



REPUBLIC OF DJIBOUTI
Unity – Equality – Peace

PRESIDENCY OF THE REPUBLIC

LAW N°074/AN/20/8th L;

Establishing the Multisectoral Regulatory
Authority of Djibouti (ARMD)

**The National Assembly has adopted,
The President of the Republic promulgates**

The Law whose contents are as follows:

Having regard to the Constitution of 15th September 1992;
Having regard to Constitutional Law No. 134/AN/06/5th L of 02 February 2006
revising the Constitution;
Having regard to Constitutional Law No. 215/AN/08/5th L of 19 January 2008
revising the Constitution;
Having regard to Constitutional Law No. 92/AN/10/6th L of 21 April 2010 revising
the Constitution;
Having regard to Decree No. 2019-095/PRE of 05 May 2019 appointing the Prime
Minister;
Having regard to Decree No. 2019-096/PRE of 05 May 2019 appointing members of
the Government;
Having regard to Decree No. 2019-116/PRE of 26 May 2019 establishing the
responsibilities of Ministries;
Having regard to Circular No. 023/PAN of 03 February 2020 convening the public
session closing the first extraordinary session 2019/2020;

The Council of Ministers having deliberated in its session of 31 December 2019.



CHAPTER I: General Provisions

Article 1:

An independent administrative authority is hereby created under the Presidency of the Republic, denominated the “Multisectoral Regulatory Authority of Djibouti (ARMD).”

Article 2:

The Multisectoral Regulatory Authority of Djibouti is a public legal entity, independent, vested with financial and administrative autonomy. Its decisions constitute administrative acts and are subject to judicial review.

Article 3:

The headquarters of the ARMD shall be established in Djibouti. It may be transferred, as necessary, to any other location within the national territory by decree of the Council of Ministers.

Article 4:

The Multisectoral Regulatory Authority of Djibouti shall be responsible for regulating activities conducted within the national territory in the following sectors:

1. Telecommunications, information and communication technologies;
2. Renewable and non-renewable energy, including gas;
3. Any other sector subsequently placed under its jurisdiction.

CHAPTER II: ARMD Missions

Article 5:

The ARMD's missions in each of the sectors for which it is responsible for regulation are to take the necessary measures to:

- Ensure compliance with the provisions of legislative and regulatory texts governing the sectors within its area of competence in an objective, transparent and non-discriminatory manner;
- Protect the interests of users and operators by taking all measures necessary to ensure the exercise of effective, healthy and fair competition in the sector concerned and within the framework of the legislative and regulatory provisions in force;
- Monitor and control the quality of service of operators holding operating licenses in regulated sectors;



- Grant the authorizations provided for in the sectors concerned and implement the procedures for awarding authorizations, licenses and concessions under conditions of complete transparency and competition;
- Promote the availability and accessibility of regulated services to all consumers including low-income, rural and disadvantaged consumers;
- Monitor compliance by stakeholders with the obligations incumbent upon them under licenses, authorizations and concessions;
- Monitor compliance with the conditions for exercising competition in all regulated sectors;
- Plan and manage the frequency spectrum;
- Ensure fair competition in all regulated sectors.

Article 6:

The specific and complementary functions of the Multisectoral Regulatory Authority of Djibouti in each Regulated Sector are defined in the Sectoral Laws of the sector concerned and their implementing texts.

CHAPTER III: GENERAL POWERS

Article 7:

For reasons of general interest and consumer protection in particular, the ARMD has the following powers:

- Conduct investigations, including inspections at the premises of regulated service providers to ensure compliance with their obligations;
- Impose administrative sanctions for violations of this law and other laws and regulations governing regulated sectors;
- Ensure and facilitate the settlement of disputes relating to regulated services;
- Give instructions to the regulated service provider whose operating license has been cancelled, suspended, modified or revoked and appoint an administrator.

Article 8:

The Multisectoral Regulatory Authority of Djibouti carries out regular checks of the rates and other fees charged by providers of regulated services.

In decision-making, setting tariffs and other charges or determining the method of their regulation, the ARMD must take into account:

- Costs of production and supply of goods or services;



- The return on assets in regulated sectors;
- Any relevant point of comparison, including international comparisons for prices, costs and returns on assets in comparable sectors;
- Fundamental elements in determining prices;
- The interest of the consumer and the investor;
- The desire to promote competitive prices and attract customers without disrupting market growth and profitability;
- The reason for establishing maximum rates and fees and the means of regularly checking rates and fees;
- Any other reason provided for in the legislation governing the sector concerned.

