove all fixtures and

1 other improvements installed on the land at its own cost and restore the land to its
2 original condition.

3 §446. Appointment and powers of Inspectors.

4 (a) The Bureau may appoint or designate Inspectors for the purposes of verifying
5 compliance with this Act and with decisions of the Bureau made under this Title.

6 (b) An Inspector shall be provided with a proof of status, which shall be
7 presented at the request of any person appearing to be in charge of any place entered by
8 the Inspector.

9 (c) Subject to subsection (d), an Inspector may:

10 (1) enter and inspect, at any reasonable time, any place owned by or under
11 the control of a telecommunications services provider or a person operating a
12 device under a license, in which the Inspector believes on reasonable grounds
13 there is any document, information, equipment, or thing relevant to the
14 enforcement of this Title, and examine the document, information, equipment, or
15 thing or remove it for examination or reproduction, as the case may be;

16 (2) enter any place on which the Inspector believes on reasonable grounds
17 there is any radio transmitting device or interference-causing equipment, and
18 examine any radio transmitting device or interference-causing equipment, logs,
19 books, reports, data, records, documents, or other papers, and remove such
20 information, document, device, equipment, or thing for examination or
21 reproduction, as the case may be;

22 (3) make use of or cause to be made use of, any data processing network or
23 computer at the place, to examine any data contained in or available to the
24 network or computer;

25 (4) retain, remove, or reproduce or cause to be reproduced any such data
26 whether in electronic or hard copy form; and

27 (5) make use of any copying equipment or means of communication located
28 at the premises.

29 (d) Where a premises referred to in subsection (a) is a residence, an Inspector shall
30 not enter that residence without the consent of the occupier, except:

(1) under the authority of a warrant issued under §447; or

(2) where, by reason of special and exigent circumstances, it would not be practical for the Inspector to obtain a warrant.

(e) For the purposes of subsection (d)(2), special circumstances include circumstances in which the delay arising from obtaining a warrant would result in danger to human life or safety or the loss or destruction of evidence.

(f) The owner or person in charge of a place entered by an Inspector shall give the Inspector all reasonable assistance and shall give the Inspector any information that the Inspector reasonably requests.

(g) Every person who is required to hold a license under this Act shall exhibit the license for inspection on demand by the Director or an Inspector.

(f) Any person who obstructs an Inspector in the exercise of the powers under this Chapter commits an offense under §450.

(g) The Bureau shall pay reasonable compensation to a person for property used or damaged by an Inspector exercising powers under this section.

§447. Search warrant.

(a) A judge may issue a warrant authorizing the Inspector named in it to enter a residence, subject to any conditions specified in the warrant, if the judge is satisfied by information on oath that:

(1) entry to a residence is necessary for the purpose of performing any duty of an Inspector under this Act; and

(2) entry to the residence has been refused, or there are reasonable grounds for believing that entry will be refused.

(b) In executing a warrant issued under this section, an Inspector shall not use force unless the Inspector is accompanied by a police officer and the use of force is specifically authorized in the warrant.

§448. Requirement to supply information or documents or give evidence.

(a) Where the Bureau considers it necessary or desirable for the purposes of carrying out its functions and exercising its powers under this Title, the Bureau may, by notice in writing served on any person, require that person:

(1) to furnish to the Bureau, by writing signed by that person or, in the case of a corporation or other entity, by a director or competent representative of the corporation or other entity, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or

(2) to produce to the Bureau, or to a person specified in the notice acting on its behalf in accordance with the notice, any document or class of documents specified in the notice; or

(3) to appear before the Bureau at a time and place specified in the notice to give evidence, either orally or in writing, and produce any document or class of documents specified in the notice.

(b) Any person who either fails to comply with a notice issued under this section, provides false or misleading information to the Bureau, or having been required to appear before the Bureau shall fail to do so without reasonable excuse or shall fail to give evidence, answer any question, or produce any document or class of documents, commits an offense under §450.

§449. Interception, disclosure, and use of communications.

(a) A licensee or any person engaged in the operation or provision of a telecommunications network or telecommunications service shall only intercept or disclose a message or other communication pursuant to a valid warrant issued by a judge of the Republic in connection with national security or the investigation of any criminal offense where the maximum penalty that may be imposed by a court is at least two (2) years in prison. In order to obtain a valid warrant, the petitioning party must submit an affidavit detailing other attempts to obtain the information they think they will obtain through an interception or disclosure, why the information is needed, and why further attempts to obtain this information without an interception or disclosure would be dangerous or unlikely to succeed.

(b) A licensee or any person engaged in the operation or provision of a telecommunications network or telecommunications service shall ensure its telecommunications networks and telecommunications services are capable of interception under subsection (a) and shall facilitate such interception as required by a

1 warrant issued by a judge of the Republic.

2 (c) A licensee or any person engaged in the operation or provision of a
3 telecommunications network or telecommunications service shall disclose the name of a
4 subscriber, payment information, and the services purchased if requested by the police or
5 other services directly employed by the government for national security, in connection
6 with the investigation of any criminal offense or for the purposes of any criminal
7 proceeding. Such requests must be in writing and authorized and signed by a judge of the
8 Republic.

