

No. 1 of 2003.

Telecommunications (Prevention and Prohibition of Unauthorised Use and Services) (Amendment) Act 2003.

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

7th March, 2003.

ANTIGUA AND BARBUDA

No. 1 of 2003

AN ACT to amend the Telecommunications (Prevention and Prohibition of Unauthorised Use and Services) Act 1994.

[*27th March, 2003*]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as Telecommunications (Prevention and Prohibition of Unauthorised Use and Services) (Amendment) Act 2003. Short title.

2. Section 2 of the Telecommunications Prevention and Prohibition of Unauthorised Use and Services Act, in this Act referred to as the principal Act, is amended as follows — Amendment of section 2.

(a) by **repealing** the **definition** of telecommunication authority and substituting the following —

"telecommunications authority" means,

- (i) in relation to international telecommunication, the officer appointed under section 3 of the Telecommunications Act;

- (ii) in relation to national telecommunication, the Antigua and Barbuda Public Utilities Authority.

(b) by inserting the following in its appropriate alphabetical order —

"bypass" means,

- (i) the passing of an international voice service (including a **reconstructable** voice service as part of a data or mixed voice and data service) without passing through the international gateway switch of any licensee; or
- (ii) the termination of international voice services over the domestic public switched telecommunications network by a person who does not originate the call or does not possess a valid interconnection agreement with that domestic network operator with respect to international voice services;"

"data services" includes transmission of telecommunication signal which may not be intelligible to human ear but which may be reconstructed into a signal which is so intelligible;"

"voice service" includes transmission by circuit switched service, voice over the internet or voice over internet protocol and any means over any telecommunication apparatus of wholly or partly real time or near real time audio communications within Antigua and Barbuda or between Antigua and Barbuda and places outside of Antigua and Barbuda.

Repeal and
substitution of
section 3.

3. Section 3 of the principal Act is repealed and the **following substituted** —

"No person shall use or permit or suffer to be used any telecommunication system or telecommunication **apparatus** in connection with any bypass activity or 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 any such bypass activity or call back service."

4. Section 6 of the principal Act is amended as follows —

Amendment of section 6.

(a) by the repeal of subsection (1) and the substitution of the following —

(1) If the telecommunication authority is satisfied that any person is engaged in any bypass activity or call back service, the telecommunication authority or any entity authorised by the telecommunication authority may take necessary steps to —

- (a) block transmission over any route used for such bypass activity or call back service; or
- (b) suspend the provision of telecommunication services to such person or a user who permits the telephone services provided to him to facilitate the transmission of unauthorised telecommunication;
- (c) vary its terms and condition of service to such person or user;
- (d) withdraw all telecommunication services related to bypass activity or call back services.

(b) by the insertion after subsection (3) of **the** following —

(4) Without prejudice to any other right and remedies provided under this Act or any other Act the telecommunication authority or the licensee may apply *ex parte* to a judge in Cham-

bers for an order to restrain any person suspected of being engaged in any bypass activity or call back service from carrying on the bypass activity or call back service.

Insertion of section
6A.

5. The principal Act is amended by the insertion after section 6 of the following —

"Recovery of
financial losses.

6A. Where as a result of any engagement in a bypass activity or call back service by any person, in this section referred to as "the defendant", the telecommunication authority or the licensee suffers any financial loss, the telecommunication authority or the licensee may recover from the defendant in a civil action any financial loss suffered as a result of the bypass activity or call back service.

Repeal and
substitution of
section 7.

6. Section 7 of the principal Act is repealed and substituted by the following —

"Any person who contravenes the provisions of section 3 commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding two years and in addition to such fine or imprisonment, the Magistrate shall order that any telecommunication apparatus used in connection with the commission of the offence be forfeited to the Crown."

Passed the House of Representatives this
6th day of January, 2003.

Passed the Senate this 17th day
of January, 2003.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Clerk to the House of Representatives.

S. Walker,
Clerk to the Senate.

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