Article 9:

The ARMD has the power to require operators in regulated sectors to provide it, at least annually, and at any time upon request, with information or documents that enable it to ensure compliance by said operators with legislative and regulatory texts as well as with the obligations arising from the licenses, concessions or authorizations issued to them.

Failure to provide information within the specified time limit or providing false information is punishable by law.

CHAPTER IV: ADVISORY AND INFORMATIVE POWERS

Article 10:

The Multisectoral Regulatory Authority of Djibouti is associated by the Government with the preparation of Djibouti's position in international negotiations relating to regulated sectors.

It is also associated with the representation of the Republic of Djibouti in international, regional and sub-regional organizations competent in these areas, as well as with the negotiation and implementation of conventions and treaties relating to regulated sectors.

The Regulatory Authority is consulted by the Ministers responsible for regulated sectors on any draft law or regulation relating to said sectors.

It is associated, at the request of the Minister concerned, with the preparation of any decision relating to its sector or likely to have an impact on it, and in particular with the design of sectoral policy.

Article 11:



The Regulatory Authority is heard by Parliament during discussions of draft laws concerning Regulated Sectors.

It ensures the legitimate interests of operators holding concessions, licenses or authorizations relating to Regulated Sectors as well as the interests of users when modifying the regulations of Regulated Sectors.

Article 12:

The Multisectoral Regulatory Authority of Djibouti makes available to the public all legislative and regulatory texts, as well as notices of calls for tender and specifications relating to the regulated sectors.

It publishes opinions, recommendations, decisions, formal notices and all other information relating to Regulated Sectors in the Official Journal.

CHAPTER V: ORGANIZATION AND OPERATION

Article 13:

The organs of the Multisectoral Regulatory Authority of Djibouti are:

- The Regulatory Council;
- The General Management.

SECTION 1: THE REGULATORY COUNCIL

Article 14:

The Regulatory Council of the Multisectoral Regulatory Authority of Djibouti is the supreme governing and decision-making body. It is vested with full powers and responsibilities to ensure the management of the assets of the Multisectoral Regulatory Authority of Djibouti for the accomplishment of its mission.

Article 15:

The Regulatory Council comprises six (6) members, appointed by Decree for a term of 4 years renewable once, and composed as follows:

- The President of the Council, with casting vote, appointed by the President of the Republic;
- 1 person appointed by the President of the National Assembly;
- 2 personalities designated by the Ministries of Regulated Sectors;



- 2 independent individuals with expertise in regulated sectors appointed by the President of the Republic.

The members of the Regulatory Council at their first meeting elect a Vice-Chairman from among themselves.

The Director General of ARMD provides secretariat services to the regulatory council.

Article 16:

To be a member of the Regulatory Council, any person must meet the conditions

Following:

- Be honest;
- Not have been definitively sentenced to a term of imprisonment equal to or greater than six (6) months;
- Have skills and a minimum of five years' experience in technical, economic or financial fields and relating to regulated sectors.

Article 17:

The function of member of the Regulatory Council is incompatible with the following activities:

- Exercise a function of director or senior manager in a private institution having any link with the public utility services governed by this law or be a collaborator;
- Have shares or business interests in a public utility service either by himself or by members of his first-degree family.

Article 18:

The member of the Regulatory Council leaves his functions for the following reasons:

- End of his mandate;
- Resignation submitted in writing;
- Incapacity caused by physical or mental insufficiency certified by an approved doctor;
- Final sentence of imprisonment equal to or greater than six (6) months;
- Three (3) successive absences from meetings of the Regulatory Council during a period of one year without valid reasons;
- if it turns out that he no longer meets the required conditions considered during his appointment to the Regulatory Council;



- Conduct clearly incompatible with his function;
- hindering the proper functioning of the ARMD;
- Death.

