



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

10th November, 1994.

ANTIGUA AND BARBUDA

No. 16 of 1994

AN ACT to prevent and prohibit the unauthorised use of the telecommunications system of Antigua and Barbuda; to take appropriate measures to deal with those who abuse the telecommunication services provided by or authorised by the Government; and for those matters connected therewith.

[24th November, 1994.]

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. This Act may be cited as the **Telecommunications (Prevention and Prohibition of Unauthorised Use and Services) Act, 1994.**

Short title.

2. In this Act—

Interpretation.

"call" includes any communication between two users by means of a telecommunication system and the completion of a call attempt and the use of the associated telecommunication service;

"call attempt" includes any one or more actions taken by a user of a telecommunication system in an attempt to obtain the desired use or service;

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"call back service" includes

- (i) any means which enables calls to be made from Antigua and Barbuda to a destination outside Antigua and Barbuda without such calls being recorded on the exchange of a licensee in Antigua and Barbuda as outgoing calls from Antigua and Barbuda and any of the means specified in Schedule I.
- (ii) Any means for the making of calls from Antigua and Barbuda through a toll free number, but does not include a call or a call attempt which concludes with either:
 - (a) that toll free number; or
 - (b) any number that terminates on the same private telecommunication system as that toll free number; and
 - (c) any of the means specified in Schedule 2.

"call details" means any details of a call to be made on any telecommunication system;

"carrier" means a person who either alone or in conjunction with others, owns or operates a telecommunication system or provides telecommunication services;

"exchange" means any facility which controls telecommunication;

"foreign service operator" includes a carrier—

- (a) whether or not incorporated in Antigua and Barbuda having its principal or any place of business in a foreign territory; or
- (b) providing any telecommunication service from a foreign territory

but excludes the licensee.

"gives" when used in conjunction with "call details" or "user details" means giving such details by means of facsimile, voice or data transmission or by any other method;

"inputs" means entering any information into a telecommunication system whether by means of tone, keypad, dialling, voice, facsimile or otherwise;

"Minister" means the Minister responsible for public utilities;

"number" means any telephone number and any method of identifying the origin or destination of a call;

"outgoing call" means a call from a point in Antigua and Barbuda to a destination outside Antigua and Barbuda, the destination being selected by a person in Antigua and Barbuda;

"person" means any individual, body corporate or unincorporated entity;

"telecommunication" means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or any visual or other electromagnetic systems or any other system used for any such transmission, emission or reception;

"telecommunication apparatus" means apparatus used or capable of being used for the purpose of

- (i) transmitting or receiving any telecommunication which is to be or has been conveyed by means of a telecommunication system; or
- (ii) conveying telecommunication for the purposes of such a system;

"telecommunications authority" means the officer appointed by the Minister under section 3 of the Telecommunications Act (Cap. 318);

"telecommunication service" means a service consisting of the provision of or access to or facilities in connection with a telecommunication system;

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"telecommunication system" means a system or other means used for the conveyance of telecommunication;

"the licensee" means any person to whom Government has granted a licence to own, provide, install, maintain, operate or promote telecommunication systems and services from a point in Antigua and Barbuda to a destination outside Antigua and Barbuda or from a destination outside Antigua and Barbuda to a destination inside Antigua and Barbuda,

"toll free number" includes any number commencing with the digits 0-800, 1-800, 800 and any other number that may be added from time to time by order made by the Minister;

"user" includes any user of a telecommunication service and any person sending or receiving message signals on a telecommunication system;

"user details" means any details relating to a user or a number from which a user makes or intends to make a call attempt and includes the identification of that user and the location of the number;

Prohibition of use of telecommunication system and apparatus for unauthorised services

3. No person, shall use or permit or suffer to be used any telecommunication system or telecommunication apparatus in connection with the provision of a call back service or do anything so as to facilitate the use of any telecommunication system or telecommunication apparatus in connection with the provision, operation or use of such a service.

Authority to track unauthorised use of telecommunication System etc.

4. Subject to section 5 the telecommunication authority or any person authorised by the telecommunication authority may take all necessary steps to track any unauthorised use of the telecommunication system or telecommunication apparatus.

Authority to carry out examination and tests.

5. (1) The telecommunications authority may, by writing, authorise a licensee or any other person to use any technical or other monitoring device to carry out any examination and test to ascertain whether section 3 is being contravened.

(2) For the purpose of subsection (1) the telecommunications authority or any person authorised by the telecommunication authority may, upon giving reasonable prior written notice to the user of such services or on leaving such notice at such premises,

enter upon any premises to which telecommunication services have been supplied by the telecommunication authority or the licensee in order to examine and test the telecommunication apparatus located at such premises.

6. (1) If the telecommunications authority or a licensee is satisfied that the telephone service is being used to transmit voice or data services from a point in Antigua and Barbuda to a destination outside Antigua and Barbuda by a route other than a route established by the licensee and approved by the telecommunications authority for such transmission, the telecommunications authority or the licensee may take any step it considers necessary to—

Use of the
Telephone
Services for
unlawful purpose

- (a) block transmission over that other route or call attempts which contravene the provision of this Act; or
- (b) suspend the provision of telecommunication services to such user; or
- (c) modify its terms and conditions of service to such user; or
- (d) withdraw the telecommunication services supplied to any such user.

(2) Any licensee who blocks transmission over any route or withdraws telecommunication services under subsection (1) shall immediately make a report of the action taken to the telecommunications authority.

(3) Where telecommunication services to any user have been suspended or withdrawn under this section, such services shall not be restored unless the user has paid a restoration fee of five thousand dollars to the telecommunication authority.

7. Any person who contravenes the provisions of section 3 is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars or to a term of imprisonment of two (2) years.

Penalty.

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Notices. **8.** Where under this Act a notice is required to be served on a user the notice may be served:

- (a) by delivering it personally to the person to be served;
or
- (b) by sending it by post to or by leaving it at—
 - (i) the usual or last known place of residence or business of the person to be served; or
 - (ii) the place in which any telecommunication apparatus is installed.

Amendments to Schedules. **9.** The Minister may by regulation amend the Schedules to this Act.

SCHEDULE I

Means which are included within paragraph (i) of the definition of "call back service" in section 2.

- (a) any sequence of actions which include the following:
 - (i) a call made from a number in Antigua and Barbuda to a foreign service operator which remains unanswered;
 - (ii) the foreign service operator makes a call to a number in Antigua and Barbuda or causes such a call to be made following which a user inputs call details;
- (b) any sequence of actions which include the following:
 - (i) a user makes a call from a number in Antigua and Barbuda to a foreign service operator and gives user details;
 - (ii) the foreign service operator makes a call to a number in Antigua and Barbuda following which the user inputs call details;
- (c) any sequence of actions which include the following:
 - (i) a call is made from a number in Antigua and Barbuda to a foreign service operator and a user gives user details and call details;

