

# Telecommunications

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## TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001

Regulations made under ss. 16 and 47.

**2000-18**

**Repealed**  
**Subsidiary**  
**2001/083**

## TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001

**Repealed by Ord. 2006-15 as from 5.6.2006**

**(LN. 2001/083)**

**19.7.2001**

Amending enactments	Relevant current provisions	Commencement date
None		

*General and Individual Authorisations are published at the end of these Regulations.*

**2000-18**

**Repealed**

**Subsidiary**

**2001/083**

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**TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001**

Regulation

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**SCHEDULE**

AREAS IN RESPECT OF WHICH CONDITIONS MAY BE ATTACHED  
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**PART 1**

AREAS IN RESPECT OF WHICH CONDITIONS MAY BE ATTACHED  
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**ANNEX**

CHARACTERISTICS WHICH A UNIVERSAL  
TELECOMMUNICATIONS SYSTEM IS TO BE CAPABLE OF  
SUPPORTING

**2000-18**

**Repealed**

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**TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001**

### **Title.**

1. These Regulations may be cited as the Telecommunications (Licensing) Regulations 2001.

### **Interpretation.**

- 2.(1) For the purposes of these Regulations–

“mobile communications systems” has the meaning given in the Telecommunications (Competition) Regulations 2001;

“significant market power” means, subject to sub-regulation (2), having more than twenty-five per cent (25%) of a particular telecommunications market; and

“Universal mobile telecommunications system” means a third generation mobile and wireless communications system capable of supporting, in particular, innovative multimedia services, beyond the capability of second generation systems such as GSM and capable of combining the use of terrestrial and satellite components.

- (2) The Minister may, after consultation with the Authority and after taking into account the matters referred to in sub-regulation (3)–

- (a) determine that a person who has less than twenty-five per cent (25%) of a particular telecommunications market is a person who has significant market power; and

- (b) determine that a person who has more than twenty-five per cent (25%) of a particular telecommunications market is a person who does not have significant market power.

- (3) In making a determination under sub-regulation (2), the Minister shall take into account–

- (a) the ability of the person to influence conditions in that market;

- (b) the turnover of the person in relation to the size of that market;

- (c) the control that the person may have of the means of access to end-users;

- (d) the access that the person may have to financial resources; and

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- (e) the experience that the person may have in providing products and services in that market.

(4) A reference in these Regulations to operating networks or providing services or both is a reference to any one or more of the following—

- (a) establishing or operating those networks;
- (b) establishing and operating those networks;
- (c) providing those services.

(5) A reference in these Regulations to—

- (a) the grant of an authorisation, is a reference to the grant of an authorisation under the Ordinance; and
- (b) rights granted by an authorisation, is a reference to rights granted by an authorisation granted under the Ordinance.

(6) Except where the context otherwise requires and subject to sub-regulations (1) to (5), any word or expression used in these Regulations which is also used in the Ordinance has the same meaning in these Regulations as it has in the Ordinance.

#### **Principles governing authorisations.**

3.(1) Where the provision of a telecommunications service is subject to the grant of an authorisation—

- (a) the authorisation shall not be granted save in accordance with; and
- (b) the conditions subject to which the authorisation may be granted or the rights granted by the authorisation can be exercised or both shall be based on,

the principles set out in sub-regulations (2) to (6).

(2) The Minister may, after consultation with the Authority, make the grant of an authorisation subject only to such conditions as may be imposed—

- (a) in the case of authorisations in the form of general authorisations, in accordance with regulation 4; and
- (b) in the case of authorisations in the form of individual licences, in accordance with regulation 8.

- (3) The conditions referred to in sub-regulation (2) shall be–
- (a) objectively justified in relation to the service the subject of the authorisation;
  - (b) non-discriminatory;
  - (c) proportionate;
  - (d) transparent; and
  - (e) without prejudice to any other conditions which may be legally imposed and which are not specific to the telecommunications sector.

(4) The Minister may, without prejudice to sub-regulation (5), make the provision of telecommunications services or the operation of telecommunications networks or both subject to an authorisation in the form of a general authorisation or to an authorisation in the form of an individual licence.

(5) An individual licence of the nature referred to in sub-regulation (4) may be granted only–

- (a) where any one or more of the following applies–
  - (i) the person to be so licensed is to be given access to scarce physical and other resources;
  - (ii) the person to be so licensed is subject to particular obligations;
  - (iii) the person to be so licensed enjoys particular rights; and
- (b) in accordance with regulations 7 to 11.

(6) The Minister shall, in the granting of authorisations, take into account the desirability to encourage the provision of telecommunications services between Member States.

(7) The Authority shall, in the regulation and supervision of compliance with such conditions subject to which–

- (a) an authorisation may be granted;
- (b) the rights granted by an authorisation can be exercised; or

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- (c) an authorisation may be granted and the rights granted by an authorisation can be exercised,

take into account the desirability to encourage the provision of telecommunications services between Member States.

**Conditions attached to general authorisations.**

4.(1) Where authorisations are granted in the form of general authorisations, the grant of a general authorisation or the exercise of the rights granted by a general authorisation or both may—

- (a) where justified; and  
(b) in a proportionate manner,

be made, whether individually or generally, subject to any one or more conditions which relate to the areas set out in Parts 1 and 2 of the Schedule.

