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Press Release Regarding The Communication Law By Telesom

Hargeysa, Somaliland, April 23, 2011 (SL Times) – We are hereby offering our view of the communication law (law number 50/2011) which was passed by Somaliland's Parliament on 10 April, 2011. This law has caused a lot of confusion among the people, both inside and outside the country. In addition to the controversies caused by this law, misinformation to make the law a reality was spread against those who are opposed to the law. The misinformation claimed that those who are opposed to it are doing so because they do not want to pay taxes, or are opposed to linking the telecommunication companies and so on. This is why we have decided to make clear our views on this matter.

The communication law

After studying the communication law then comparing it with Somaliland's constitution, our company (Telesom) has come to the conclusion that the new law violates the general principles of Somaliland's constitution as well as particular articles and clauses.

Article 3, sections 19-20 of the communication law gives a special quota to some of the communication companies and hence contravenes article 11 of Somaliland constitution which makes clear that business in Somaliland will be based on free market and competition.

Article 3 of the communication law mentions a national communication commission whose job is to implement this law, but the law also allows the minister of communication to choose the members of the commission and they are accountable to him and come under his authority. This contradicts articles 90 and 113 of Somaliland's constitution which states that commissions and independent agencies shall be appointed by the President of Somaliland and they shall be accountable to him. The purpose of the commission and the reason it was given authority is so that it would act as a fair and unbiased body that can resolve issues that arise between the ministry of communication, private companies and customers. But this law makes the commission fall under the ministry of communication which renders the commission unable to fulfill its duties. Clause 1 of the communication stipulates that the ministry of communication has the authority to interpret any word that was not explained in this law. This contravenes article 98, section 1 of Somaliland's constitution which confers on Somaliland's judiciary the responsibility of interpreting the laws of the land.

Clause 2, section 3, part 18 of the communication law notes that the government owns the communication equipment and has the privilege to assign whomever it wants to be in charge of it. This violates article 11 of Somaliland constitution in which is enshrined free market competition. It also violates the right to private property.

Article 48 of the communication law holds that the minister of communication would set the price of the inter-operationalization of communication companies. This article violates the principles of the Islamic Sharia and the constitution of Somaliland.

The parliamentarians who voted for this law have blindly thrown away the articles that dealt with free market competition, and the making the laws compatible with the constitution which the president had attached to the law (such as article 2, sections 3-4 of the law that was passed, and article 1, section 3-4 of the law that was forwarded by the president).

When all the articles, clauses and sections that we have quoted plus others which we did not quote but are included in the communication law that was passed by parliament, are taken into consideration, is it not the case that what took place was willful blindness, misleading and violation of the law of the land?

Telesom, and Somaliland citizens, do not think it is right to:

- a) Pass a law that stipulates all communication equipment and devices of any kind belong to the government, and that the government can confiscate it, because such law is against citizens' right to own private property.
- b) Give the minister of communication the authority to set market prices
- c) Establish a commission that is not independent but is part of the government ministry, which can neither be a fair and unbiased judge of issues relating to business companies nor can it protect the rights of the customers.
- d) Block free market competition

On the issue of the fiber optic cable:

Putting aside the matter of the communication law, one of the issues that were thrown into the mix was that Telesom is opposed to the Cable project which is an utter lie. But first we want to say a few words about what is this cable project that people are talking about.

Fiber-Optic cable is a system of communication which is based on Fiber-Optics which is wires that carry communication information, for example internet, telephone, etc.

There are international Fiber Optic Cables that connect continents, and sometimes they are laid at the bottom of sea waters. Telesom has nothing to do with the sides in dispute about the international Optic Fiber Cable that is laid on the sea floor that is going to reach Somaliland. We welcome whoever succeeds in this project, whether it is Somcable, Dalcom or someone else. Neither do we have any intention of bringing undersea cables. Proof of this can be found in the letter we wrote to Somcable's management on June 22, 2010 in which we stated that we will be their customer if they bring Fiber Optics to the country. That letter helped Somcable in meeting the condition of showing who will be its customers.

Taxes

One of the ways in which people's emotions were manipulated so that the communication law would be passed was the claim that the telecommunication companies do not want to pay taxes. In order to shed light on this matter, first of all there is no connection between the law of communication and taxes. Legally speaking, taxes are levied according to certain codes as indicated by article 54, section 1 of Somaliland's constitution.

Telesom wants to make clear that it is the biggest tax payer in the country, and the government's record cannot show that it owes any taxes. Evidence of this is the fact that when the government

called for a meeting of businesses so that they would be pay their taxes, Telesom was not included in that meeting because it did not owe any taxes. Telesom pays all the taxes it owes whether they are income taxes, sales taxes, billing taxes, licenses, taxes for communication towers, equipment taxes, payroll taxes, municipality taxes, and so on. We are ready to show anyone who is interested the documents of all these taxes that we pay.

Connecting the communication companies (inter-operability)

Telesom company supports the connecting of all the communication companies. Lately, there has been discussions about this matter between the communication companies. Telesom has set up a mechanism for making it technically feasible to connect the systems used by the various communication companies and making them inter-operable. That mechanism was tested and is now ready. But what we are opposed to, is to say that the ministry of communication will decide the prices, a decision that violates the Islamic Shari'a, Somaliland constitution, the laws of the International Communication Organization (ITU), and the World Trade Organization (WTO). Telesom suggests that the communication companies discuss among themselves the prices of their services that the customers are talking about.

Conclusion:

In our view, the communication law violates several articles in Somaliland constitution. It is also against free enterprise and market competition, and discourages international investors that the country needs because it does not adhere to international laws of communication as well as the laws of free trade. We urge Somaliland president and the Upper House not to rush into passing this law, to examine this law from the position of their national responsibilities, to make it consistent with the constitution and the laws of the land, and to consult with the sides that are affected by this law, such as the communication companies, the public, civil society and intellectuals.

We also suggest that intellectuals, religious leaders, and the Somaliland community as a whole read this law so they would understand the economic damage that it could inflict on the community and the commercial conflicts it could cause in the country.

Allah is behind all success.

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