

ANNEX 2

Draft 2008 Law on the Telecommunications Regulatory Commission¹

GENERAL COMMENTS

Title: There may be the need to consider a broader title. In addition to the institutional aspects related to the creation of the Authority, the draft deals with other substantive issues.

Presentation/ Format: The draft would benefit from a better organization of different sections and from introduction of titles for each article. A table of content should be added once the law is finalized to facilitate navigation of the document.

A new Article/ section could be added to deal with the objective of the law immediately after the definition sections. This section is important for the flow of the law and would help with interpretation of specific provisions against the objective of the Act. The current article 3 contains broad principles. They need to be elaborated further and labeled correctly. The establishment of the Authority should be mentioned as one of the main objectives of the new law.

Scope of the Act: Although a number of articles refer to the law as covering both telecommunications and information technology, this is basically a telecommunications law.

The rulemaking power of the Commission needs to be clarified and made more explicit to allow the Commission to undertake its role without having to go back to Ministry or Cabinet when the need arises for new regulatory instruments.

Appointment of the board of the Commission is by cabinet. There is possibility of appointment by the president or prime minister. In the context of Palestine, could this delay the appointment of the Board and delay the establishment of the regulator? If there was a delay, could there be an interim arrangement? It might be good to have staggered terms for the Commissioners so that they are not all replaced at the same time.

¹ These comments have been slightly revised to take into account translation inadequacies of the draft. This version is based on the Arabic version

The draft would benefit from having infrastructure sharing provisions along the lines of the interconnection provisions; i.e., that operators should be encouraged to share infrastructure, but that DOs must share infrastructure. An example of such provisions from another jurisdiction is attached as Annex 2.

SPECIFIC COMMENTS

- Art 5 It is unclear what powers are involved in the Ministry “monitoring” the Commission. We recommend deleting this article from the draft. It gives too much discretion to the Ministry, while reducing the independence of the Commission. The article does stipulate that this power is within the “limits of implementing the general policy and without breaching the independence of the commission”. However, those caveats do not create the necessary safeguards to preserve the functional independence of the regulator.
- Article 6 There is an overlap between the duties of the Commission and the duties of the Ministry in several areas, especially regarding the preparation of draft laws (see 2 (9) and 6 (13), and regarding the establishment of conditions and criteria for licensing (articles 2 (12) and 6 (8)). Rewording is needed to ensure that there will be no conflict in the division of responsibilities between both entities. For the first case, preparing laws is usually an activity led by policy makers with input from the regulator. This avoids situations of multiple competing initiatives for new laws. Regarding licensing guidelines, it could be better left to the regulator. After the policies are adopted by the Ministries, licensing guidelines, conditions and criteria could be seen as “core” regulatory functions (also confirmed in Article 18 dealing with licenses).
- Art 6 The general list of Commission Responsibilities is extensive, but is missing some key functions. These missing areas include responsibility over the (i) numbering plan (although there is an operative provision later in the law where the Commission does exercise some power over the numbering plan), (ii) frequency

regulation (although, again, there are operative provisions later on that provide for roles for both Ministry and Commission, (iii) competition (again, covered in the operative provisions), (iv) universal service, and (v) the ability to contract-out services.

A standard rule of statutory construction is that if there is a enumerated list, that means that only those things included in the list are covered, unless there is a “dragnet” clause . Art 6(20) is a kind of dragnet clause. But the drafting is inconsistent, because the laundry list in 6 contains some things that are included later in operative provisions of the law, but others (numbering, frequencies, competition) are conspicuous in their absence. From the standpoint of good statutory drafting, the list should be complete. The drafters should also go through the law and ensure that every operative provision of the law (i.e., empowering the Commission to to do certain things) should have a corresponding provision in the list in art. 6.

The corollary is that if something is contained in the list, there should be a corresponding operative clause (at least for the sake of consistency in drafting). One conspicuous omission in that regard is art. 6(14) which does not appear to be balanced by operative provisions regarding how the Commission will conduct its dispute resolution processes. Art 37 is not sufficient in that regard (it only deals with interconnection disputes, and does not establish any dispute resolution processes).

Article 6 (14): this article gives the Commission dispute settlement functions. The draft however does not provide any guidelines for dispute settlement. A new section on dispute settlement could be added to the Act.