(2) The Authority shall ensure that—

- (a) where authorisations are granted in the form of general authorisations, the conditions subject to which an authorisation may be granted or the rights granted by an authorisation can be exercised or both shall, whether individually or generally, be published in such a manner as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest; and  
(b) reference is made in the Gazette to the publication of the information referred to in paragraph (a).

(3) The Minister may, whether individually or generally, amend the conditions subject to which authorisations in the form of a general authorisation may be granted or may have been granted or both.

(4) The Minister may, whether individually or generally, amend the conditions subject to which the rights granted by authorisations granted in the form of a general authorisation can be exercised.

(5) The Minister may amend the conditions referred to in sub-regulation (3) or (4) or both—

- (a) in objectively justified cases;  
(b) in a proportionate manner;  
(c) after consultation with the Authority; and



(d) subject to sub-regulation (6).

(6) The Minister shall, should he be minded to amend the conditions referred to in sub-regulation (3) or (4) or both, before so doing—

- (a) give such notice as he shall consider appropriate of his intention so to do to such persons as may have a legitimate interest in the proposed amendment; and
- (b) enable those persons to make representations to him regarding the proposed amendment.

### **Procedures for general authorisations.**

5.(1) The Minister shall not, without prejudice to sub-regulations (2) and (4) and to regulations 7 to 11, prevent a person from providing telecommunications services or operating telecommunications networks or both, the provision of which services or the operation of which networks or both is subject to the grant of an authorisation in the form of a general authorisation, if the person complies with the conditions subject to which the general authorisation may be or may have been granted or the rights contained in that general authorisation can be exercised or both.

(2) A person who intends to provide telecommunications services or operate telecommunications networks or both, the provision of which services or the operation of which networks or both is subject to the grant of an authorisation in the form of a general authorisation shall before so doing—

- (a) notify the Authority of his intention so to do; and
- (b) forward to the Minister and the Authority the information necessary for compliance with such conditions referred to in regulation 4 as are applicable to the provision of those services or the operation of those networks or both.

(3) A person who contravenes sub-regulation (2) is guilty of an offence and is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(4) The Minister may require that a person who intends to provide telecommunications services or to operate telecommunications networks or both the provision of which services or the operation of which networks or

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both is subject to the grant of an authorisation in the form of a general authorisation may not provide those services or operate those networks or both for a period of up to four weeks from the date when the Minister and the Authority shall have received all the information referred to in paragraph (b) of sub-regulation (2).

(5) A person who does not comply with a requirement of the Minister of the nature referred to in sub-regulation (4) is guilty of an offence and is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(6) The Minister may, after consultation with the Authority, where a person who is providing telecommunications services or operating telecommunications networks or both under an authorisation granted in the form of a general authorisation does not comply with the conditions subject to which the authorisation has been granted or the rights contained in that authorisation can be exercised or both—

- (a) notify the person that he is not entitled to operate that authorisation or exercise those rights or both;
- (b) impose on that person, in a manner proportionate to such non-compliance, specific measures aimed at ensuring that the person complies with those conditions; or
- (c) give the notification referred to in paragraph (a) and impose the measures referred to in paragraph (b).

(7) A person who does not comply with the conditions referred to in sub-regulation (6) is guilty of an offence and is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(8) The Minister shall, after consultation with the Authority, at the same time as he gives the notification referred to in paragraph (a) of sub-regulation (6) or imposes the measures referred to in paragraph (b) of that sub-regulation or both, give the person the subject of the notification or imposition or both an opportunity, within a period of one month from the earlier of the notification or imposition or both, to—

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- (a) make representations to the Minister regarding the application of the conditions with which the person is not complying;
- (b) remedy any non-compliance with those conditions; or
- (c) make the representations referred to in paragraph (a) and remedy the non-compliance referred to in paragraph (b).

(9) The Minister shall, after consultation with the Authority, if the person the subject of the notification or imposition or both referred to in sub-regulation (6) remedies the non-compliance referred to in that sub-regulation within the time limit referred to in sub-regulation (8), within a period of two months from the earlier of the notification or imposition or both—

- (a) annul or modify, as the Minister may consider appropriate, the notification or imposition or both; and
- (b) inform the person of the reasons for the annulment or modification or both.

(10) The Minister shall after consultation with the Authority, if the person the subject of the notification or imposition or both referred to in sub-regulation (6) does not remedy the non-compliance referred to in that sub-regulation within the time limit referred to in sub-regulation (8), within a period of two months from the earlier of the notification or imposition or both—

- (a) confirm the notification or imposition or both; and
- (b) inform the person of the reasons for such confirmation.

(11) A person who does not remedy the non-compliance referred to in sub-regulation (6) is guilty of an offence and is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(12) The Authority shall ensure that—

- (a) such information as the Authority shall consider appropriate concerning the procedures relating to authorisations in the form of general authorisations referred to in this regulation shall be published in such a manner as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest; and

- (b) reference is made in the Gazette to the publication of the information referred to in paragraph (a).