9 (d) If the Bureau believes on reasonable grounds that a person is in possession of
10 data stored in a computer system or retrievable from a data storage medium, which is
11 necessary to investigate an offense under this Title, the Bureau may apply for a search
12 warrant and pursuant to that search warrant may require that person to:

13 (1) access the computer system or retrieve data from the data storage
14 medium;

15 (2) seize or similarly secure the computer system or data storage medium;

16 (3) maintain the integrity of the relevant stored data; and

17 (4) render inaccessible or remove that data from the computer system or
18 data storage medium.

19 (e) A person subject to a written notice under subsection (d) is required to
20 cooperate with the Bureau and to provide such data as the notice may require in an
21 unencrypted and accessible form.

22 (f) Except as otherwise specifically provided in this Chapter, it shall be unlawful
23 for any person who:

24 (1) intentionally intercepts, attempts to intercept, or procures any other
25 person to intercept or endeavor to intercept, any wire, oral, or electronic
26 communication;

27 (2) intentionally uses, attempts to use, or procures any other person to use,
28 or attempts to use any electronic, mechanical, or other device to intercept any oral
29 communication when:

30 (A) such device is affixed to, or otherwise transmits a signal

1 through, a wire, cable, or other like connection used in wire
2 communication;

3 (B) such device transmits communications by radio, or interferes
4 with the transmission of such communication;

5 (C) such Person knows, or has reason to know, that such device or
6 any component thereof has been sent through the mail or transported in
7 interstate or foreign commerce; or

8 (D) such use or attempt to use takes place on the premises of any
9 business or other commercial establishment the operations of which affect
10 interstate or foreign commerce; or obtains or is for the purpose of
11 obtaining information relating to the operations of any business or other
12 commercial establishment the operations of which affect commerce;

13 (3) intentionally discloses, or endeavors to disclose, to any other person the
14 contents of any wire, oral, or electronic communication, knowing or having reason
15 to know that the information was obtained through the interception of a wire,
16 oral, or electronic communication in violation of this subsection;

17 (4) intentionally uses, or endeavors to use, the contents of any wire, oral, or
18 electronic communication, knowing or having reason to know that the
19 information was obtained through the interception of a wire, oral, or electronic
20 communication in violation of this subsection; or

21 (5) intentionally discloses, or attempts to disclose, to any other person the
22 contents of any wire, oral, or electronic communication, intercepted by means
23 authorized by section; knowing or having reason to know that the information was
24 obtained through the interception of such a communication in connection with a
25 criminal investigation; having obtained or received the information in connection
26 with a criminal investigation; and with intent to improperly obstruct, impede, or
27 interfere with a duly authorized criminal investigation.

28 (g) It shall not be unlawful under this Chapter for an operator of a switchboard, or
29 an officer, employee, or agent of a provider of wire or electronic communication service,
30 whose facilities are used in the transmission of a wire or electronic communication, to

1 intercept, disclose, or use that communication in the normal course of their employment
2 while engaged in any activity which is a necessary incident to the rendition of their service
3 or to the protection of the rights or property of the provider of that service, except that a
4 provider of wire communication service to the public shall not utilize service observing or
5 random monitoring except for mechanical or service quality control checks.

6 (h) It shall not be unlawful under this Chapter for a person acting under color of
7 law to intercept a wire, oral, or electronic communication, where such person is a party to
8 the communication or one of the parties to the communication has given prior consent to
9 such interception.

10 (i) It shall not be unlawful under this Chapter for a person not acting under color
11 of law to intercept a wire, oral, or electronic communication where such person is a party
12 to the communication or where one of the parties to the communication has given prior
13 consent to such interception unless such communication is intercepted for the purpose of
14 committing any criminal or civil act.

15 (j) It shall not be unlawful under this Chapter for any person:

16 (1) to intercept or access an electronic communication made through an
17 electronic communication system that is configured so that such electronic
18 communication is readily accessible to the general public;

19 (2) to intercept any radio communication which is transmitted:

20 (A) by any station for the use of the general public, or that relates to
21 ships, aircraft, vehicles, or persons in distress;

22 (B) by any governmental, law enforcement, civil defense, private
23 land mobile, or public safety communications system, including police and
24 fire, readily accessible to the general public;

25 (C) by a station operating on an authorized frequency within the
26 bands allocated to the amateur, citizens band, or general mobile radio
27 services; or

28 (D) by any marine or aeronautical communications system;

29 (3) to intercept any wire or electronic communication the transmission of
30 which is causing harmful interference to any lawfully operating station or

consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(4) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(k) It shall not be unlawful under this Chapter for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

§450. Offenses.

(a) Any person who contravenes or fails to comply with any provision or requirement of this Chapter, any rules made under this Title, a license issued under this Title, or any direction, order, or decision of the Bureau, is criminally liable under this Chapter.

(b) Any person who is engaged in the operation or provision of a telecommunications network or provides a telecommunications service without a license required by this Title or any rules made under this Title, or in contravention of its license, is criminally liable under this Chapter.

(c) Any person is criminally liable under this Chapter if that person knowingly makes any false statement of material fact, or knowingly omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, to the Director or an Inspector.

§451. Penalties.

Unless another provision of this Chapter expressly provides for a different sanction, any person who is convicted of any offense under this Chapter is subject:

(a) in case of a natural person, to a fine not exceeding fifty thousand dollars (\$50,000) or to imprisonment for a term not exceeding one (1) year, or both; and in the case of a continuing offence, to a further fine not exceeding ten thousand dollars (\$10,000)

1 for each day during which the offense continues; and

2 (b) in the case of a corporation or other entity, to a fine not exceeding five percent
3 (5%) of the gross revenues of the corporation or entity in its previous financial year, and
4 in the case of a continuing offence, to a further fine not exceeding one hundred thousand
5 dollars (\$100,000) for each day during which the offense continues.