Article 19:

The Regulatory Council is the deliberative and decision-making body of the Multisectoral Regulatory Authority of Djibouti. Its functions include:

- Define and guide the general policy of the Multisectoral Regulatory Authority of Djibouti;
- To adopt the annual budget and the action plan of the ARMD;
- To approve the accounts for the closed financial year of the ARMD;
- To adopt the organizational chart, internal regulations, remuneration scale and staff benefits;
- To approve the recruitment and dismissal of management staff as well as their promotions;
- To validate the public annual report which reports on the activities of the Multisectoral Regulatory Authority of Djibouti and the application of the legislative and regulatory provisions relating to Regulated Sectors. This report is addressed to the President of the Republic, the President of the National Assembly and the Prime Minister;
- To approve calls for competition for the granting of licenses;
- To supervise the processes of launching and evaluating these calls for competition, and awarding licenses and authorizations;
- To impose sanctions in the event of breaches of legislative and regulatory provisions or the contents of authorizations, licenses, concessions and specifications;
- To carry out the conciliations requested of it;
- To publish regulatory acts relating to Regulated Sectors and regulatory decisions in the Official Journal;
- All other functions entrusted to it by laws and regulations and in particular, by the Sectoral Laws and their implementing texts.

SECTION 2: GENERAL MANAGEMENT AND DEPARTMENTS OF THE REGULATORY AUTHORITY

Article 20:



The Multisectoral Regulatory Authority of Djibouti is headed by a Director General appointed by Decree taken in Council of Ministers on the proposal of the Presidency. The mandate of the Director General is three (3) years, renewable once.

Article 21:

The Director General is vested with executive power. He coordinates and directs daily activities and must report to the Regulatory Council on the implementation of his decisions.

The main responsibilities of the Director General are as follows:

- Initiate and submit to the Regulatory Council all planning and activities intended to promote the development of the Regulatory Authority and to achieve its mission;
- Implement, monitor and ensure the implementation of the regulatory policy of the Regulatory Authority and the decisions of the Regulatory Council in accordance with the laws governing the regulated sectors;
- Prepare calls for tenders for the granting of licenses;
- Submits for adoption by the Regulatory Council the draft organizational chart and internal regulations, as well as the salary scale and benefits for staff;
- Recruit, appoint and dismiss staff members in accordance with the laws and subject to the prerogatives recognized to the Regulatory Council;
- Prepare the draft annual budget and submit it to the Regulatory Council for adoption;
- Produce the annual report on the activities of the Multisectoral Regulatory Authority of Djibouti;
- Carry out any other task assigned to it by the Regulatory Council and falling within the missions of the Regulatory Authority.

Article 22:

The attributions and functioning of the structures of the Multisectoral Regulatory Authority of Djibouti will be defined by Decree taken in Council of Ministers.

SECTION 3: PERSONNEL

Article 23:

The Multisectoral Regulatory Authority of Djibouti may employ two types of personnel:



- Staff recruited directly under employment contracts subject to the labor code and the collective agreement;
- Civil servants and auxiliary agents of the State on secondment.

Staff of the Multisectoral Regulatory Authority of Djibouti must have the appropriate profile to the position they hold.

Article 24:

Civil servants and State agents on secondment to the ARMD are subject, for the entire duration of their secondment, to the texts governing the ARMD and to labor legislation, subject to the provisions of the general civil service regulations.

ARMD staff members must not under any circumstances be employees or receive remuneration in any form or capacity whatsoever, or have direct or indirect interests in a company falling within one of the Regulated Sectors.

SECTION 4: PROVISIONS APPLICABLE TO MEMBERS OF THE REGULATORY COUNCIL, THE DIRECTOR AND STAFF OF THE REGULATORY AUTHORITY

Article 25:

The members of the Regulatory Council, the Director General and the staff of the Multisectoral Regulatory Authority are required to respect strict professional secrecy for any information, facts, acts and/or intelligence of which they may become aware by reason of their functions, during the duration of these functions and subsequently, without limitation of duration.

Article 26:

Any failure to comply with the obligations set out in the above article constitutes serious misconduct leading to dismissal for members of the Regulatory Council and the Director General, and dismissal for ARMD staff, without prejudice to possible legal proceedings.

Article 27:

The members of the Regulatory Council and the Director General take an oath on the Koran before the Supreme Court, according to the following formula: "I swear to fulfill faithfully and loyally, with complete impartiality and fairness the functions with which I am entrusted, to respect in all circumstances the obligations they impose on me and to keep the secrecy of the deliberations in which I have taken part".



CHAPTER VI: FINANCIAL AND ACCOUNTING PROVISIONS

Article 28:

The Djibouti Regulatory Authority has ordinary resources and extraordinary resources.

