

# Telecommunications

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## TELECOMMUNICATIONS (COMPETITION) REGULATIONS, 2001

**2000-18**

**Repealed  
Subsidiary  
2001/087**

Regulations made under ss. 15 and 47.

### TELECOMMUNICATIONS (COMPETITION) REGULATIONS, 2001

**Repealed by Ord. 2006-15 as from 5.6.2006**

**(LN. 2001/087)**

**19.7.2001**

Amending enactments

Relevant current  
provisions

Commencement  
date

None

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**Repealed**  
**Subsidiary**  
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### TELECOMMUNICATIONS (COMPETITION) REGULATIONS, 2001

#### ARRANGEMENT OF REGULATIONS

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4. Packet and circuit-switched data services.
5. Allocation of radio frequencies.
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7. Mobile communications systems and lifting of restrictions.
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## TELECOMMUNICATIONS (COMPETITION) REGULATIONS, 2001

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### **Title.**

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

### **Interpretation.**

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

“cable TV network” means any wire-based infrastructure for the delivery or distribution of radio or television signals to the public;

“mobile communications services” means services, other than satellite services, whose provision consists wholly or partly in the establishment of radiocommunications to a mobile user and make use wholly or partly of mobile communications systems;

“mobile communications systems” means systems consisting of the establishment and operation of a mobile network infrastructure, whether connected or not to public network termination points, in order to support the transmission and provision of radiocommunications services to mobile users;

“open network provision conditions” has the meaning given in the Telecommunications (Open Network Provision) (Framework) Regulations 2001;

“packet and circuit-switched data services” means the commercial provision to the public of the direct transport of data between public switched network termination points enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point;

“satellite communications services” means a service, other than radio broadcasting or television broadcasting or both to the public, the provision of which makes use, wholly or partly, of satellite network services;

“satellite earth station” means a station for telecommunications (where “telecommunications” has the meaning given in Part IV of the Ordinance) established for the purposes of providing uplinks and downlinks between itself and space segment;

“satellite earth station network” means a configuration of two or more satellite earth stations which interwork by means of a satellite;

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“satellite network services” means the establishment and operation of satellite earth station networks which, as a minimum, consist in the establishment by satellite earth stations of—

- (a) radiocommunications to space segment (uplinks); and
- (b) radiocommunications between space segment and satellite earth stations (downlinks);

“satellite services” means the provision of satellite communications services or of satellite network services or of both;

“simple resale of capacity” means the commercial provision to the public, on leased lines, of data transmission as a separate service including only such switching, processing, data storage or protocol conversion as is necessary for transmission in real time to and from a public switched network;

“telecommunications services” means services, other than radio broadcasting or television broadcasting or both, the provision of which consists wholly or partly in the transmission or routing of signals, or both such transmission and routing, on a telecommunications network;

“Telepoint” is an application of cordless technology similar to cellular but which in general can be used only for outgoing calls and is based on Digital CT2 technology; and

“telex service” means the commercial provision to the public of the direct transmission of telex messages, in accordance with the relevant Comité consultatif international télégraphique et téléphonique (CCITT) recommendation, between public switched network termination points enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point.

(2) These Regulations are without prejudice to such specific rules as may govern—

- (a) the distribution of audio-visual programmes intended for the public; and
- (b) the content of such programmes.

(3) Except where the context otherwise requires and subject to sub-regulation (1), 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.

## **Liberalisation of telecommunications services and networks.**

3.(1) Subject to the Ordinance and regulations made under it and save for such measures as may be permitted under Community law, all measures which grant any one or more of the following—

- (a) exclusive rights for—
  - (i) the provision of telecommunications services;
  - (ii) the establishment or operation, or establishment and operation, of such telecommunications networks as may be required for the provision of telecommunications services; or
  - (iii) the provision of telecommunications services and the establishment or operation, or establishment and operation, of the telecommunications networks referred to in paragraph (ii);
- (b) special rights which, otherwise than in accordance with such criteria as shall be objective, proportionate and non-discriminatory, limit to two or more the number of persons authorised—
  - (i) to provide telecommunications services;
  - (ii) to establish or operate, or establish and operate, such telecommunications networks as may be required for the provision of telecommunications services; or
  - (iii) to provide telecommunications services and to establish or operate, or establish and operate, the telecommunications networks referred to in paragraph (ii);
- (c) special rights which designate, otherwise than in accordance with such criteria as shall be objective, proportionate and non-discriminatory, several competing persons—
  - (i) to provide telecommunications services;

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- (ii) to establish or operate, or establish and operate, such telecommunications networks as may be required for the provision of telecommunications services; or
- (iii) to provide telecommunication services and to establish or operate, or establish and operate, the telecommunications networks referred to in paragraph (ii),

are abolished.