6 § 452. Corporations or other entities.

7 (a) Where a corporation or other entity commits an offense under this Title, any
8 director, officer, employee or agent of the corporation or entity who authorized the illegal
9 conduct shall be a party to and guilty of the offense, and shall be subject to the
10 punishment provided for that offense.

11 (b) A corporation or other entity shall be liable for offenses under this Title if an
12 employee, agent or officer of the corporation or entity engages in the offending conduct
13 and that person is acting within the actual or apparent scope of his actual or apparent
14 authority.

15 §453. Forfeiture of device.

16 In the case of a conviction for an offense under this Title or any rules made under
17 this Title, any device in relation to which or by means of which the offense was committed
18 may be:

19 (a) forfeited to the Bureau by order of the court which tried the offense; and

20 (b) disposed of as the Bureau may direct.

21 §454. Prosecution.

22 The Attorney General shall prosecute offenses under this Title and may, as
23 appropriate, refer cases to the Office of the Special Prosecutor.

24 §455. Exclusion of liability.

25 (a) The Republic, the Minister, the Bureau, or any other person exercising or
26 performing powers or functions under this Title shall not:

27 (1) be liable in respect of any action, claim, or demand that may be brought
28 or made by any Person in respect of any bodily injury or damage to property or
29 any other circumstances arising from any act permitted by a license issued under
30 this Title; and

(2) be subject to any action or claim, other than by way of judicial review, arising from the good faith exercise or intended exercise of any functions or powers under this Title.

(b) No person engaging in conduct licensed under this Title, or an employee or agent of such a person, shall be liable in any criminal proceedings or in any suit for damages by reason of his or her having in the course of his or her employment transmitted or conveyed by any communications, or taken any part in transmitting or conveying by any communications, any defamatory libel.

Chapter V

Specific Provisions on the Regulation of Radio Frequencies

§501. Purpose and limitation.

§502. Management of the radio frequency spectrum

§503. Frequency Allocation Plan and Frequency Utilization Plan

§504. Frequency Assignment Register

§505. Duty to avoid harmful interference; Bureau measures

§506. Broadcasting equal time requirements

§501. Purpose and limitation.

(a) It is the purpose of this Chapter to establish necessary control over radio transmission, and to provide for the use, but not ownership, of radio channels and frequencies by persons for limited periods of time, under licenses granted by the Bureau of Communications.

(b) Nothing in this Chapter shall be construed to regulate or limit any noncommercial activities of a foreign government.

§502. Management of the radio frequency spectrum.

(a) The Bureau, in accordance with acts of international law applicable in the Republic, shall ensure the effective and undisturbed use of the radio frequency spectrum and, as appropriate, ensure the rights of the Republic to orbital positions.

(b) The Bureau shall plan, manage, supervise, monitor, and regulate the use of the radio frequency spectrum, including:

(1) allocation, assignment, registration, and monitoring of radio

frequencies to be used by all stations operating in Palau or on any ship, aircraft, vessel, or other floating or airborne contrivance or spacecraft registered in the Republic, with due observance of the provisions of applicable treaties and international agreements, this Title, and applicable regulations:

(2) adoption and implementation of:

(A) a Frequency Allocation Plan;

(B) a Frequency Utilization Plan; and

(C) a Frequency Assignment Register showing existing frequency assignments and their users;

(3) updating on a regular basis and making publicly available the Frequency Allocation Plan and the radio regulations;

(4) monitoring spectrum uses;

(5) promoting and safeguarding national interests, safety and security relating to the use of Radio Frequency Spectrum; and

(6) promoting research into and considering radio propagation problems with a view to achieving interference-free operation of radio systems, as well as other measurements for managing and control of radio frequency spectrum.

§503. Frequency Allocation Plan and Frequency Utilization Plan.

(a) The Bureau shall prepare the Frequency Allocation Plan in accordance with applicable acts of international law.

(b) The Frequency Utilization Plan adopted by the Bureau shall defines in greater detail the conditions and method of utilization of radio frequencies in certain radio frequency bands. It shall contain plans for the allocation and use of the radio frequencies by determined radio services, both of which shall be in accordance with the Frequency Allocation Plan.

(c) In adopting the Frequency Utilization Plan, the Bureau shall:

(1) coordinate with the relevant government bodies responsible for civil aviation with respect to that part of the plan relating to radio frequencies to be used for air traffic safety; and

(2) coordinate with the government bodies responsible for the planning and

1 management of radio frequencies with respect to that part of the plan relating to
2 radio frequencies used for defense and national security needs.

3 (d) In adopting the Frequency Allocation Plan and the Frequency Utilization
4 Plan, the Bureau shall take into consideration the needs of national security and defense,
5 protection from natural and other disasters, and the needs of the air traffic safety.

6 §504. Frequency Assignment Register.

7 (a) The Bureau shall prepare the Frequency Assignment Register showing
8 existing frequency assignments and their users in Palau in accordance with the
9 Frequency Allocation Plan and Frequency Utilization Plan.

10 (b) The Frequency Assignment Register shall contain data on the natural
11 persons or legal entities to which specific radio frequencies have been assigned, but shall
12 not include specific radio frequencies used for national security and defense needs and for
13 protection against natural and other disasters.

