

**TELECOMMUNICATIONS BILL 2012
(Bill No. 18 of 2012)**

Amendments to be moved by the Honourable Prime Minister

The Clauses of the Bill mentioned in the first column are amended in the manner specified in the corresponding entries in the second column.	
CLAUSE	HOW AMENDED
PART I	
Clause 2(1)	<p>(1) by the insertion, immediately after the definition of “consumer”, of the following definition-</p> <p style="padding-left: 40px;">“cost-oriented” means those charges equal to the long- run incremental cost of an efficient operator or service provider, as the case may be, plus, if applicable, an appropriate portion of shared and common costs, and such terms as may be amplified or modified in the regulations;’.</p> <p>(2) by the insertion, immediately after the definition of “frequency band”, of the following definition-</p> <p style="padding-left: 40px;">“gross annual revenues” and “gross revenues derived from services”, for the purposes of this Act and the Public Utilities Commission Act, respectively, means the total revenues received by a licensee or authorisation holder from the telecommunications services and other activities conducted pursuant to its licence and frequency authorisation, in its most recently ended financial year;’;</p> <p>(3) by the substitution in the definition of “harmful interference” for the word “nagivation” of the word “navigation”.</p>

PART II	
Clause 6 (2)	by the substitution for the words “one year” of the words “two years”.
Clause 17	(1) by the deletion of subclause (1); (2) by the renumbering of subclause (2) as clause 17. (3) by the deletion of the words “Cap. 19:05” in the marginal note.
Clause 18(1)	by the substitution for the words “determine its own”, of the words “prepare an”.
PART III	
Clause 20 (1)	by the insertion immediately after the word “regulate” of the words “numbers,”.
PART IV	
Clause 23	(1) by the insertion in subclause (10)(a) immediately after the word “order” of the words “or regulations”; (2) by the insertion immediately after subclause (10) of the following as subclause (11)- <p style="margin-left: 40px;">“(11) (a) In the exercise of his functions under section 19 (1) (d), the Minister shall determine, by order or regulations issued on or after the appointed day, an initial list of those telecommunications networks that shall constitute public telecommunications networks and those telecommunications services that shall constitute public telecommunications services.</p>

	<p>(b) Prior to issuing any order or regulations amending or revoking a determination made pursuant to subsection (11)(a), or making, or amending or revoking any order or regulations pursuant to subsection (10) or section 24, the Minister shall —</p> <p>(i) send a draft of the proposed order or regulations to every operator or service provider likely to be affected thereby, and publish a notice in a newspaper of general circulation in Guyana, specifying the period within which operators, service providers and other interested persons may submit written representations to the Minister; and</p> <p>(ii) hold a public consultation at which operators, service providers and other interested persons may make representations,</p> <p>and the Minister shall consider any written representations submitted and any representations made at such public consultation in making, amending or revoking any such order or regulations.”.</p>
<p>Clause 24(2)</p>	<p>by the insertion immediately after the word “order” of the words “or regulations”.</p>
<p>Clause 28 subclause (1)(1)(ii)</p>	<p>substitute -</p> <p>“in respect of the disconnection of telecommunications services due to terminal equipment attached to the public telecommunications network of an operator, disconnect such telecommunications services only with respect to terminal equipment that is unsafe to the consumer or that poses a material risk of physical harm to such public telecommunication network; and”;</p>

	<p>days and not more than forty-five days from the date of such notice;</p> <p>(c) contemporaneous with giving notice to the operator or service provider under paragraph (a), publish a notice of the proposed price regulations regimes in a newspaper of general circulation in Guyana, for the purpose of providing interested persons the opportunity to comment for a period not less than twenty-eight days and not more than forty-five days from the date of such publication, and shall consider any representations or objections which are duly made and not withdrawn;</p> <p>(d) within thirty days after the close of both of the comment periods provided for in paragraphs (b) and (c), hold a public hearing, at which the operator or service provider and any interested person may present their views on the proposed price regulation regime;</p> <p>(e) take any views submitted in writing or at the public hearing into account in determining the price regulation regime imposed and render a decision thereon within the forty-five days after the public hearing provided for in paragraph (d); and</p> <p>(f) implement such other procedures as may be set forth in the regulations.”.</p>
<p>Clause 40(5)</p>	<p>(1) by the substitution in paragraph (b) for the words “each of them” of the words “them, individually or jointly,”;</p> <p>(2) by the insertion immediately after paragraph (b) of the following as paragraph (c) -</p> <p>‘Every reference to “dominant” or “dominance” in this Act, the regulations and the Telecommunications Code shall, unless expressly provided otherwise, be read to include “jointly dominant” and “joint dominance”.’.</p>