**Fees and charges for general authorisations.**

6.(1) Without prejudice to such financial contributions as a person may be required to make in relation to the provision of universal service, any fees which may be imposed on a person as a condition subject to which he may be granted an authorisation in the form of a general authorisation or he can exercise the rights granted by an authorisation granted in the form of a general authorisation or both shall be designed to cover such administrative costs as may be incurred by the Minister and the Authority in the issue, management, control and enforcement of the particular type of general authorisation.

(2) The fees referred to in sub-regulation (1) or the method of calculating those fees or both shall be published in such a manner and in such detail as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest.

**Scope of individual licences.**

7.(1) The Minister may, without prejudice to sub-regulation (2), only grant authorisations in the form of individual licences for any one or more of the purposes set out in paragraphs (a) to (d)–

- (a) to allow a person access to frequencies in the electromagnetic spectrum or numbers or both;
- (b) to grant a person specific rights with regard to access to public or private land or both;
- (c) to impose on a person obligations and requirements relating to the operation of public telecommunications networks or the provision of publicly available telecommunications services or both which obligations and requirements may, without prejudice to the generality of the foregoing, include–
- (i) a requirement for a person to provide or contribute or both towards the cost of the provision of universal service;
- (ii) obligations relating to the provision of open and efficient access to and use of public telecommunications networks and, where applicable, publicly available telecommunications services; or

- (iii) the requirement referred to in paragraph (i) and the obligations referred to in paragraph (ii);
  - (d) without prejudice to paragraph (c), to impose specific obligations upon a person who has significant market power in the operation of public telecommunications networks or the provision of publicly available telecommunications services or both.
- (2) The Minister may grant authorisations in the form of individual licences for any one or more of the following–
- (a) for the provision of publicly available voice telephony services;
  - (b) for the establishing or operating or both of –
    - (i) public telecommunications networks;
    - (ii) networks which involve the use of frequencies in the electromagnetic spectrum; or
    - (iii) the networks referred to in paragraph (i) and the networks referred to in paragraph (ii);
  - (c) for the provision of the services referred to in paragraph (a) and the establishment or operating, or both, of the networks referred to in paragraph (b).

### **Conditions attached to individual licences.**

8.(1) The Minister may, where justified, in a proportionate manner and after consultation with the Authority, make the grant of an authorisation in the form of an individual licence subject to any one or more conditions which relates to the areas set out in Parts 1, 2 and 3 of the Schedule.

(2) Neither the exercise of the rights granted by an authorisation in the form of a general authorisation nor the conditions subject to which such rights may be exercised nor both may be restricted or complemented by an authorisation in the form of an individual licence save in objectively justified cases and in a proportionate manner and, particularly but not exclusively, for the purpose of imposing obligations relating to any one or more of the following–

- (a) the provision of universal service;

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- (b) the control of the significant market power referred to in paragraph (d) of regulation 7(1);
  - (c) such offers as may be made in the course of a bidding process.
- (3) Without prejudice to regulation 13, the Authority shall ensure that—
- (a) such information as the Authority may consider appropriate concerning the conditions subject to which any authorisation in the form of an individual licence may be granted is published in such a manner as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest; and
  - (b) reference is made in the Gazette and in the Official Journal of the European Communities to the publication of the information referred to in paragraph (a).
- (4) The Minister may amend, whether individually or generally, the conditions subject to which authorisations in the form of an individual licence may be granted or may have been granted or both.
- (5) The Minister may amend the conditions referred to in sub-regulation (4)—
- (a) in objectively justified cases;
  - (b) in a proportionate manner;
  - (c) after consultation with the Authority; and
  - (d) subject to sub-regulation (6).
- (6) The Minister shall, should he be minded, in accordance with sub-regulation (4) and whether individually or generally, to amend authorisations in the form of an individual licence, before so doing—
- (a) give such notice as he considers appropriate of his intention so to do to such persons as may have a legitimate interest in the proposed amendment; and
  - (b) enable those persons to make representations to him regarding the proposed amendment.

#### **Procedures for the granting of individual licences.**

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9.(1) Every application for the grant of an authorisation in the form of an individual licence shall be made to the Authority in writing and in the prescribed form.

(2) After receiving an application of the nature referred to in sub-regulation (1), the Authority may require the applicant to submit such further information as the Authority may consider necessary or desirable to enable the application to be fully assessed.

(3) After receiving an application of the nature referred to in sub-regulation (1) which is complete, the Authority shall—

- (a) prepare for the Minister an assessment of the application; and
- (b) submit copies of the application and of his assessment to the Minister.

(4) Before determining an application that has been submitted to him in accordance with paragraph (b) of sub-regulation (3), the Minister may require the applicant or a representative of the applicant or both to appear before the Minister in order to be interviewed in respect of the application.

(5) At the interview referred to in sub-regulation (4) the applicant or his representative may, with the leave of the Minister, submit further information to the Minister.

(6) The Minister shall, after consultation with the Authority and as soon as reasonably practicable but not more than six weeks after the submission to him—

- (a) in accordance with paragraph (b) of sub-regulation (3) of an application of the nature referred to in sub-regulation (1); or
- (b) of further information in accordance with sub-regulation (5),

whichever is the later, inform the applicant whether the authorisation shall be granted.

(7) The Minister may, after consultation with the Authority and in objectively justified cases which have been specifically defined by the Minister, extend the time limit of six weeks referred to in sub-regulation (6) by a period of up to four months from the termination of the time limit of six weeks.