14 (c) The Bureau shall regularly update the Frequency Assignment Register.

15 (d) The Bureau of shall publish relevant portions of the Frequency Assignment
16 Register in accordance with §313.

17 §505. Duty to avoid harmful interference.

18 (a) For the purposes of this Chapter, harmful interference means radio
19 interference which endangers the functioning of a radio navigation service or of other
20 safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts
21 radio communications services operating in accordance with this Title.

22 (b) Telecommunications networks must be planned to avoid the creation of
23 harmful interference with other telecommunications networks and other licensed radio
24 communications uses in Palau.

25 (c) The Bureau, from time to time, may designate radio stations, the signals of
26 which are likely to interfere with the transmission or reception of distress signals of
27 vessels. Such stations shall keep a licensed radio operator listening on the frequencies
28 designated for distress signals and related radio communications during the entire period
29 the transmitter of such stations is in operation.

30 §506. Broadcasting equal time requirements.

1 (a) If any licensee permits a legally qualified candidate for public office to use an
2 AM or FM radio station or television station, the licensee shall afford equal opportunity
3 to all other legally qualified candidates for that office in the use of such station; provided,
4 that the licensee shall have no power of censorship over the material broadcast under the
5 provisions of this section.

6 (b) A licensee is not required under subsection (a) to allow the use of its station by
7 any candidate for public office. A statement by a legally qualified candidate for public
8 office made as part of a genuine (1) news broadcast, (2) news interview, (3) news
9 documentary (if the appearance of the candidate is incidental to the presentation of the
10 subject or subjects covered by the news documentary), or (4) live report of news events
11 (including but not limited to political conventions and activities incidental thereof
12 thereto), shall not be deemed to be use of a station within the meaning of this subsection.

13 (c) No provision of this subsection relieves a news service, in connection with the
14 presentation of news broadcasts, news interviews, news documentaries, and live coverage
15 of news events, from its obligation under this chapter to operate in the public interest and
16 to afford reasonable opportunity for the discussion of conflicting views on issues of
17 importance to the public.

18 (d) Charges by a licensee for the use of an AM or FM radio station or television
19 station by a legally qualified candidate for public office in connection with his/her
20 candidacy for such office shall not exceed:

21 (1) during the forty-five (45) days preceding the date of a primary or
22 primary runoff election or during the sixty (60) days preceding the date of a
23 general or special election in which such person is a candidate, the lowest unit
24 charge of the station for the same class and amount of time for the same period;
25 and

26 (2) at any other time, the charges made for comparable use of such station
27 by other users thereof.

28 (e) If any person makes a statement on an AM or FM radio station or a television
29 station about any other person, the licensee of that station shall afford the person referred
30 to on air an opportunity to rebut that statement on air.

Chapter VI

Protection of Submarine Cables

§ 601. Protection zone.

§ 602. Prohibited activities.

§ 603. Restricted activities.

§ 604. Conditions.

§ 605. When a declaration takes effect.

§ 606. Duration of declaration.

§ 607. Damaging a submarine cable.

§ 608. Engaging in prohibited or restricted activities.

§ 609. Aggravated offense of engaging in prohibited or restricted activities.

§ 610. Defenses to offenses of engaging in prohibited or restricted activities.

§ 611. Person may claim damages.

§601. Protection zone.

(a) The Division of Marine Law Enforcement or its successor in responsibility for maritime regulation may, by regulation pursuant to the Administrative Procedures Act, declare a protection zone in relation to one or more submarine cables, or one or more submarine cables that are proposed to be installed, in Palauan waters. The declaration shall include the location of all cables located within the protection zone. The zone shall include so much of the area to either side of the cable as the Division of Marine Law Enforcement deems reasonable and necessary for cable protection. If the Division of Marine Law Enforcement designates a geographic area as a protection zone, it shall include the surface of the Palauan Waters within the area, the area under the surface of those waters, and the seabed and subsoil under those waters, unless the Division of Marine Law Enforcement specifies otherwise.

(b) A declaration of a protection zone:

(1) must specify a nominal location for the cable or cables in all Palauan waters in which the cable is installed;

(2) must not specify a location for the cable or cables outside Palauan waters; and

(3) must be expressed in geographic coordinates and must include the geodetic datum to which the coordinates refer.

(c) Unless the Division of Marine Law Enforcement specifies otherwise in the declaration of a protection zone, the protection zone in relation to:

(1) one submarine cable, is the area set out in subsection (b); and

(2) more than one submarine cable, is the area set out in subsection (c).

(d) The protection zone in relation to one submarine cable consists of so much of the following as is Palauan waters:

(1) the area within 1,852 meters either side of the points on the surface of the sea above the nominal location of the cable;

(2) the waters beneath that area; and

(3) the seabed and subsoil beneath that area.

(e) If a cable leaves one area of Palauan waters and subsequently enters another area of Palauan waters, this subsection has the effect that the protection zone in relation to that cable covers both areas of Palauan waters. The protection zone in relation to more than one submarine cable consists of so much of the following as is Palauan waters:

(1) the area between the nominal location of the cables;

(2) the area within 1,852 meters from the outside edge of the points on the surface of the sea above the nominal location of each of the two outermost cables; and

(3) the waters beneath those areas; and

(4) the seabed and subsoil beneath those areas.