PART VI

Clause 41
subclause (1)

(1) by the substitution for paragraph (e) of the following-

“(e) submit to the Commission a copy of any agreement concluded pursuant to subsection (1)(d) within the time provided for in the regulations;”;

(2) by the deletion in paragraph (h) immediately after the word “regulations;” of the word “and”;

(3) by the substitution in paragraph (i) for the full stop of the words “; and”;

(4) by the insertion immediately after paragraph (i) of the following as paragraph (j) -

“(j) to the extent required by the regulations, disaggregate its telecommunications networks and facilities, and unbundle its telecommunications services, and on a cost oriented basis as the regulations may require or, to the extent not specified in the regulations, the Commission may specify, establish prices for its individual elements and offer the elements at the established prices to other operators and service providers.”;

(5) by the insertion in paragraphs (a) and (b) immediately after the words “regulations or” of the words”, to the extent not provided for in the regulations,”;

(6) by the insertion immediately after subclause (6) of the following as subclause (7)—

“(7) Every operator, service provider and public utility that, as of the appointed day, is providing or receiving interconnection, access, collocation or joint use under any terms and conditions, whether or not such terms and conditions constitute a formal or

	binding agreement between the parties, shall continue to provide such interconnection, access, collocation and joint use under such terms and conditions, until such time as the parties have concluded an interconnection agreement, access agreement, or agreement for collocation or joint use under this Act and the regulations.”.
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PART VII

Clause 43 subclause (2)	(1) by the insertion in paragraph (a) immediately after the word ‘including” of the words “, as may be further provided for in the regulations,”;
subclause (4)	(2) by the substitution in paragraph (b) for the words “telecommunications undertakings that use such networks and services and provide any other telecommunications services” of the words “such other telecommunications undertakings as the Minister may determine”.

PART VIII

Clause 44	(1) by the substitution in subclause (1) for the full stop of the words “, and to recognise that the spectrum is a valuable public resource”; (2) by the insertion in subclause (3) (a) immediately after the word “allocate” of the words “and reallocate”; (3) by the insertion in subclause (4) immediately after the word “allocation” of the words “and reallocation”.
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Clause 46	(1) by the insertion in paragraph (a) immediately after the word “objectives” of the words “and provisions”;
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	<p>(2) by the insertion in paragraph (b) immediately after the word “use” of the words “and availability of the spectrum”;</p> <p>(3) by the substitution in paragraph (f) for the word “matters” of the word “factors”.</p>
Clause 47	<p>(1) by the insertion in subclause (1) (b) immediately after the word “Act” of the words “, the regulations, and the terms and conditions of a relevant frequency authorisation”;</p> <p>(2) by the insertion in subclause (2) immediately after the word “Act” of the words “and the regulations”.</p>
Clause 51	<p>by the substitution in subclause (1) for the words “top level domain names of Guyana” of the words “Guyana country-code top level domain name”.</p>
PART IX	
Clause 52 subclause 10	<p>substitute-</p> <p>“(10) Notwithstanding anything in subsections (8) and (9), operators and service providers shall provide terminal equipment, inside wiring and similar items on the consumers’ side of the network termination point, as may be necessary for such consumers to connect to the relevant operator’s public telecommunications network and utilise the relevant service provider’s public telecommunications services, until such time as the Minister may determine, by order, that such necessary terminal equipment, inside wiring and similar items are available in the relevant consumers’ geographical area.”.</p>