(8) The Minister may, in the case of a bidding process, extend the time limit of six weeks referred to in sub-regulation (6) by a period of up to eight months from the termination of that time limit of six weeks.

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(9) The time limits referred to in sub-regulations (6), (7) and (8) are without prejudice to any applicable international agreement relating to international frequency and satellite co-ordination.

(10) A person who has applied for the grant of an authorisation in the form of an individual licence and who complies with the conditions subject to which the authorisation may be granted shall, without prejudice to sub-regulations (11) and (12) and regulation 10(1), be entitled to the grant of that authorisation.

(11) Where the Minister has granted an application for the grant of an authorisation in the form of an individual licence, and the applicant pays the fee (if any) for the authorisation, the Minister shall issue the authorisation under his hand to the applicant in accordance with the decision of the Minister.

(12) The Minister may refuse to grant an application for the grant of an authorisation in the form of an individual licence to a person who has not provided to the Authority such information as the Authority or the Minister or both may require in order to ensure that the person complies or is able to comply with the conditions subject to which the authorisation may be granted and the rights granted.

(13) Where the Minister intends to refuse to grant an application for the grant of an authorisation in the form of an individual licence, he shall serve on the applicant notice in writing stating that he is considering taking that decision for the reasons stated in the notice.

(14) An applicant to whom a notice is served under sub-regulation (13) may, within 28 days of the service of that notice, submit written or oral representations to the Minister in such a form as may be prescribed.

(15) The Minister shall consider any representations made in response to a notice under sub-regulation (13) before giving further consideration to the matter to which the notice relates.

(16) Where the Minister after considering any representations made under sub-regulation (14) refuses to grant the application, he shall serve on the applicant notice in writing stating the reasons for his decision.

(17) The Minister shall consult with the Authority before serving a notice of the nature referred to in sub-regulation (16).

(18) The Minister may, where a person who has been granted an authorisation in the form of an individual licence does not comply with any one or more of the conditions subject to which the authorisation has been granted, after consultation with the Authority—



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- (a) withdraw, amend or suspend that authorisation;
- (b) impose, in a manner proportionate to such non-compliance, specific measures designed at ensuring that the person complies with that condition or those conditions as the case may be; or
- (c) take the action referred to in paragraph (a) and the action referred to in paragraph (b).

(19) A person who does not comply with any one or more of the conditions referred to in sub-regulation (18) is guilty of an offence and is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(20) The Minister shall, if he should act in accordance with sub-regulation (18)—

- (a) inform the person the subject of such action of the reasons for such action; and
- (b) give the person the subject of such action a reasonable opportunity, within a period of one month from the taking by the Minister of such action—
  - (i) to make representations to the Minister regarding the application of the condition or conditions with which the person is not complying; and
  - (ii) to remedy any non-compliance with such condition or conditions.

(21) Paragraph (b) of sub-regulation (20) shall not apply where the person holding the authorisation has repeatedly failed to comply with the condition or conditions, as the case may be, referred to in that paragraph.

(22) The Minister shall, if the person the subject of an action taken by the Minister in accordance with sub-regulation (18) remedies the non-compliance referred to in that sub-regulation within the time limit referred to in paragraph (b) of sub-regulation (20)—

- (a) within a period of two months from the taking by the Minister of such action and after consultation with the Authority, annul

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or modify, as the Minister may consider appropriate, such action; and

- (b) inform the person of the reasons for such annulment or modification within a period of one week from the date when the Minister shall have decided to so annul or modify.

(23) The Minister shall, if the person the subject of an action taken by the Minister in accordance with sub-regulation (18) does not remedy the non-compliance referred to in that sub-regulation within the time limit referred to in paragraph (b) of sub-regulation (20)–

- (a) within a period of two months from the taking by the Minister of such action and after consultation with the Authority, confirm such action; and
- (b) inform the person of the reasons for such confirmation within a period of one week from the date when the Minister shall have decided to so confirm.

(24) A person who does not remedy the non-compliance referred to in sub-regulation (18) is guilty of an offence and is liable–

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(25) The Authority may, after consultation with the Minister, within such a time frame as the Authority may consider appropriate, take such action as it may consider necessary to remedy harmful interference between a telecommunications network using radio frequencies and any other technical system.

(26) A person affected by such action as the Authority may take in accordance with sub-regulation (25), shall be given a reasonable opportunity after the Authority shall have taken such action–

- (a) to make representations to the Authority regarding such action; and
- (b) to propose any remedy to the harmful interference.

(27) The Authority shall ensure that–

- (a) such information as the Authority shall consider appropriate concerning the procedures for the granting of authorisations in the form of individual licences is published in such a manner

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as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest; and

- (b) reference is made in the Gazette and in the Official Journal of the European Communities to the publication of the information referred to in paragraph (a).

(28) No authorisation granted in the form of an individual licence shall be transferable.

(29) Where the Minister is satisfied that an authorisation granted in the form of an individual licence has been inadvertently lost, destroyed or defaced and the person who has been granted the authorisation pays such a fee as may be prescribed, the Minister shall replace the authorisation.