(f) If a cable leaves one area of Palauan waters and subsequently enters another area of Palauan waters, this subsection has the effect that the protection zone in relation to that cable covers both areas of Palauan waters.

§602. Prohibited activities.

(a) A declaration of a protection zone may specify activities that are prohibited in the protection zone.

(b) If a declaration of a protection zone does not specify activities that are prohibited in the protection zone, the activities specified in subsection (d) are prohibited.

1 (c) An activity which is specified in a declaration of a protection zone must be an
2 activity that is covered by subsection (d).

3 (d) This section covers the following activities:

4 (1) the use of:

5 (A) trawl gear that is designed to work on or near the seabed (for
6 example, a demersal trawl);

7 (B) a net anchored to the seabed and kept upright by floats (for
8 example, a demersal gillnet);

9 (C) a fishing line that is designed to catch fish at or near the seabed
10 (for example, a demersal line);

11 (D) a dredge;

12 (E) a pot or trap;

13 (F) a squid jig;

14 (G) a seine; or

15 (H) a structure moored to the seabed with the primary function of
16 attracting fish for capture (for example, a fish aggregating device);

17 (2) towing, operating, or suspending from a ship:

18 (A) any item mentioned in subsection (1); or

19 (B) a net, line, rope, chain or any other thing used in connection
20 with fishing operations;

21 (3) lowering, raising or suspending an anchor from a ship;

22 (4) sand mining;

23 (5) exploring for or exploiting resources (other than marine species);

24 (6) mining or the use of mining techniques;

25 (7) any activity that involves a serious risk that an object will connect with
26 the seabed, if a connection between the object and a submarine cable would be
27 capable of damaging the cable; and

28 (8) an activity specified in the regulations, being an activity that, if done
29 near a submarine cable, would involve a serious risk of damaging the cable.

30 §603. Restricted activities.

(a) A declaration of a protection zone may specify restrictions that are imposed in the protection zone on activities in the protection zone.

(b) An activity on which restrictions are imposed must be an activity that is covered by subsection (c).

(c) This section covers the following activities:

(1) the use of:

(A) a net that is above the seabed at all times; or

(B) lures or baits attached to a line towed behind a ship;

(2) towing, operating, or suspending from a ship:

(A) any item mentioned in subsection (1); or

(B) a net, line, rope, chain, or any other thing used in connection with fishing operations;

(3) fishing using a line;

(4) installing, maintaining, or removing an electricity cable, an oil or gas pipeline, any like cables or pipelines and any associated equipment;

(5) constructing, maintaining, or removing an installation for the use of ships;

(6) constructing or maintaining navigational aids;

(7) any activity that involves a risk that an object will connect with the seabed, if a connection between the object and a submarine cable would be capable of damaging the cable; or

(8) an activity specified in the regulations, being an activity that, if done near a submarine cable, could involve a risk of damaging the cable.

§604. Conditions.

(a) A declaration of a protection zone may be subject to any conditions that the Bureau considers appropriate.

(b) Those conditions must be specified in the declaration.

§605. When a declaration takes effect.

(a) A declaration of a protection zone takes effect at the time specified by the Division of Marine Law Enforcement.

(b) If a declaration relates only to a submarine cable or cables that are not yet installed, the Division of Marine Law Enforcement must not specify a time before the time that the Division of Marine Law Enforcement is satisfied that installation of the cable or cables will begin.

§606. Duration of declaration.

A declaration of a protection zone continues in effect, even if the submarine cable or cables in the protection zone have ceased to operate, until the Division of Marine Law Enforcement revokes it.

§607. Damaging a submarine cable.

(a) A person commits an offense if:

- (1) the person recklessly or intentionally engages in conduct;
- (2) the conduct results in damage to a submarine cable; and
- (3) the cable is in a protection zone.

(b) A person found guilty of an offense under this section shall be imprisoned for up to two (2) years or be liable for a sum up to two hundred thousand dollars (\$200,000), or both.

(c) It shall be a defense to this section if:

- (1) the conduct that resulted in damage to the submarine cable was necessary to save a life or a ship;
 - (2) the conduct that resulted in damage to the submarine cable was necessary to prevent pollution;
 - (3) the defendant took all reasonable steps to avoid causing damage to the submarine cable;
 - (4) the defendant is the carrier who owns or operates the submarine cable;
- or
- (5) when the conduct occurred, the defendant was acting on behalf of the carrier who owns or operates the submarine cable.

§608. Engaging in prohibited or restricted activities.

(a) A person commits an offense if:

- (1) the person recklessly engages in conduct; and

(2) the conduct occurs in a protection zone; and

(3) the conduct:

(A) is prohibited in the protection zone; or

(B) contravenes a restriction imposed on an activity in the protection zone;

(4) the conduct is not engaged in by the carrier who owns or operates the cable, or a person acting on behalf of such a carrier, for the purpose of maintaining or repairing a submarine cable for which the carrier is responsible; and

(5) the conduct is not engaged in by a carrier who holds a protection zone installation permit, or a person acting on such a carrier's behalf, in, or in the course of, the installation of a submarine cable in accordance with the permit.

(b) A person found guilty of an offense under this section may be imprisoned for up to three (3) months or be fined for a sum up to twenty-five thousand dollars (\$25,000), or both.

§609. Aggravated offense of engaging in prohibited or restricted activities.

