

**IN THE FOURTH SESSION OF THE FOURTH PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA**

**REPORT OF THE SELECT COMMITTEE ON COMMUNICATIONS ON THE
NATIONAL COMMUNICATIONS AUTHORITY BILL**

1.0 INTRODUCTION

1.1 In accordance with the Constitution of the Republic of Ghana and Standing Order 182 of the House, the National Communications Authority Bill was referred to the Select Committee on Communications on 4th July 2008 for consideration and report.

1.2 The Committee met on the 11th July 2008 to consider the bill. The Hon. Minister for Communications, Dr. Benjamin Aggrey Ntim led the team from the Ministry of Communications and technical consultants to assist the Committee in its deliberations. Officials from the Attorney Generals Department, National Communications Authority and other stakeholders from the Communications Industry were also present.

2.0 REFERENCE DOCUMENTS

- i. The 1992 Constitution of the Republic of Ghana
- ii. The National Communications Authority Act, 1996 (Act 524)
- iii. The National Telecommunication Policy, 2005
- iv. The Standing Orders of the House

3.0 PURPOSE OF THE BILL

The purpose of the Bill is to re-establish the National Communications Authority to achieve a clear separation of regulatory matters from institutional matters to promote accelerated growth in the communications industry.

4.0 CONTENTS OF THE BILL

The Bill contains a total of ~~32~~ clauses

Clauses 1 and 2 give effect to the object of the authority and spells out the legal status of the Authority.

Clause 3 enumerates the functions of the Authority.

Clause 4 states the underlying principle of corporate good governance and the mandate of the Authority to have regard to the principles of transparency, accountability and best regulatory practice. It also takes account of the interests of consumers and users of telecommunications networks.

Clause 5 provides for the composition of the governing body of the Authority.

Clause 6 extends the duties of directors enumerated in Part Q of Chapter II of the Companies Act, 1963 (Act 179) to members of the Board. This clause also demarcates the extent of a member's liability in the course of public duty, the dependant factor being an act of good faith.

Clause 7 – 9 provides for tenure of office of the members of the Board, meetings of the Board and disclosure of interest by members of the Board.

Clause 10 introduces a novel provision on our statute books and breaks new ground to acknowledge the principle of accountability in accordance with corporate governance. It also provides for the repercussion of failure to declare a registrable interest.

Clause 11 – 13 deals with the establishment of committees, allowances, ministerial responsibility and directives.

Clause 14 empowers the Authority to establish divisions for the efficient discharge of its functions.

Clause 15 – 17 provides respectively for the appointments of the Director-General, Deputy Directors-General and Secretary of the Authority.

Clause 18 captures the appointment of other public officers of the Authority.

Clause 19 spells out the sources of funding for the Authority.

Clause 20 deals with the modalities for dealing with expenses of the Authority including the retention of revenue.

Clauses 21 – 24 are provisions relating to accounts and audit, annual report, borrowing powers and tax exemption, which are standard provisions on statutory bodies.

Clause 25 spells out the procedure for decision making by the Authority which among others enjoins the Authority to observe the rules of natural justice when making decisions.

Clause 26 relates to shareholders, details of the Register of interests which was created in earlier clauses.

Clause 27 - 32 are Provisions concerned with the establishment of a code of conduct for the members and staff of the Board; Regulations, interpretation, transitional matters and repeal and savings.

5.0 OBSERVATIONS

During the Committee's deliberations on the Bill it made the following observations.

It was observed that the re-establishment of the Authority would allow a shift in the Authority's focus to matters which are purely institutional in nature. These matters include strategic planning, policy implementation, monitoring and adherence to the principles of corporate governance.

It was also noted that the speed at which the communication industry was being driven by technological advances and innovations, call for amendments to the existing NCA Act to enable the Authority perform more efficiently in its regulatory role.

One important aspect of the bill is the provision of a format for the Authority's Annual Reports which the Committee observed would assist the House to assess the progress of the Authority and further aid the Authority in fulfilling its statutory mandate.

Another key observation by the Committee was the fact that this bill is essentially linked especially to the Electronic Communications Bill, National Information Technology Agency Bill and Electronic Transaction Bill which arises out of the adoption of the National Telecommunication policy in 2005 by the House. The passage of all four bills would help transform the Communication Information Technology Sector.

6.0 AMENDMENTS PROPOSED

i. Long Title

Delete "telecommunications" and insert "communications" which applies to the whole document

ii. Clause 2 – amendment proposed – delete number (1)

v. **Clause 2** – amendment proposed – substitute "telecommunication" with "communications" (this substitution applies to the entire Bill where telecommunication is used)

vi. **Clause 3** – amendment proposed – sub-clause (1) (b) delete "to achieve its object"

vii. **Clause 3** – amendment proposed – Insert a new sub-clause "grant communication license" before sub-clause (1) (c)

viii. **Clause 3** – amendment proposed – sub-clause (1) (e) - substitute "as follows" with "to include"

ix. **Clause 3 1(e)**- substitute "by publication" with " and published"

viii. **Clause 3** – amendment proposed – sub-clause (1) (u) insert "good" before "corporate"

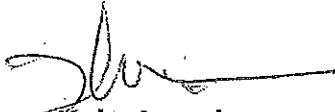
x. **Clause 3** – amendment proposed – before sub-clause (2) insert subtitle "Powers of the Authority"

- xi. **Clause 4** – amendment proposed – paragraph (c) line 4 delete “price”
- xii. **Clause 4** – amendment proposed – paragraph (g) line 2, “ women” with “the vulnerable”
- xiii. **Clause 5** – amendment proposed – sub-clause (1) (iii), insert the phrase “not below the rank of a Director” after the word “communications”
- xiv. **Clause 14** – amendment proposed – insert a new clause before Clause (15) to read as follows: “Establishment of the Office of the Director-General and Deputy Director-General”
 - (1) The Authority shall have a Director General who shall be the Chief Executive of the Authority
 - (2) The Authority shall have Deputy Director-Generals as are necessary for the performance of the functions of the Authority.
- xv. **Clause 19** – amendment proposed – Insert a new sub-clause (2) “The sums received by or on behalf of the Authority shall be paid into a bank account of the Authority opened by the Board with the approval of the Controller and Accountant-General”
- xvi. **Clause 20** – amendment proposed – delete sub-clause (3)
- xvii. **Clause 26** – amendment proposed – sub-clause (3) line 3 substitute “Minister” with “Authority”
- xviii. **Clause 30** – amendment proposed – under “Operator” substitute “Telecommunications Act, 2008” with “ Electronic Communications Act, 2008 (the change applies to the entire bill)”
- xix. **Clause 32** – amendment proposed – sub-clause (2), line 1, insert after “any” the phrase “licences, frequency authorizations,”
- xx. **Clause 32** – amendment proposed – delete sub-clause (3) and (4)

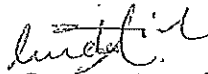
7.0 RECCOMENDATION AND CONCLUSION

After careful consideration of the Bill, the Committee recommends to the House to adopt this report and pass the National Communications Authority Bill subject to the amendments proposed.

Respectfully submitted.



**Hon. Kojo Armah
Chairman**



**Linda Gyekye Boadu
Clerk to the Committee**

17TH JULY, 2008