**Limitation on the number of individual licences.**

10. (1) The Minister may, after consultation with the Authority, limit the number of authorisations in the form of individual licences that he may grant for the operation of any type of telecommunications network or the provision of any category of telecommunications service or both only for any one or more of the following reasons or purposes as the case may be—

- (a) to the extent required to ensure the efficient use of frequencies in the electromagnetic spectrum;
- (b) where spectrum is not available;
- (c) for such a period of time as may be necessary to make available sufficient numbers.

(2) The Minister, where he intends to limit the number of authorisations in the form of individual licences in accordance with sub-regulation (1), shall—

- (a) have due regard for the interests of users;
- (b) give due weight to the need to promote the development of competition in the telecommunications industry;
- (c) enable all such parties as may have a legitimate interest in the limitation of such authorisations to make representations to the Minister regarding such limitation;
- (d) publish his decision to limit the number of such authorisations stating the reasons for such a decision;

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- (e) review such limitation at such intervals as he may consider reasonable; and
  - (f) invite, where appropriate, applications for such authorisations.
- (3) The Minister shall, where he invites applications in accordance with paragraph (f) of sub-regulation (2) or paragraph (b) of sub-regulation (5) or both, grant such authorisations on the basis of criteria which–
- (a) are objective, non-discriminatory, sufficiently detailed, transparent and proportionate; and
  - (b) give due weight to–
    - (i) the need to promote the development of competition; and
    - (ii) the interests of users.
- (4) The Authority shall ensure that–
- (a) such information as the Authority shall consider appropriate on the criteria referred to in sub-regulation (3) is published in such a manner as the Authority shall consider appropriate in order to provide easy access to that information to such persons as may have a legitimate interest; and
  - (b) reference is made in the Gazette to the publication of the information referred to in paragraph (a).
- (5) The Minister, where he is of the view that the number of such authorisations as he may have limited in accordance with sub-regulation (1) can be increased, shall–
- (a) publish such a view, and
  - (b) invite applications for such authorisations.

#### **Fees and charges for individual licences.**

11.(1) Without prejudice to sub-regulations (4) and (5), any fees which may be imposed on a person as a condition subject to which he may be granted an authorisation in the form of an individual licence shall be designed to cover such administrative costs as may be incurred in the issue, management, control and enforcement of that particular type of individual licence.

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(2) The fees referred to in sub-regulation (1) shall be proportionate to the work involved in the issue, management, control and enforcement of the particular type of individual licence.

(3) The fees referred to in sub-regulation (1) or, at the option of the Minister after consultation with the Authority, the method of calculating those fees or both shall be published in such a manner and in such detail as the Minister, after consultation with the Authority, considers appropriate in order to provide easy access to that information to such persons as may have a legitimate interest.

(4) The Minister may, where scarce resources are to be used through the operation of an authorisation granted in the form of an individual licence, impose such fees as a condition subject to which such an authorisation may be granted as reflects the need to ensure the most efficient use of those resources.

(5) The fees referred to in sub-regulation (4) shall be non-discriminatory and shall take into account the need to foster the development of innovative services and competition.

**New services.**

12.(1) The Minister shall, after consultation with the Authority and without prejudice to regulations 3 to 11, where in relation to the operation of a telecommunications network or the provision of a telecommunications service or both conditions and procedures subject to which an authorisation may be granted or the rights granted by an authorisation can be exercised or both have not been established, no later than six weeks after he has received an application for such an authorisation—

- (a) adopt on a temporary basis such conditions and procedures compliance with which will allow the person who has applied for the authorisation to commence operating the telecommunications network or providing the telecommunications service or both;
- (b) consent on a temporary basis to the operation of the telecommunications networks or the provision of the telecommunications service or both without the requirement of an authorisation; or
- (c) reject the application and inform the person who has applied for the authorisation of the reasons for the rejection.

(2) The Minister shall, as soon as reasonably practicable after the adoption referred to in paragraph (a) of sub-regulation (1) or the consent

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referred to in paragraph (b) of sub-regulation (1) and after consultation with the Authority–

- (a) adopt on a definitive basis, and whether in an amended form or otherwise, the conditions and procedures referred to in paragraph (a) of sub-regulation (1);
- (b) consent on a definitive basis to the operation of the network or the provision of the service or both without the requirement of an authorisation; or
- (c) inform the person who has applied for the authorisation of the reasons for any refusal to–
  - (i) adopt the conditions and procedures referred to in paragraph (a) of sub-regulation (1) on a definitive basis; or
  - (ii) give the consent referred to in paragraph (b) on a definitive basis.

**Confidentiality.**

13. (1) Neither the Minister nor the Authority may, without prejudice to sub-regulations (2) and (3), disclose information supplied to either or both of them which the person supplying the information has expressed in writing to be confidential particularly, but without prejudice to the generality of the foregoing, information relating to the business relations and cost components of the person.

(2) The Minister and the Authority shall each be entitled to disclose any information referred to in sub-regulation (1) where such disclosure is essential in order to enable the Minister or the Authority or both to discharge his duties, in which case such disclosure shall–

- (a) be to the extent necessary to enable the Minister or the Authority or both, as the case may be, to discharge his duties; and
- (b) have regard to the legitimate interests of a person to safeguard his business dealings.