(a) A person commits an offense if:

(1) the person intentionally engages in conduct;

(2) the conduct occurs in a protection zone;

(3) the conduct:

(A) is prohibited in the protection zone; or

(B) contravenes a restriction imposed on an activity in the protection zone;

(4) the person engages in the conduct with the intention of making a commercial gain;

(5) the conduct is not engaged in by the carrier who owns or operates the cable, or a person acting on behalf of such a carrier, for the purpose of maintaining or repairing a submarine cable for which the carrier is responsible; and

(6) the conduct is not engaged in by a carrier who holds a protection zone

1 installation permit, or a person acting on such a carrier's behalf, in, or in the
2 course of, the installation of a submarine cable in accordance with the permit.

3 (b) A person found guilty of an offense under this section may be imprisoned for
4 up to three (3) years or be fined for a sum up to three hundred thousand dollars
5 (\$300,000), or both.

6 §610. Defenses to offenses of engaging in prohibited or restricted activities.

7 It shall be a defense to section §608 and section §609 if:

- 8 (a) the conduct was necessary to save a life or ship;
9 (b) the conduct was necessary to prevent pollution; or
10 (c) the defendant took reasonable steps to avoid engaging in the conduct.

11 §611. Person may claim damages.

12 (a) A person who suffers, directly or indirectly, loss or damage:

13 (1) because a submarine cable in a protection zone is damaged by conduct
14 of another person;

15 (2) because another person engages in conduct that is prohibited in a
16 protection zone; or

17 (3) because another person engages in conduct that contravenes a
18 restriction imposed on an activity in a protection zone;

19 (4) may recover the amount of the loss or damage:

20 (A) against that other person; or

21 (B) against any person involved in the contravention whether or
22 not a person is convicted of an offence in respect of the contravention.

23 (b) An action under subsection (a) may be commenced at any time within six (6)
24 years after the day on which the cause of action that relates to the conduct occurred.

25 (c) A reference in subsection (a) to a person who is involved in a contravention is
26 a reference to a person who has:

27 (1) aided, abetted, counseled, or procured the contravention;

28 (2) induced, whether by threats or promises or otherwise, the
29 contravention;

30 (3) been in any way, directly or indirectly, knowingly concerned in, or

party to, the contravention; or

(4) conspired with others to effect the contravention.

Chapter VII

Transitional Provisions

§701 Appointment

§702 Establishment of the Bureau of Communications

§703 Application of previous regulations

§704 Belau Submarine Cable Corporation exemptions

§705 Conversion of statutory authorizations to licenses

§706 Other license conversions; pending Division proceedings

§707 Moratorium on the issuance of telecommunication licenses

§708 Cybersecurity framework

§701. Appointment.

(a) Pursuant to this Title, the Minister shall hire the Director within sixty (60) days of the date of enactment of this Act, or may choose to appoint an Interim Director pursuant to §303(d).

(b) Until the commencement of full operations by the Bureau, the Division shall continue to perform the activities under its competence.

§702. Establishment of the Bureau of Communications.

(a) Costs associated with the establishment of the Bureau of Communication, including the cost of any technical assistance contracts not funded by donor organizations, may be funded from grants, loans, and the appropriated budget of the Ministry.

(b) A sum of one hundred fifty thousand dollars (\$150,000) is hereby allocated and appropriated from local revenues for use by the Bureau for each of the current fiscal year and the subsequent fiscal year.

§703. Application of previous regulations.

(a) Unless otherwise provided in this Title, detailed regulations stipulated by this Act shall be adopted within a period of six (6) months from the date of the hiring of the Director or appointment of an Interim Director of the Bureau.

(b) Notwithstanding other provisions of this Title and until the adoption of the regulations referred to in subsection (a), valid regulations in force as of the date of the entry into force of this Act, especially with respect to radio frequency spectrum management and the regulation of radio frequency spectrum, shall continue to apply, with such modifications in the interpretation thereof being made as may be necessary.

§704. Belau Submarine Cable Corporation exemptions.

Notwithstanding the provisions of any other Act, the income of the Belau Submarine Cable Corporation shall be exempt from payment of income tax, and the Belau Submarine Cable Corporation shall not be liable for the payment of customs duty and import levy, or any other tax having a similar effect. Such exemptions shall expire on December 31, 2020.

§705. Conversion of statutory authorizations to licenses.

(a) The existing statutory authorizations pursuant to which PNCC is authorized to construct and operate telecommunications networks, utilize the radio frequency spectrum, and provide telecommunications services shall be replaced by an individual consolidated license to be issued to PNCC by the Bureau within six (6) months from the date of the confirmation of the Director or appointment of an Interim Director of the Bureau.

(b) PNCC and the Bureau shall consult and cooperate to develop the terms of the individual license referred to in subsection (a), provided that the terms and conditions thereof shall comply fully with the provisions of Chapters II through V of this Act.

(c) Until the individual license referred to in subsection (a) is issued, PNCC may continue the activities for which it is authorized under the statutory authorizations repealed by this Act, provided that from the date of the entry into force of this Act, PNCC shall comply with this Act and the provisions of such regulations as may be enacted by the Bureau hereunder, including, without limitation of the foregoing, regulations related to regulatory fees; interconnection and access to telecommunications networks, and competition; provision of telecommunications services to customers; numbering; universal access and universal service; construction of telecommunications facilities and access to land; and reporting and data collection.

1 §706. Other license conversions; pending Division proceedings.