Art 6(19) The content of annual report of the Commission needs to be made more precise, and should include, at a minimum and in addition to what is already included, orders, determination of markets (see comments to arts 30 *et seq.*, below), determinations of dominant operators, RIOs lodged, tariffs lodged, disputes presented, disputes settled and results, material contracts entered into, investigations undertaken (and results), licenses issued, budget, etc. This

reporting is a vital component in ensuring the transparency and accountability of the commission.

Article 9. Too much involvement of the executive Branch for the nomination of the Board Members. Consider involving other branches of Government to ensure proper checks and balances.

The requirement that the Ministry of Telecom and Ministry of finance should be represented in the Board (with voting rights) politicizes regulation. It is not consistent with the principle of independent regulator and with the importance of clear separation between policy making and regulatory functions.

Art 10(2) The conflict of interest provisions should apply to all members of the Commission (not just the board).

Art 15(1) Add “bankruptcy” to the list of events that would disqualify a Board member.

Art 15(2) Allowing the Minister to terminate a Board member grant too much discretion (and therefore uncertainty)

Art 16 Are the Board and staff on or off the civil service payroll. They should probably be off, because the Commission will in theory be making sufficient money from license and frequency fees to support more market rate salaries.

Chapter 4 The current structure of this chapter is a bit old-fashioned. It is not current with most modern approaches, and is even further removed from the more cutting edge approaches that provide “unified” licenses. Is there any reason to preserve what is increasingly an outmoded approach to licensing rather than to adopt a more modern, flexible approach?

Art. 17. Does the scope of the DG’s powers need more specification? At the moment, he is just required to implement the Board’s decisions. Not clear from this how much executive power he’s going to have and what decisions will have to go to the Board.

Article 18. The law is not very specific on the licensing regime. It seems to contemplate only one type of license. With new technological and market developments, it is important to introduce class licenses and notification/declaration regimes, as well as possibility of license exemption. A new article on requirement to be licensed and types of licenses could be added to the draft.

Article 18 (4) license term too short A longer term license gives investors' more flexibility and is more conducive to more investment in the sector.

Art. 18 (5) Annual licenses don't provide much protection or stability to the investor. It would be better to have longer licenses with provisions for them to be removed if the license conditions are broken. Art. 22 (1) requires licensees to apply for renewal of their licenses on an annual basis.

Art 18(3)(a) There does not appear to be a distinction regarding types of licenses (individual, calls, simple authorizations) or any direction about what services might be subject to what type of license. These basic things should be in the law and relegated to implementing legislation.

Chapter 6 Apparently Ministry is responsible for devising the frequency plan, and the Commission for allocating frequencies in licenses.

Chapter 7 Competition – Generally, this chapter needs to be better developed, including clarifying whether there is a competition authority of general application. An example of competition provisions from another jurisdiction are attached as Annex 1.

And throughout this chapter, the prohibition should not be that the Dominant Operator (DO) cannot exploit its network, but that it cannot unfairly exploit its network. Every operator exploits its network (that's how they make money). It's only when the engage in unfair or anti-competitive practices that the regulatory needs to step in.

Article 20 (2) This article is not clear. It could be understood as giving priority to the new licenses and excluding existing ones if their existence "leads to non competitive situation in the market. This creates

uncertainty for the existing players. It is not clear what “excludes” mean. Note that the exclusion covers “licenses” and not applicants.

Article (22) Annual license renewal is too time- and resource- consuming for the commission.

The law should include the principle of presumption of renewal. Since the law does not provide guidance on license renewal criteria and process, it would be good to include that those criteria will be set out in the Regulations.

Draft does not include provisions on license fees and fee regime (limited mention in the section dealing with spectrum licensing)

Art. 24(2) This is somewhat unclear. It seems to suggest that licensees should only apply for new licenses at the end of the transition period. The transition period should be used for this renewal process. Provision could also be made for extensions to this period if the renewal process is disputed.

Article 30: Competition regime is not well drafted. The definition of dominance should be included in the Act. Unless there is a comprehensive competition law, the draft act should be more detailed in defining anti-competitive conduct and spelling out the regime for remedies and enforcement.

Article 34-37: What is the role of the commission in case parties fail to reach an agreement? It would appear that the commission can only intervene to settle disputes. Can the commission have a default interconnection agreement that parties would sign if they fail to reach agreement within a specified period of time?

The draft could include provisions on facility sharing and collocation

Art 31 Before the Commission can make determinations of dominance, it needs to be empowered to define markets.