(3) The Minister and the Authority may each publish information which is not of a confidential nature and which relates, whether individually or generally, to the conditions subject to which–

- (a) authorisations in the form of an individual licence may be granted; and

- (b) authorisations in the form of a general authorisation may be granted or the rights granted by such an authorisation can be exercised or both.

### **Mobile communications systems.**

14.(1) An authorisation for the establishment or operation, or the establishment and operation, of mobile communications systems—

- (a) may not, without prejudice to paragraphs (b), (c) and (d), be issued subject to conditions other than those permitted under these Regulations;
- (b) shall be issued subject to such conditions as are capable of ensuring transparent and non-discriminatory behaviour between—
  - (i) a person operating fixed telecommunications networks; and
  - (ii) a person operating mobile telecommunications systems, who have a common owner;
- (c) may not be issued subject to technical restrictions which cannot be justified; and, in particular,
- (d) may not, where multi-standard equipment is available—
  - (i) prevent additional authorisations from being issued in respect of the same mobile communications system;
  - (ii) restrict the offer of different technologies which make use of distinct frequencies; or
  - (iii) be to the effect referred to in paragraph (i) and to the effect referred to in paragraph (ii).

(2) The Minister shall, where frequencies are available, grant authorisations according to open, non-discriminatory and transparent procedures.

(3) The Minister, when he makes the grant of an authorisation for the establishment or operation, or the establishment and operation, of mobile communications systems subject to conditions which are related to the quality, availability and permanence of those systems, must apply those conditions in the manner which least restricts competition.

(4) An authorisation for the establishment or operation or the establishment and operation of mobile communications systems may have attached to it a list of the conditions referred to in sub-regulation (3).

**Register.**

15.(1) The Authority may maintain a register containing duplicate copies of all authorisations granted by the Minister.

(2) The Authority shall cause to be entered in the register, in relation to every authorisation granted by the Minister, the following details—

- (a) every renewal;
- (b) every cancellation;
- (c) every variation of the conditions appearing on the face of the authorisation; and
- (d) such other particulars as may be prescribed by the Minister.

(3) The register referred to in sub-regulation (1) shall be available for inspection by any member of the public during normal working hours, on payment by him of the prescribed fee (if any).

**Appeals.**

16.(1) This regulation shall apply to the following decisions of the Minister or the Authority or both (as the case may be) taken on or after the date when these Regulations come into operation—

- (a) a decision to grant or refuse an authorisation;
- (b) a decision to include within an authorisation on its grant any one or more of the following—
  - (i) particular provisions describing the telecommunications networks authorised to be operated under the authorisation;
  - (ii) particular provisions describing the telecommunications services authorised to be provided;
  - (iii) particular provisions imposing a condition;
  - (iv) particular provisions applying the telecommunications code to the holder of an authorisation subject to such



- (c) a decision with regard to the amendment of any condition in an authorisation;
- (d) a decision to exercise any right or ability contained in an authorisation to decide, direct, specify, consent to or determine such matters, things or questions as are specified in the authorisation or are of a description so specified;
- (e) a decision with regard to the enforcement of provisions in an authorisation;
- (f) a decision to withdraw or suspend an authorisation;
- (g) any other decision in respect of which the rights or interests of a person—
  - (i) operating or wishing to operate a telecommunications network;
  - (ii) providing or wishing to provide any telecommunications service; or
  - (iii) operating or wishing to operate the network referred to in paragraph (i) and providing or wishing to provide the service referred to in paragraph (ii)

under an authorisation are materially affected.

(2) Subject to sub-regulation (5), a person aggrieved by a decision to which this regulation applies may appeal against the decision on one or more of the following grounds—

- (a) that a material error as to the facts has been made;
- (b) that there was a material procedural error;
- (c) that a material error of law has been made;
- (d) that there was some other material illegality.

(3) An appeal of the nature referred to in sub-regulation (2) lies to the Supreme Court.

(4) The Supreme Court determining an appeal of the nature referred to in sub-regulation (2) may—

- (a) dismiss the appeal; or
- (b) quash the decision and may refer the matter to the Minister or the Authority or both (as the case may be) with a direction to reconsider it and reach a decision in accordance with the findings of the Supreme Court.

(5) No appeal under this regulation shall be brought unless the leave of the Supreme Court has been obtained in accordance with such rules as may be made under paragraph (a) of sub-regulation (10).

(6) An appeal under this regulation shall be brought as soon as reasonably practicable and in any event not later than three months from the date on which the Minister or the Authority or both (as the case may be) made his decision, or within such other period as may be specified in such rules as may be made under paragraph (b) of sub-regulation (10).

(7) The bringing of an appeal under this regulation shall not operate to suspend the effect of the decision appealed against.

(8) If by reason of any default on the part of the person who has instituted an appeal in accordance with this regulation, the appeal has not been determined by the Supreme Court within three months of the date of the notice of appeal or application by which the appeal was instituted, the Minister may apply to the Supreme Court, by a summons served on the person who has instituted the appeal in accordance with this regulation, to show cause why the appeal should not be dismissed for want of prosecution; and upon the making of such an application the Supreme Court may dismiss the appeal or make such other order as it considers just.

(9) A decision of the Supreme Court under this regulation shall be final as to any question of fact, but an appeal shall lie to the Court of Appeal on any question of law.