2 (a) Any person who, as of the date of enactment of this Act, is licensed to own or
3 operates a VHF, UHF, or HF radio; or a cellular telephone service; or an AM or FM
4 radio station or television station; and who applies to the Bureau for the appropriate
5 license under this Act within six (6) months from the date of the confirmation of the
6 Director or appointment of an Interim Director of the Bureau, may continue to operate
7 such VHF, UHF, or HF radio, or a cellular telephone service, or AM or FM radio station,
8 or television station until such time as the Bureau either approves or denies the license
9 application.

10 (b) Licensing procedures, as well as procedures for issuance of decisions by the
11 Division, that have not been completed by the date when this Act enters into force shall
12 cease to be valid on the date of entering into force of this Act, but may be renewed by the
13 applicant by notice to the Bureau submitted within six (6) months from the date of the
14 confirmation of the Director or appointment of an Interim Director of the Bureau.

15 §707. Moratorium on the issuance of telecommunications licenses.

16 (a) There shall be a moratorium on the establishment of new telecommunications
17 service companies, beginning on the effective date of this Act and continuing until
18 January 1, 2020.

19 (b) For the duration of this moratorium, no telecommunications service or radio
20 frequency license shall be issued to any person, company, or entity that did not have an
21 established telecommunications business in the Republic on the effective date of this Act,
22 with the exception of those individuals or entities operating an exempt network as defined
23 under this Act, and those services and networks excluded under §102.

24 (c) The Bureau may shorten this moratorium, or extend it for up to three (3)
25 additional years. The Bureau may also modify the terms of this moratorium, or impose
26 conditions upon the issuance of new telecommunication licenses during this period.

27 §708. Cybersecurity Framework.

28 (a) The Bureau shall prepare, in consultation with industry experts,
29 recommendations for a Cybersecurity legal framework. These recommendations, which
30 will address the challenge of keeping pornographic and other morally-harmful material

out of the hands of minors, shall be presented to the Olbiil Era Kelulau.

(b) While preparing its recommendations for the Olbiil Era Kelulau, the Bureau shall establish Cybersecurity regulations. Such regulations shall, to the extent possible under the existing laws of the Republic of Palau, serve the interest of keeping pornographic and other morally-harmful material out of the hands of minors, until such time as the regulations are superseded by legislation.

Chapter VIII

Belau Submarine Cable Company

§ 801. Establishment of Belau Submarine Cable Corporation.

§ 802. Duration.

§ 803. Purpose and principal objective.

§ 804. Powers and duties.

§ 805. Prohibited actions.

§ 806. Board of Directors.

§ 807. Officers.

§ 808. Stock.

§ 809. Miscellaneous.

§ 810. Bylaws.

§ 811. Procurement.

§801. Establishment of Belau Submarine Cable Corporation.

(a) There shall continue to be a public corporation called the Belau Submarine Cable Corporation (BSCC), which shall continue to operate in the form and manner prescribed by this chapter.

(b) BSCC shall be subject to the corporate laws of the Republic to the extent that such laws do not conflict with this Chapter or in any way distort the public character of the corporation.

§ 802. Duration.

The period of duration of this public corporation is perpetual, subject to the laws of the Republic of Palau.

1 § 803. Purpose and principal objective.

2 (a) The purpose of this public corporation is for any lawful purpose related to the
3 procurement, ownership, and management of one or more fiber optic cables on behalf of
4 the Government of the Republic of Palau.

5 (b) This public corporation is created to create a competitive and level playing
6 field and full access for any business so that a competitive price for the best services may
7 be made available to Palauans and visitors to Palau.

8 (c) The principal objective of this public corporation is to operate based on sound
9 business principles, such as full cost recovery, including the cost of capital, and to ensure
10 open access to the cable for all information communications technology service providers
11 so that the benefits of the fiber optic cable accrue to the benefit of the consumer.

12 § 804. Powers and duties.

13 The corporation has the following powers to be duly exercised by its Board of
14 Directors (Board), officers, agents, and employees in accordance with the laws and
15 regulations of the Republic of Palau:

16 (a) To sue and be sued in its own name.

17 (b) To undertake all actions necessary to facilitate the procurement of one or more
18 fiber optic cables, including working with, as may be necessary, any entity designated by
19 the President of the Republic of Palau with a mandate to procure a fiber optic cable on
20 behalf of the Republic.

21 (c) To undertake all actions necessary to promote open access to fiber optic cable
22 for all relevant information communications technology service providers on an equal
23 and commercially reasonable basis, in such a manner that ensures that the benefits of
24 improved information communications technology infrastructure accrues to the benefit
25 of the consumer.

26 (d) To undertake all actions necessary to manage fiber optic cable so that any loan
27 utilized to finance the procurement of fiber optic cable is paid off in accordance with the
28 terms of the loan agreement, or sooner, if possible.

29 (e) To undertake, maintain and operate any works, system, facilities apparatus, or
30 equipment required for any purpose related to managing fiber optic cable.

1 (f) To undertake all actions necessary in order to ensure that the public
2 corporation operates on commercial principles and accomplishes its principal objectives,
3 as set forth herein.

4 (g) To hire and fire employees; however, the Board may delegate the power to hire
5 and fire employees to the Chief Executive Officer.

6 (h) To own or lease property or infrastructure for the purpose of connecting fiber
7 optic cable on land and hosting any equipment that is required for the reliable and secure
8 operation of fiber optic cable.