(2) Subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community law, all restrictions on the provision of telecommunications services–

- (a) over networks established by the provider of the telecommunications services;
- (b) over infrastructures provided by third parties; and
- (c) through the sharing of telecommunications networks, other facilities and sites,

are abolished.

#### **Packet and circuit-switched data services.**

4. Packet-switched data services or circuit-switched data services or both may be provided subject to an authorisation in the form of a general authorisation granted under the Ordinance.

#### **Allocation of radio frequencies.**

5.(1) The Minister shall take all reasonable steps necessary to allocate, insofar as is practicable in all the circumstances and after consultation with the Authority, such radio frequencies as are to be used in the provision of telecommunications services and shall review such allocation at such intervals as–

- (a) shall be regular; and
- (b) the Minister may consider appropriate.

(2) The Minister shall base the allocation of the radio frequencies referred to in sub-regulation (1) on such criteria as shall be objective.

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(3) The Minister shall make the allocation of the radio frequencies referred to in sub-regulation (1) in accordance with procedures which must be—

- (a) transparent; and
- (b) published in such a manner as the Minister shall consider appropriate.

(4) The Authority shall—

- (a) publish each year the information referred to in the Schedule;  
or
- (b) make the information referred to in the Schedule available to interested parties upon their request.

### **Numbering.**

6.(1) The Minister and the Authority shall take all reasonable steps necessary to ensure, insofar as is practicable in all the circumstances, that adequate numbers are available for telecommunications services.

(2) The Authority shall allocate numbers—

- (a) in a manner which must be objective, non-discriminatory, proportionate and transparent; and
- (b) in accordance with such a procedure as the Authority shall establish which must provide for individual applications for the allocation of numbers to be made to the Authority.

### **Mobile communications systems and lifting of restrictions.**

7.(1) Subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community law, all restrictions on persons operating mobile communications systems with regard to—

- (a) the establishment of their own infrastructure;
- (b) the use of infrastructures provided by third parties; and
- (c) the sharing of infrastructure, other facilities and sites,

are abolished.

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(2) Nothing contained in sub-regulation (1) shall prohibit the imposition of a restriction limiting the use of the infrastructures referred to in that sub-regulation to such activities as may be stipulated in such authorisation as may be granted to the persons referred to in that sub-regulation.

**Mobile communications systems and interconnection.**

8.(1) Subject to the Ordinance and regulations made under it, without prejudice to paragraphs (b) and (c) of sub-regulation (3) and save for the imposition of such restrictions as may be permitted under Community law, all restrictions on direct interconnection between—

- (a) mobile communications systems; and
- (b) mobile communications systems and fixed telecommunications networks,

are abolished.

(2) When the Minister grants an authorisation under the Ordinance for the operation of mobile communications systems, he must include in such authorisation a right for the person so authorised to have access to the number of points of interconnection to public telecommunications networks necessary for that person to be able to exercise the right referred to in paragraph (a) of sub-regulation (3).

(3) The Authority shall ensure that—

- (a) a person who has been granted an authorisation under the Ordinance to operate a mobile communications system for use by the public shall have the right to interconnect that system with a public telecommunications network;
- (b) the technical interfaces offered at the points of interconnection referred to in sub-regulation (2) are the least restrictive interfaces available taking into account the particular characteristics of the mobile communications services which are to be provided; and
- (c) a person who operates a public telecommunications network shall only impose conditions for interconnection to its public telecommunications network which are –
  - (i) based on objective criteria;
  - (ii) transparent;



- (iii) non-discriminatory; and
- (iv) proportionate;

(4) A person who operates a public telecommunications network must give the Authority full access to such an interconnection agreement as the person may have entered into in the event that a party to that agreement complains to the Authority that the person has not complied with the provisions of paragraph (c) of sub-regulation (3).

(5) A person who operates a public telecommunications network and who contravenes 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.

#### **Provision of transmission capacity by cable TV networks.**

9. Subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community law—

- (a) all restrictions on the provision of transmission capacity by cable TV networks are abolished; and
- (b) cable TV networks may be used for the provision of telecommunications services.

#### **Interconnection of cable TV networks.**

10.(1) The Minister after consultation with the Authority shall, subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community law, permit cable TV networks to be interconnected with public telecommunications networks, particularly through leased lines, for the provision of—

- (a) transmission capacity;
- (b) telecommunications services; or
- (c) the capacity referred to in paragraph (a) and the services referred to in paragraph (b).