(10) The Chief Justice may make rules prescribing any one or more of the following—

- (a) a procedure for obtaining the leave referred to in sub-regulation (5);
- (b) the other period referred to in sub-regulation (6);
- (c) the court fees payable on making an appeal of the nature referred to in sub-regulation (2);
- (d) the forms and the procedure for such appeals.

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## TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001 Universal mobile telecommunications system.

**2000-18**

**Repealed**  
**Subsidiary**  
**2001/083**

17. The Authority shall encourage the introduction in Gibraltar by 1 January 2002, in a coordinated and progressive basis, of universal mobile telecommunications systems which are capable of supporting the characteristics listed in the Annex.

**SCHEDULE**

Regulations 4 and 8

**AREAS IN RESPECT OF WHICH CONDITIONS MAY BE  
ATTACHED TO AUTHORISATIONS**

**PART 1**

*(referred to in regulations 4(1) and 8(1))*

**CONDITIONS WHICH MAY BE ATTACHED TO  
AUTHORISATIONS**

The Minister may make the grant of authorisations or the exercise of the rights granted by authorisations or both, and whether individually or generally, subject to any one or more of the following:

1. such conditions as may be imposed on the grounds of such essential requirements as may be relevant to the grant;
2. such conditions as are designed to elicit such information as may be reasonably required by the Authority or the Minister or both in order that the Authority or the Minister or both may;
  - (a) verify that such conditions subject to which the authorisation may have been granted are being complied with;
  - (b) be able to compile such statistics as will assist the Authority or the Minister or both in performing their respective duties and discharging their respective functions under the Ordinance and regulations made under it; or
  - (c) be able to undertake the verification referred to in paragraph (a) and be able to undertake the compilation referred to in paragraph (b);
3. such conditions as are intended to prevent anti-competitive behaviour in the telecommunications industry which conditions may include measures to ensure that tariffs are non-discriminatory and do not distort competition;
4. such conditions as are related to the effective and efficient use of Gibraltar's numbering capacity;
5. such conditions as may be related to the recognition and acceptance of such ITU recommendations or ISO codes or both as the Minister, after

**TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001**  
consultation with the Authority, may consider appropriate including, but without prejudice to the generality of the foregoing, any one or more of the following—

- (a) ITU-T Recommendation E. 164;
- (b) ITU-T Recommendation E. 212;
- (c) ITU-T Recommendation E. 167;
- (d) ISO 3166 Alpha-2 codes;

as the same may be amended from time to time.

6. such conditions as may be related to international roaming as the Minister may, after consultation with the Authority, consider appropriate including, but without prejudice to the generality of the foregoing, conditions related to the provision of an international roaming service in accordance with the Memorandum of Understanding on the implementation of a 900 MHz Pan European Public Digital Cellular Mobile Telecommunications Service with Full International Roaming as the same may be amended from time to time.

## **PART 2**

*(referred to in regulation 4(1))*

### **AREAS IN RESPECT OF WHICH CONDITIONS MAY BE ATTACHED TO GENERAL AUTHORISATIONS**

The Minister may make the grant of authorisations in the form of a general authorisation or the exercise of such rights as may be granted by authorisations in the form of a general authorisation, or both, and whether individually or generally, subject to any one or more of the following:

1. such conditions as may be aimed at protecting users and subscribers, particularly but without prejudice to the generality of the foregoing words, in relation to any one or more of the following—

- (a) the giving of approval by the Authority for the use and implementation of a standard form of contract between a subscriber and a provider of services prior to the contract being entered into;
- (b) the provision by a provider of services to a subscriber to those services of detailed and accurate billing;
- (c) the establishment of a procedure for the settlement of disputes;

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### TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001

- (d) the publication of any one or more of the following—
    - (i) the conditions subject to which publicly available telecommunications services may be accessed;
    - (ii) the tariffs for the access and services referred to in paragraph (i);
    - (iii) the quality of the access and services referred to in paragraph (i);
    - (iv) the availability of that access and those services;
  - (e) the giving of adequate notice by the provider of the services to a subscriber to those services of any change in the conditions referred to in sub-paragraph (d)(i), the tariffs referred to in sub-paragraph (d)(ii), the quality referred to in sub-paragraph (d)(iii) and the availability referred to in sub-paragraph (d)(iv);
2. the making of financial contributions to the provision of universal service provided these are in conformity with Community law;
  3. the giving of access to such information relating to those who receive services as may normally be found in a directory of services;
  4. the provision of emergency services;
  5. the making of special arrangements for disabled people;
  6. such conditions as may be related to the interconnection of networks and the interoperability of services, in accordance with—
    - (a) the Telecommunications (Interconnection) Regulations, 2001;
    - (b) such obligations as may arise or be permissible under Community law; or
    - (c) the regulations referred to in paragraph (a) and the obligations referred to in paragraph (b).