- Art 34(1) Each licensee “may” provide interconnection, not “should”. Only DOs should have the obligation to provide interconnection (as provided in art 36).
- Art. 35 (1) Seems to require all licensees to sign interconnection agreements. Operators may choose not to sign interconnection agreements if they wanted.
- Art 38(1)(A) Again, market forces should be allowed to operate in the setting of tariffs. Only DOs should submit their tariffs to prior review by the Commission. Other operators need only submit (notify) their tariffs to the Commission. If this approach is adopted, then arts 38(3)-(5) can be deleted. New provisions regarding the process by which DOs submit their tariffs should be inserted.
- Art. 38 (1) B. Better to determine the list of services that are subject to price controls rather than those that are no.
- Art. 38 (3) Requires all licensees to get price approval for non-competitive services. This requirement should only apply to operators deemed to be dominant.
- Art 40 It is assumed that where this article provides approval by the Commission, that it refers to the manner determined by the Commission, and not that the Commission needs to approve all tariffs.

The draft is missing standard provisions on national emergencies

Transitional and Final Provisions

- Art 62: Automatic transfer of Ministry staff to the Commission. While in many cases, newly established regulators are staffed by Ministry staff, this should not be a legal obligation for the commission. This also limits the possibility to attract more qualified professionals from the operators/ Universities and/or from the Palestinian Diaspora.

Art 63: This article raises concerns. It basically allows the regulator to become an operator of public telecommunications network in case the license holder violates license conditions.

Article 66 The Law No. 3 of 1996 for Telecommunications should be specifically mentioned in the repeal provision.

Annex 1

PART VI - COMPETITION POLICY

40. Functions and Duties of Telecommunications Commission Regarding Competition

- (1) The Telecommunications Commission shall perform the following functions and duties in relation to competition among service providers in telecommunications markets in [name of country]:
- (a) promote efficient and sustainable competition for the long-term benefit of end-users of telecommunications services;
 - (b) establish an open and transparent regulatory framework that minimises regulatory and other barriers to entry into telecommunications markets;
 - (c) make orders defining relevant markets for the purpose of this Act;
 - (d) make orders designating dominant service providers in relevant telecommunications markets in [name of country], based on their market share and other factors as determined in accordance with section 41;
 - (e) monitor and prevent service providers from taking advantage of a dominant position, pursuant to section 42;
 - (f) monitor and prevent practices that would restrict competition, in accordance with section 43;
 - (g) review and decide upon proposed transfers of control of service providers, in accordance with section **Error! Reference source not found.**;
 - (h) undertake market reviews from time to time, to evaluate market conditions and the state of competition in those markets; and

- (i) dispose of complaints and resolve disputes related to anti-competitive practices in a timely and impartial manner.
- (2) Wherever a conflict arises between the provisions of this Act and the provisions of any other legislation regulating competition in telecommunications markets in [name of country], the provisions of this Act shall prevail.
- (3) The Telecommunications Commission may liaise with any other Government authority or organisation if it appears to the Telecommunications Commission that it would be necessary or desirable to do so, for the purposes of carrying out its powers and responsibilities under this section 38.
- (4) For the avoidance of doubt, the powers and responsibilities conferred in this section 38 shall not apply in respect of any excluded activities.

41. Designation of Dominant Service Providers

- (1) Every service provider whose gross revenues in a specific telecommunications market, which market has been defined by the Telecommunications Commission pursuant to section 17, constitutes forty per cent (40%) or more of the total gross revenues of all service providers in that market (as determined by the Telecommunications Commission) shall be designated a dominant service provider in that market, unless and until the Telecommunications Commission specifies otherwise in an order.
- (2) The Telecommunications Commission may designate a service provider with less than forty per cent (40%) of the total gross revenues in a specific telecommunications market as a dominant service provider if the Telecommunications Commission reasonably considers that, either individually or acting together with others, it enjoys a position of economic strength or controls an essential facility affording it the power to behave to an appreciable extent independently of competitors or customers.
- (3) The Telecommunications Commission shall post and maintain on its official web site a current list of all dominant service providers, where applicable, specifying the markets in which they have been designated to be dominant.

- (4) Orders designating dominant service providers shall specify the relevant market(s) for which a service provider is designated to be dominant and the circumstances relied on by the Telecommunications Commission to support its findings regarding dominance.