9 (i) To obtain appropriate insurance from an established insurance provider for
10 the fiber optic cable and related equipment

11 §805. Prohibited actions.

12 (a) This public corporation shall not sell the capacity of fiber optic cable to
13 consumers on a retail basis.

14 (b) This public corporation does not have the authority to sell or convey any
15 interest in the fiber optic cable under its ownership, management, and authority unless
16 such sale is submitted to the President of the Republic for consideration, and if approved
17 by the President of the Republic such sale must also be approved by a joint resolution of
18 the Olbiil Era Kelulau.

19 § 806. Board of Directors.

20 (a) The Board has the authority to perform all of the powers and duties of the
21 corporation, as set forth in Section 804, and to delegate authority to a duly hired Chief
22 Executive Officer to the extent necessary to carry out the powers and duties of the
23 corporation in the best interests of the corporation.

24 (b) There are five (5) members of the Board; the five (5) members shall elect a
25 chairman from among the five (5) members. Three (3) members of the Board will
26 constitute a quorum for carrying out the business of the Board. The concurrence of a
27 majority of all members present at any meeting will be necessary to take any official
28 Board action.

29 (c) The members of the Board are appointed by the President with the advice and
30 consent of the Senate of the Olbiil Era Kelulau. The Board members will serve terms of

four (4) years, at the conclusion of which they may be reappointed by the President with the advice and consent of the Senate. The Board members may be removed by the President for cause.

(d) Until such time as a quorum of the Board is appointed by the President and confirmed by the Senate of the Olbiil Era Kelulau, the Minister of Finance may act with all of the authority of the Board and the Chief Executive Officer.

(e) A Board member may be liable to the corporation for any action that is determined in a court of law to be a breach of a fiduciary duty owed to the shareholders of the corporation.

(f) A member of the Board acts under a fiduciary duty of loyalty and duty of care to the corporation.

(g) Board members may not receive compensation for their duties, except that they will be entitled to fifty dollars (\$50) per day while on the business of the Board and per diem at standard Republic of Palau rates for travel necessitated by the business of the Board.

§ 807. Officers.

Once a Board of Directors has been duly appointed by the President and confirmed by the Senate of the Olbiil Era Kelulau, the Board of Directors may hire a Chief Executive Officer who serves at the will of the Board of Directors and is compensated as determined by the Board of Directors.

§ 808. Stock.

As initially incorporated this public corporation may not issue stock to the general public and the Minister of Finance is the sole shareholding owner of the public corporation on behalf of the government of the Republic of Palau, provided that in ten (10) years the government may consider privatizing this corporation or establishing a public-private partnership.

§ 809. Miscellaneous.

(a) This public corporation must keep correct and complete books and records of account and must also keep minutes of all meetings of shareholders and directors.

(b) This public corporation is subject to the Open Government Act.

1 (c) The fiscal year of this public corporation is the same as the national
2 government.

3 (d) The Board may adopt an official seal of the public corporation. If an official
4 seal is adopted, then it must be circular and inscribed with the name of the corporation,
5 the jurisdiction of incorporation, and the words, "Corporate Seal."

6 (e) All profits accrued by the public corporation must be applied to pay down the
7 loan provided by the Asian Development Bank for the establishment of a fiber optic cable
8 connection.

9 (f) This corporation will comply with all applicable laws, rules, and regulations
10 regarding international connections of the fiber optic cable.

11 (g) The Board will adopt quality control measures such as Service-Level
12 Agreements and Key Performance Indicators to ensure the provision of high quality
13 services regarding the fiber optic cable.

14 (h) The Environmental Quality Protection Board (EQPB) shall work closely with
15 this corporation to avoid unnecessary delays during the construction phase period to
16 ensure project work is in accordance with the construction schedule, and to ensure that
17 this corporation meets all applicable EQPB requirements.

18 § 810. Bylaws.

19 (a) The bylaws of this public corporation must be adopted and promulgated by the
20 Board.

21 (b) The bylaws of this public corporation may not be inconsistent with this
22 chapter.

23 (c) The bylaws are not subject to the Administrative Procedures Act and become
24 effective when filed with the Office of the President and the Senate and the House of
25 Delegates in the Olbiil Era Kelulau.

26 § 811. Procurement.

27 Any agency or division of the National Government acting to effectuate this
28 Chapter is exempt from the procurement requirements of 40 PNC Chapter 6 as well as
29 that agency or entity's own procurement requirements."

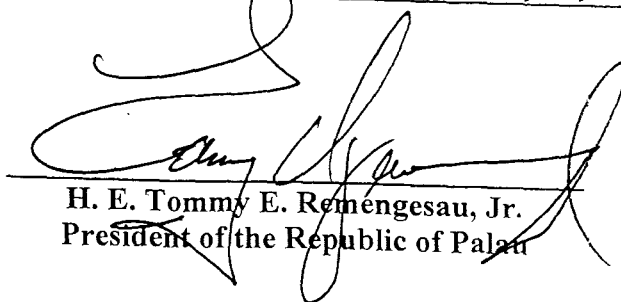
30 Section 5. Effective Date. This Act will take effect upon its approval by the

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President of the Republic, or upon becoming law without such approval.

PASSED: December 07, 2017

Approved this 7th day of DECEMBER, 2017.



H. E. Tommy E. Remengesau, Jr.
President of the Republic of Palau