

S.I. 2003 No. 131

Telecommunications Act, 2001
(Act 2001-36)

**TELECOMMUNICATIONS (DATA COMMUNICATIONS
SERVICE) REGULATIONS, 2003**

The Minister in exercise of the powers conferred on him by section 110(1)(a) of the *Telecommunications Act*, makes the following Regulations:

1. These Regulations may be cited as the *Telecommunications (Data Communications Service) Regulations, 2003*.

2. In these Regulations,

"data communications service" means the movement of video and data information from one point to another by means of electrical or optical transmission systems, including such means as free space optics, short messaging systems, general packet radio systems, local multipoint distribution systems and any information transfer from computer to computer.

3. A person who is desirous of providing data communications service to the public may,

(a) on application to the Minister in the relevant form referred to in regulation 8; and

(b) on payment of the relevant fee specified in the *Telecommunications (Licence Fees) Regulations, 2003*

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obtain a licence for the purpose.

4. A licence issued under regulation 3

(a) shall be in the form set out in the *Schedule* and shall be subject to such conditions as are specified in the licence; and

Schedule.

(b) is not transferable.

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5. Subject to regulation 6, a licence issued under regulation 3 shall expire on the 31st December following the date of issue and is renewable during the month of January in each year on payment of the relevant fees specified in the *Telecommunications (Licence Fees) Regulations, 2003*.

6. Where the licensee fails to comply with any provision of these Regulations or with any of the conditions referred to in regulation 4, the Minister may cancel or refuse to renew the licence.

7. A licence issued under regulation 3 is valid for the provision of domestic data communications service only, until the date of the commencement of Phase III of the Transition Timetable.

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8. Any applicant who is desirous of providing data communications service pursuant to these Regulations must complete the forms which are set out in the *Telecommunications (Public Telecommunications Licensing) Regulations, 2003* with respect to applications for:

- (a) spectrum;
- (b) general service provider; and
- (c) any of the following:
 - (i) network;
 - (ii) wide area network; and
 - (iii) local area network.

SCHEDULE

(Regulation 4(a))

LICENCE FOR DATA COMMUNICATIONS SERVICE

DATA COMMUNICATIONS SERVICE

1. INTRODUCTION

1.1 This Licence is issued under section 61 of the *Telecommunications Act, 2001* ("the Act"). This is a Licence for the provision of data communications service. Act 2001-36.

2. DATA COMMUNICATIONS

2.1 Data communications service is the movement of video and data information from one point to another by means of electrical or optical transmission, including such means as:

- Free Space Optics (FSO)
- Short Messaging Systems (SMS)
- General Packet Radio Systems (GPRS)
- Local Multipoint Distribution Systems (LMDS)
- Any type of information transfer from computer to computer

2.2 For the avoidance of doubt, this Licence prohibits the use of Voice over the Internet Protocol (VOIP).

3. OBLIGATIONS

3.1 The Licensee, at the time of the issuance of this Licence, shall file with the Minister a listing of those services to be provided to the Public under this Licence. The said listing for each licensee shall be entered by the Minister on a Register of Data Communications and thereupon a Licensee shall be deemed to be registered under this Licence.

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- 3.2 Each Licensee shall amend the listing on the Register any time a new service is offered under this Licence or an existing service is withdrawn from offering by the Licensee. The amendment shall be promptly filed in writing with the Minister.
- 3.3 Each Licensee shall pay all fees prescribed under the *Telecommunications (Licence Fees) Regulations 2003*.
- 3.4 This Licence shall continue in force for a period of 1 year from the date of the issuance of this Licence, but is renewable.
- 3.5 The Minister may suspend, modify or revoke this Licence or any authorisation in accordance with the Act and Regulations made under the Act.
- 4. PRIVACY AND CONFIDENTIALITY**
- 4.1 The Licensee shall maintain and provide the Minister with such information as is required under the Act, Regulations and the laws of Barbados.
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- 4.2 The Licensee may submit a Claim of Confidentiality in accordance with the *Telecommunications (Confidentiality) Regulations, 2003* with respect to confidential information submitted to the Minister.
- 5. COMPLIANCE**
- 5.1 Each Licensee shall observe and comply with:
- Act 2001-
36.
- (a) Legislation from time to time in force in Barbados in particular the *Telecommunications Act, 2001* any statutory re-enactment or modification thereof and any statutory instrument or regulation made in accordance therewith;
- (b) Nothing in this Licence shall be taken as discharging a Licensee from its obligations to obtain any other licences, permits or approvals that may be required under any written law in force in Barbados.