42. Taking Advantage of Dominance

Dominant service providers are prohibited from taking advantage of their dominant position. Without limitation, the following types of actions and activities shall prima facie be considered to be taking advantage of a dominant position:

- (a) failing to supply essential facilities to a competitor within a reasonable time after a request and on reasonable conditions, or discriminating in the provision of interconnection, infrastructure sharing or other telecommunications services or facilities to other service providers; except under circumstances that are objectively justified based on differences in supply conditions, including different costs or a shortage of available facilities or resources;
- (b) bundling of telecommunications services, whereby the service provider requires, as a condition of supplying a service to a competitor, that the competitor acquire another service that it does not require, where it is technically feasible to unbundle the telecommunications service required by the competitor;
- (c) offering another service provider more favourable terms or conditions that are not justified by cost differences if it acquires another service that it does not require;
- (d) pre-emptively acquiring or securing scarce facilities or resources, including rights of way, required by another service provider for the operation of its business, with the purpose of denying the use of the facilities or resources to the other service provider;
- (e) supplying competitive telecommunications services at prices below long run average incremental costs (or such other cost standard as is established by the Telecommunications

Commission) for an extended period of time as determined by the Telecommunications Commission;

- (f) using revenues or the allocation of costs from one telecommunications service to cross-subsidise a more competitive telecommunications service, except where such cross subsidy is specifically approved by order of the Telecommunications Commission or by approval of tariffs for relevant telecommunications services;
- (g) failing to comply with the interconnection obligations of a dominant service provider that are specified in x of this Act;
- (h) failing to comply with the infrastructure sharing obligations of a dominant service provider that are specified in **Error! Reference source not found.**x of this Act;
- (i) deliberately and intentionally reducing the margin of profit available to another service provider that acquires or seeks wholesale telecommunications services from the dominant service provider, by increasing the prices for the wholesale telecommunications services provided to that service provider, or decreasing the prices of the retail telecommunications services in markets where they compete, or both;
- (j) requiring or inducing a supplier to refrain from selling to a service provider;
- (k) adopting technical specifications for networks or systems to deliberately prevent interoperability with a network or system of a service provider;
- (l) failing to make available to other service providers on a timely basis technical specifications, information about essential facilities, or other commercially relevant information which is required by such other service providers to provide telecommunications services and which is not available from other sources; and
- (m) using information obtained from another service provider, for purposes related to interconnection, infrastructure

sharing or supply of telecommunications services by the dominant service provider, to compete with such service providers.

43. Other Anti-Competitive Practices

No person shall engage in a practice which has the purpose, effect, or is likely to have the effect, of substantially lessening competition in a telecommunications market. Without limitation, activities which prima facie have the effect of substantially lessening competition in a telecommunications market include the following:

- (a) contracts, arrangements or understandings between two or more service providers that directly or indirectly fix the prices or other terms or conditions of a telecommunications service in telecommunications markets;
- (b) contracts, arrangements or understandings between two or more service providers that directly or indirectly determine which person will win a contract or business opportunity in a telecommunications market; and
- (c) contracts, arrangements or understandings between two or more service providers to apportion, share or allocate telecommunications markets among themselves or other service providers.

44. Determination of Abuse of Dominance and Anti-Competitive Practices

The Telecommunications Commission may, on application by any person, or on its own initiative, determine:

- (a) whether or not the actions or activities of a dominant service provider constitute taking advantage of its dominant position, within the meaning of section 42;
- (b) whether or not the actions or activities of any service provider amount to an anti-competitive practice within the meaning of section 43; and
- (c) that an action or activity of a service provider under sections 42 or 43 are authorised and shall not be considered to

contravene this Act, on the grounds that such actions or activities are in the public interest and are otherwise consistent with the objectives set out in section 4 of this Act.

45. Remedies for Abuse of Dominance and Anti-Competitive Practices

- (1) If the Telecommunications Commission determines that, in a particular case, or in a number of cases, the actions or activities of a service provider constitute an abuse of its dominant position or an anti-competitive practice the Telecommunications Commission may issue an order to:
 - (a) require one or more persons named in the order to take one or more of the following actions:
 - i) cease the actions or activities specified in the order immediately, or at such time prescribed in the order, and subject to such conditions prescribed in the order; and
 - ii) make specific changes in actions or activities specified in the order, as a means of eliminating or reducing the abusive or anti-competitive impact;
 - (b) impose a fine for breach of this Act pursuant to article x ;
 - (c) require the service provider involved in the abusive actions or activities or anti-competitive practices, and the persons affected by such actions, activities or practices to meet and attempt to determine remedies to prevent or eliminate continuation of such actions, activities or practices, and to resolve any remaining dispute;
 - (d) require the service provider responsible for taking advantage of market power or anti-competitive actions or activities specified in the order to publish an acknowledgement and apology for such actions, activities or practice in both the Pidgin and English languages in the [name of country] Star and one other newspaper of general circulation in [name of country], in such a form and at such times as the Telecommunications Commission specifies in the order; and

- (e) require the service provider to provide periodic reports to the Telecommunications Commission to assist in determining whether the actions or activities are continuing and to determine their impact on telecommunications markets, competitors and customers.