The ordinary resources of the Multisectoral Regulatory Authority of Djibouti are:

- Annual fees paid by operators holding a license, authorization or concession, as determined by sectoral laws and specifications;
- The costs of processing files, inspection and monitoring of installations, and procedural costs, paid by operators in the sector under sectoral laws.

The extraordinary resources of the Multisectoral Regulatory Authority of Djibouti are:

- The proceeds of loans;
- Subsidies from the State and national or international organizations;
- Donations and legacies.

Article 29:

The calculation methods, the rate and the amount of royalties and fees and other remunerations, constituting the ordinary resources of the Regulatory Authority, are fixed by regulation when they are not fixed by sectoral laws.

The elements constituting the resources of the Multisectoral Regulatory Authority of Djibouti are collected and recovered by the Regulatory Authority from the operators. The corresponding payments are paid into the current account opened in the name of the Regulatory Authority with a local banking establishment.

Article 30:

The expenses of the Multisectoral Regulatory Authority of Djibouti consist of operating costs, equipment and any other expenses related to the responsibilities of the Regulatory Authority.

Article 31:

The Director General is the authorizing officer of the budget of the Multisectoral Regulatory Authority of Djibouti. As such, the execution of the Djibouti Regulatory Authority's budget, both in terms of revenue and expenditure, is the responsibility of the Director General.



The collection of revenue and the payment of expenditure are carried out by an Accounting Officer appointed by Decree on the proposal of the Minister of the Budget.

Article 32:

The accounts of the Multisectoral Regulatory Authority of Djibouti are audited annually by an audit firm whose expertise is internationally recognized and in accordance with the standards prescribed in this area. The audit report is made public by the Regulatory Council.

Article 32-1: The accounts of the regulatory authority are subject to control by the Court of Auditors and the State control bodies (IGE, IGF).

CHAPTER VII: DISPUTE RESOLUTION AND SANCTIONS

Article 33:

The Multisectoral Regulatory Authority of Djibouti may, either ex officio, or at the request of a Minister concerned, or at the request of a professional organization, or at the request of a user association, sanction any breaches it observes of the legislative and regulatory provisions governing the sectors it regulates.

The ARMD sets, by regulation, the terms of these sanctions. It cannot be seized of facts dating back more than three years, if no action has previously been taken to investigate, establish or sanction them.

Article 34:

The Multisectoral Regulatory Authority of Djibouti shall formally require the person(s) responsible for the breach to comply with the rules applicable to their area of activity within a specified period, in accordance with the relevant sectoral texts.

It makes this formal notice public by any appropriate means.

Article 35:

Except in cases of emergency defined in sectoral texts, sanctions are imposed after the person concerned has received notification of the grievances and has been given the opportunity to consult the file and present their written or oral observations.



When the perpetrator of the breaches does not comply with the formal notice from the Regulatory Authority within the time limit, the latter may impose one of the sanctions provided for in the relevant sectoral text.

Article 36:

Decisions are justified and notified to the interested party (ies) and published in the Official Journal.

Financial penalties are collected as State debts. They are not part of the Regulatory Authority's own resources.

Article 37:

Decisions of the Regulatory Authority may be appealed to the Administrative Court.

Article 38:

The ARMD may sanction a natural or legal person who fails to provide information requested within the time limits provided for by this law, with an administrative fine of two hundred thousand (200,000 DJF) to two million (2,000,000 DJF) Djibouti francs.

The ARMD may also sanction a natural or legal person who provides false information with an administrative fine of five hundred thousand (500,000 DJF) to five million (5,000,000 DJF) of Djibouti francs.

Article 39:

A natural or legal person who resorts to anti-competitive practices and abuses its dominant position is liable to an administrative fine set by the Regulatory Council, but this fine may not exceed ten percent (10%) of the turnover of the natural or legal person.

CHAPTER VIII: MISCELLANEOUS AND FINAL PROVISIONS

Article 40:

Holders of agreements, licenses and authorizations are required to declare themselves to the Regulatory Authority of Djibouti within a maximum period of one year from the date of promulgation of this Law. Failing this, they will be deemed to have renounced the benefits of their agreement, license, or authorization.

The ARMD may make any modification to these agreements, licenses or authorizations that it deems necessary.



Article 41:

All previous legal provisions contrary to this law are repealed.

Article 42:

This Law shall come into force upon its promulgation and shall be published to the Official Journal of the Republic of Djibouti.

**The President of the Republic,
Head of Government
ISMAÏL OMAR GUELLEH**