6. NATIONAL SECURITY

- 6.1 The Licensee shall provide to the authorized officers of the Government such access by way of information, facilities, financial records or technical assistance as is reasonably required for the purposes of effecting any interception of communication transmitted by means of a public telecommunications network where such interception is reasonably required for the purposes of national security and law enforcement within the framework of the appropriate legislation.
- 6.2 All information gained by or provided to the authorized officers of the Government pursuant to paragraph 6.1 shall for the purpose of this Licence be treated by the authorized officers of the Government as strictly confidential and shall not in any way be copied, published or made use of publicly in any way whatsoever as directed in the appropriate legislation.

7. FEES

- 7.1 Each Licensee shall pay to the Chief Telecommunications Officer the relevant fee as prescribed in the *Telecommunications (Licence Fees) Regulations, 2003*.

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8. MODIFICATION AND CESSATION

- 8.1 Where a Licensee requires this licence to be modified or the licence to cease, the licensee must notify the Minister. The public will then be notified of the modification or cessation.

9. ASSIGNMENT AND TRANSFER

- 9.1 The Licensee shall not assign this Licence or any rights thereunder or transfer control of operations except in accordance with the Act.

9.2 Upon obtaining the prior written approval of the Minister to assign this Licence or any rights thereunder or to transfer control of operations of the licence, the Licensee shall advise the Minister that the assignment or transfer has been effected within one (1) calendar month of the assignment or transfer.

10. INTERPRETATION

10.1 In this Licence unless the context otherwise requires:

"Minister" means the Minister with responsibility for Telecommunications.

10.2 Any word, phrase or expression used in this Licence shall, unless the context requires otherwise, have the same meaning as it has in the Act or the Regulations as the case may be.

10.3 Words importing the singular shall include the plural and vice versa.

10.4 References to any law, regulation or other statutory instrument includes any modification, re-enactment or legislative provisions substituted for the same.

10.5 The headings in this Licence are for convenience only and shall not constrain or affect its construction or interpretation in any way whatsoever.

10.6 The use of the word "includes" or "including" is to be construed as being without limitation.

SCHEDULE A**Customer Disclosure Statement**

Each Licensee registered in the Register for the provision of Data Communications Services shall provide to every customer, client or purchaser of services provided under this Licence a Customer Disclosure Statement that will set out the terms of use of the services. The Statement may be provided in either written or electronic form. It may be provided on a Licensee's website if some form of acknowledgement is received that the customer has accessed and accepted it at the commencement of the provision of services.

A Customer Disclosure Statement shall, as a minimum requirement, provide terms of use in the following categories:

- Acceptable uses to be made of services provided and restriction on such uses;
- Assumption of risk by customers related to provision of services;
- Assumption of liability on the part of customers;
- Privacy policies;
- Procedures and policies related to changes in services provided;
- Notice procedures regarding changes in services provided, terms and conditions, service renewal, charges and billing;
- Acceptable methods of payment of charges;
- Conditions for termination or modification of services provided by a Licensee and refusal of service to customers;
- Disclosure of the governing jurisdiction of law;
- Identification of customers by a Licensee.

SCHEDULE A - Cont'd**FOR OFFICE USE**

Registration Number

Approved by:

LICENCE FOR DATA COMMUNICATIONS SERVICESGeneral Nature of Business: _____

Name of Licensee: _____

Address of Individual, Corporate Offices or Registered agent:

Telephone No.: _____

Nationality: _____

VAT Registration: _____

Data Communications Provided by:

List type of Service Provision: _____

Company's Number: _____

Date of Commencement of Licensed Services: _____

Services on the Register: _____

(May be filed by Attachment)

GRANTED BY THE MINISTER responsible for Telecommunications on this day of ,

Minister responsible for Telecommunications.

Made by the Minister this 26th day of September, 2003.

ANTHONY P. WOOD
Minister responsible for Telecommunications.