PART XI

Clause 59	<p>(1) by the insertion in subclause (1) (c) immediately after the words “first having” of the word “notified”;</p> <p>(2) by the substitution for subclause (3) of the following as subclause (3) -</p> <p style="padding-left: 40px;">“(3) Neither an operator that has opened or broken up a road, street or bridge, nor any operator or public utility that is required to be notified under subsection (1) (b) or (c), shall open or break up the same road, street or bridge within three months of the completion of the work and restoration of the road, street or bridge as required by subsection (2) (a), except where any such operator or public utility, as the case may be, proves to the satisfaction of the Commission the necessity of carrying out emergency works.”.</p>
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Clause 61 subclause (2)	<p>substitute -</p> <p style="padding-left: 40px;">“(2) Before undertaking any new construction as permitted under subsection (1), the operator shall submit its plans in writing to the affected national, regional or local authority for review, and obtain approval therefor; provided, however, that this subsection (2) shall not apply to activities in relation to the operation or maintenance of facilities along, on or over public rights of way.”.</p>
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PART XII

Clause 79	<p>(1) by the insertion in subclause (1) (b) immediately after the word “convicted” of the words “under this Act or the regulations”;</p> <p>(2) by the substitution in subclause (2) for the word “recover” of the word “recovery”;</p>
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	<p>(3) by the substitution for subclause (3) of the following as subclause (3) -</p> <p>“(3) Where an offence under this Act or the regulations has been committed by, or in the name of, a body corporate, and a director, officer, corporate secretary, manager, partner, person acting under a power of attorney, or other person with responsibility for the affairs of that body corporate knowingly authorised, permitted or acquiesced in the commission of the offence, the director, officer, corporate secretary, manager, partner, person acting under a power of attorney, or other person with responsibility for the affairs of that body corporate, as well as the body corporate itself, shall be guilty of the offence and shall be liable to be proceeded against and punished to the same extent as provided in the relevant offence.”</p>
<p>Clause 80</p>	<p>(1) by the renumbering of subclause (1) as clause 80 and in clause 80 as so renumbered by the substitution for the words “and any person” of the words “or any other person”;</p> <p>(2) by the deletion of subclause (2).</p>
<p>Clause 81</p>	<p>by the substitution for clause 81 of the following as clause 81-</p> <p>“81. Except to the extent that the regulations may provide for the payment of penalties and fines to the Agency or the Commission, or the Telecommunications Code provides for the payment of penalties and fines to the Agency, for the violations of this Act, the regulations, the Telecommunications Code or a licence, exemption or frequency authorisation, any penalty or fine imposed shall be paid to the Accountant General.”.</p>

	<p>subsection shall not apply to the initial making of the following regulations after the appointed day-</p> <p>(a) Licensing and Frequency Authorisation (Telecommunications) Regulations;</p> <p>(b) Interconnection and Access (Telecommunications) Regulations;</p> <p>(c) Pricing (Telecommunications) Regulations;</p> <p>(d) Universal Access and Universal Services (Telecommunications) Regulations;</p> <p>(e) Competition (Telecommunications) Regulations;</p> <p>(f) Consumer Protection (Telecommunications) Regulations; and</p> <p>(g) Spectrum Management Regulations.”.</p>
Clause 88	by the substitution in subclause (1) (c) for the words “to fail” of the words “who fails”;
Clause 90	by the substitution in paragraphs (b) and (d) for the word “Defense” of the word “Defence”.
Clause 93(6)	by the insertion in paragraph (a) immediately after the words “stand terminated, and” of the words “on the appointed day”.
Clause 95	<p>substitute for paragraph (a) -</p> <p>“(a) abrogating or otherwise affecting the full force and effect of any easement, way-leave, or right of way across lands owned by the Government, any local governmental authority or any other person previously granted to or otherwise obtained by an operator or a service provider as of the appointed day in accordance with any written law or by agreement between the operator or service provider and the Government, local authority or other person; or”.</p>

Prime Minister