### PART 3

*(referred to in Regulation 8(1))*

### AREAS IN RESPECT OF WHICH CONDITIONS MAY BE ATTACHED TO INDIVIDUAL LICENCES

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## TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001

2000-18

**Repealed**  
Subsidiary  
2001/083

The Minister may make the grant of authorisations in the form of an individual licence, whether individually or generally, subject to any one or more of the following:

1. such specific conditions as may be related to the allocation of numbers;
2. a requirement to comply with numbering schemes;
3. such specific conditions as may be related to the effective use and efficient management of radio frequencies;
4. such specific conditions as may be related to the environment and to town planning which may, without prejudice to the generality of the foregoing, include conditions related to—
  - (a) the grant of access to public or private land;
  - (b) collocation and the sharing of facilities; or
  - (c) the grant referred to in paragraph (a) and the collocation and sharing referred to in paragraph (b);
5. a period of maximum duration, which period—
  - (a) shall be without prejudice to such provisions as the Minister may set, whether individually or generally, for the withdrawal or suspension of authorisations granted in the form of an individual licence; and
  - (b) shall not be unreasonably short bearing in mind in particular any one or more of the following—
    - (i) the need to ensure the efficient use of radio frequencies;
    - (ii) the need to ensure the efficient use of numbers;
    - (iii) the need to obtain access to public or private land or both public and private land.
6. the obligation to provide universal service in accordance with—
  - (a) the Telecommunications (Interconnection) Regulations, 2001;
  - (b) the Telecommunications (Open Network Provision) (Voice Telephony) Regulations, 2001; or

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### TELECOMMUNICATIONS (LICENSING) REGULATIONS, 2001

- (c) the Regulations referred to in paragraph (a) and the Regulations referred to in paragraph (b).

7. such conditions as may be applied to a person notified under the Telecommunications (Interconnection) Regulations, 2001 as being an Organisation having Significant Market Power (as that term is defined in those Regulations) with a view to guaranteeing–

- (a) interconnection;
- (b) the control of that power; or
- (c) interconnection and the control of that power;

8. such conditions as may concern ownership and control of an applicant for the grant of an authorisation in the form of an individual licence provided these conditions are consistent with Community law and with any other international commitments to which Gibraltar is subject;

9. such conditions as may be related to the quality, availability and permanence of a service or network or both which conditions may, without prejudice to the generality of the foregoing, include any one or more of the following–

- (a) provisions which relate to the financial, managerial and technical competence of an applicant for the grant of an authorisation in the form of an individual licence;
- (b) an obligation to operate the authorisation for a minimum period of time;
- (c) an obligation, where appropriate and in accordance with Community law, to operate public telecommunications networks or provide publicly available telecommunications services or both;

10. such specific conditions as may be related to the provision of leased lines in accordance with the Telecommunications (Leased Lines) Regulations 2001.

### ANNEX

Regulation 17

### CHARACTERISTICS WHICH A UNIVERSAL MOBILE TELECOMMUNICATIONS SYSTEM IS TO BE CAPABLE OF SUPPORTING



### *System capabilities needed to accommodate service features*

1. Multimedia capability, full mobility and low mobility applications in different geographical environments beyond the capability of the second-generation systems such as GSM.
2. Efficient access to the Internet, Intranets and other Internet Protocol (I/P) based services.
3. High-quality speech transmission commensurate with that of fixed networks.
4. Service portability across distinct universal mobile telecommunications system environments where appropriate (e.g. public/private/business; fixed/mobile).
5. Operation in one seamless environment including full roaming with GSM as well as between the terrestrial and satellite components of universal mobile telecommunications system network.

### *Radio access networks*

6. New terrestrial air interface for access to all services including to packet data based services, supporting asymmetric traffic and allowing for band width/data rate on demand in harmonised frequency bands.
7. Good overall spectral efficiency including the use of paired and unpaired frequency.

### *Core network*

8. Call handling, service control and location and mobility management including full roaming functionality based on an evolution of existing core network systems, for example on an evolved GSM core network, taking the convergence between mobile/fixed networks into account.

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#### GENERAL AUTHORISATIONS

Pursuant to regulation 4(2)(b) of the Telecommunications (Licensing) Regulations 2001, it is notified for general information that authorisations have been granted in the form of general authorisations to the following:

Authorised entity	LN Number
<b>Gibnet Limited</b>	2002/036
<b>Equant (Gibraltar) Limited</b>	2002/036
<b>Yachtconnect Limited</b>	2003/062
<b>EasyCall Ltd</b>	2003/101
<b>AA Sheriff and Sons Ltd trading as Usurf</b>	2004/043
<b>Internet International Communications Ltd</b>	2004/043

General Authorisation for internet, Voice Over Internet Protocol (VOIP) and Data

Authorised entity	LN Number
<b>CTS (Gibraltar) Ltd trading as Ad-Lib Communications Ltd</b>	2004/018

The conditions subject to which the general authorisations have been granted can be obtained from the Gibraltar Regulatory Authority website – [www.gra.gi](http://www.gra.gi)

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**2000-18**

**Repealed**  
**Subsidiary**  
**2001/083**

### INDIVIDUAL AUTHORISATIONS

Pursuant to regulation 8(3)(b) of the Telecommunications (Licensing) Regulations 2001, reference is made hereto to the publication of information on authorisations granted in the form of Individual Authorisations for fixed and mobile services to the following:

LN Number	Authorised entity	Date of licence
LN. 2003/126	GibNynex trading as 'Gibtelecom'	4.11.2003

The conditions subject to which the general authorisations have been granted can be obtained from the Gibraltar Regulatory Authority website – [www.gra.gi](http://www.gra.gi)