Annex 2

PART VIII - INFRASTRUCTURE SHARING

56. Functions and Duties of the Telecommunications Commission Regarding Infrastructure Sharing

- (1) The Telecommunications Commission shall perform the following functions and duties in relation to infrastructure sharing of telecommunications networks:
 - (a) promote adequate, efficient and cost-oriented infrastructure sharing by service providers to telecommunications facilities of other service providers, in order to promote the development of competitive telecommunications markets;
 - (b) establish an open, non-discriminatory and commercially viable regulatory framework for infrastructure sharing with a view to minimising regulatory and other barriers to entry into telecommunications markets;
 - (c) promote infrastructure sharing arrangements, including by facilitating negotiations between the parties to reach infrastructure sharing agreements;
 - (d) ensure that infrastructure sharing agreements otherwise meet the objectives of this Act;
 - (e) determine which service providers are dominant service providers in a telecommunications market for infrastructure sharing;
 - (f) if considered appropriate by the Telecommunications Commission, regulate the prices for infrastructure sharing services by dominant service providers in a telecommunications market for infrastructure sharing;
 - (g) [ensure that dominant service providers in a telecommunications market for infrastructure sharing publish a reference infrastructure sharing offer in accordance

with section 55 of this Act and any regulations, rules and orders applicable to infrastructure sharing;]

- (h) resolve disputes related to infrastructure sharing in a timely and impartial manner; and
- (i) make orders specifying the terms of infrastructure sharing that shall be provided by one or more service providers.

57. Infrastructure Sharing by All Service Providers

- (1) Every service provider who provides or intends to provide telecommunications services to the public (an “**infrastructure sharing seeker**”) has the right to negotiate in good faith with another service provider that provides telecommunications services to the public and that owns and operates telecommunications facilities for this purpose (an “**infrastructure sharing provider**”) for the purposes of enabling the provision of telecommunications services to the public, an agreement for infrastructure sharing with the infrastructure sharing provider, in respect of the telecommunications facilities owned and operated by the infrastructure sharing provider.
- (2) Upon receipt of a written request by an infrastructure sharing seeker, an infrastructure sharing provider shall enter into, and participate in, good faith negotiations to enter into an infrastructure sharing agreement to:
 - (a) allow the use of the telecommunications facilities of the infrastructure sharing provider by the infrastructure sharing seeker for the purposes of infrastructure sharing; and
 - (b) provide for access to such telecommunications facilities, including central offices and other switching equipment locations, mast sites, towers, poles, subscriber access lines and underground facilities, as are reasonably requested in order for the infrastructure sharing seeker to provide telecommunications service to its customers.
- (3) The following actions or practices shall be deemed to violate the duty in subsection **Error! Reference source not found.** to negotiate in good faith:
 - (a) obstructing or delaying negotiations, or failing to make reasonable efforts to resolve outstanding disputes;

- (b) refusing to provide information about a service provider's own telecommunications services or telecommunications facilities that are necessary for the infrastructure sharing arrangements;
 - (c) misleading or coercing a party into reaching an agreement it would not otherwise have made;
 - (d) interfering in any way with an infrastructure sharing seeker's ability to communicate with the Telecommunications Commission, including having an infrastructure sharing seeker sign a non-disclosure agreement that precludes it from providing information requested by the Telecommunications Commission; or
 - (e) refusing to permit amendment of an infrastructure sharing agreement to take into account changes in circumstances, including changes to this Act, a regulation or rule.
- (4) A service provider shall not be required to enter into an infrastructure sharing agreement on terms that would, in its reasonable opinion, and where the Telecommunications Commission has not made an order otherwise:
 - (a) cause or be likely to cause material danger, damage or injury to any person or to any property; or
 - (b) cause material damage or otherwise materially interfere with the operation of its telecommunications network, telecommunications facilities or the provision of its telecommunications services.
- (5) Service providers and other interested parties may at any time request the Telecommunications Commission to issue an order that clarifies or interprets the infrastructure sharing rights or obligations set out in this Act, a regulation, rule or order.
- (6) In order to ensure compliance with the objectives of this Act, the Telecommunications Commission may, on his or her own initiative and in his or her absolute discretion, intervene during the period of negotiation between an infrastructure sharing seeker and an infrastructure sharing provider in order to prescribe matters which an infrastructure sharing

agreement under negotiation should contain, or prescribe terms with which one or more service providers must conform.

58. Publication of Infrastructure Sharing Agreements

- (1) Every service provider shall, within ten (10) working days after execution of an infrastructure sharing agreement, file a copy of the agreement with the Telecommunications Commission.
- (2) Subject to subsection (3), the Telecommunications Commission shall place a copy of all infrastructure sharing agreements filed with it in accordance with subsection (1) on its official web site.
- (3) A service provider may designate information contained in an infrastructure sharing agreement that it has filed with the Telecommunications Commission in accordance with subsection (1) as confidential, and request that such confidential information be excluded from the public copy of the infrastructure sharing agreement which is placed on the Telecommunications Commission's official web site. However:
 - (a) details of infrastructure sharing charges shall not be considered confidential; and
 - (b) the Telecommunications Commission shall determine what other information will be treated as confidential and resolve in a final and binding manner all disputes regarding disclosure of information designated as confidential in infrastructure sharing agreements submitted to it in accordance with subsection (1).

59. Infrastructure sharing by Dominant Service Providers

- (1) Sections 52, 53 and 54 apply only to service providers that the Telecommunications Commission has designated as dominant service providers for infrastructure sharing in one or more telecommunications markets.
- (2) The Telecommunications Commission may issue an order to designate a service provider as being a dominant service provider for infrastructure sharing purposes in one or more telecommunications markets if the

Telecommunications Commission considers that the service provider is a dominant service provider within the meaning of this Act.

60. Requests for Infrastructure Sharing

(1) Infrastructure sharing arrangements offered by dominant service providers designated in accordance with section 51, in addition to meeting the requirements of section 49, shall:

- (a) be consistent with this Act and any rules and orders made by the Telecommunications Commission before the date of the offer, including any guidelines prescribed therein relating to infrastructure sharing charges and quality of service;
- (b) be no less favourable than any reference infrastructure sharing offer that has been approved by the Telecommunications Commission for the service provider;
- (c) meet all reasonable requests for infrastructure sharing with the dominant service provider's telecommunications network at any technically feasible point; and
- (d) in all other respects, incorporate reasonable terms and conditions, including technical standards and specifications.

(2) Every dominant service provider designated in accordance with section 51 shall ensure that:

- (a) it applies similar conditions to all infrastructure sharing service providers under similar circumstances;
- (b) it provides infrastructure sharing to service providers under substantially the same conditions and of substantially the same quality as it provides for its own telecommunications services, or those of its affiliates;
- (c) it makes available on request in a timely manner all necessary or reasonably required information and specifications to service providers requesting infrastructure sharing; and

- (d) it only uses information received from a service provider seeking infrastructure sharing for the purposes for which it was supplied and does not disclose the information or otherwise use the information to obtain a competitive advantage.

61. Infrastructure Sharing Charges

- (1) Infrastructure sharing charges of dominant service providers designated in accordance with section 51 shall be cost-based.
- (2) In establishing charges for infrastructure sharing, dominant service providers designated in accordance with section 51 shall comply with any rules or orders applicable to infrastructure sharing, including any pricing, costing and cost separation guidelines prescribed by the Telecommunications Commission.
- (3) The Telecommunications Commission may require the infrastructure sharing charges of any dominant service provider designated in accordance with section 51 to be approved by the Telecommunications Commission in advance, including the power to direct such dominant service providers to implement charges determined by the Telecommunications Commission.

62. Infrastructure Sharing Disputes

- (1) Where service providers fail to reach agreement within a period of four weeks from the date of receipt of a written request, the matter may be referred by either service provider to the Telecommunications Commission for examination and determination.
- (2) In such a case, the Telecommunications Commission may order the dominant service provider designated in accordance with section 51 to provide for infrastructure sharing in relation to its telecommunications network on such terms and conditions as the Telecommunications Commission determines, or as are prescribed by the Telecommunications Commission from time to time.