(2) Subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community

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law, all restrictions on the direct interconnection of cable TV networks are abolished.

**Directory services.**

11. Subject to the Ordinance and regulations made under it and save for such rights as may be granted under Community law, all exclusive rights for the establishment and provision of directory services, including both the publication of directories and the provision of directory enquiry services, are abolished.

**Re-balancing of tariffs and universal service.**

12.(1) A person who has an obligation to provide universal service must—

- (a) subject to the Ordinance and regulations made under it; but
- (b) without prejudice to sub-regulations (2) and (3),

re-balance tariffs in accordance with such direction as may be given by the Minister and the Authority.

(2) A person who has an obligation to provide universal service must, when re-balancing tariffs, take into account—

- (a) specific market conditions; and
- (b) the need to ensure the availability of universal service.

(3) For the purpose of undertaking the re-balancing referred to in sub-regulation (1), the person who has the obligation to provide universal service shall, in order to achieve tariffs which are based on real costs, adapt rates which are currently not in line with costs and which increase the burden of the provision of universal service.

(4) A person who has an obligation to provide universal service and who contravenes sub-regulation (1) or (2) or both 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.

**Processing of signals.**

13. Subject to the Ordinance and regulations made under it and save for the imposition of such restrictions as may be permitted under Community law, all restrictions on the processing of signals before their transmission via a public network or after their reception are, as regards the provision of telecommunications services, abolished save where those restrictions are shown to be necessary for reasons of public policy or can be justified on the grounds of essential requirements or both.

### **Non-discrimination and service providers.**

14.(1) The Authority shall ensure that providers of telecommunications services do not, without prejudice to the imposition of open network provision conditions, discriminate either in the conditions subject to which they provide those services or in the charges payable for such provision.

(2) The Minister shall ensure that any fees imposed upon providers of telecommunications services as a condition subject to which an authorisation may be granted under the Ordinance for the provision of those services, shall be based on objective, transparent and non-discriminatory criteria.

### **Space segment capacity.**

15.(1) Subject to the Ordinance and regulations made under it and save for the imposition of such prohibitions and restrictions as may be permitted under Community law, any regulatory prohibition or restriction on the offer of space-segment capacity to any person authorised to operate satellite earth station networks is abolished.

(2) A supplier of space-segment may, within Gibraltar, verify whether a satellite earth station network to be used in connection with the space-segment which is made available by him conforms with such conditions as may be published for access to his space segment capacity.

### **DCS 1800 and DECT standards, mobile technologies and systems.**

16.(1) The Minister after consultation with the Authority, without prejudice to regulation 3, subject to sub-regulation (3) and to the Ordinance and regulations made under it and save for the imposition of such prohibitions and restrictions as may be permitted under Community law, shall not—

- (a) refuse to grant authorisations under the Ordinance for the operating of mobile systems in accordance with the DCS 1800 standard;
- (b) refuse to grant authorisations under the Ordinance for the provision of Telepoint services to members of the public

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whether these facilities are provided through systems operated on the basis of the DECT standard or otherwise; and

- (c) restrict the combination of mobile technologies or systems, in particular, where multi-standard equipment is available.

(2) The Minister shall ensure, when he extends an existing licence to cover the combination referred to in paragraph (c) of sub-regulation (1), that such extension is justified in accordance with sub-regulation (3).

(3) The Minister shall after consultation with the Authority adopt, where required, such measures as he shall consider necessary to ensure the implementation of this regulation and in the adoption of those measures shall take into account the need to ensure effective competition between persons competing in the markets referred to in sub-section (1).

### **The Telecommunications (Interconnection) Regulations 2001 and the Telecommunications (Licensing) Regulations 2001.**

17. These Regulations are without prejudice to the Telecommunications (Licensing) Regulations 2001 and to the Telecommunications (Interconnection) Regulations 2001.

### SCHEDULE

Regulation 5

#### INFORMATION RELATING TO FREQUENCIES

1. The frequency bands, including the number of channels, which have been allocated for use in connection with mobile telecommunications systems.
2. The service to which the frequency bands referred to in paragraph 1 have been allocated.
3. The date by which the allocation referred to in paragraph 1 is to be reviewed.
4. The frequency bands which are to be made available for use in connection with mobile telecommunications systems in the year following, as the case may be, the date of the publication referred to in regulation 5(4)(a) or the date when the information referred to in regulation 5(4) is made available in accordance with regulation 5(4)(b).
5. The procedures that the Minister proposes to implement for the purpose of assigning the frequencies within the bands referred to in paragraphs 1 and 4.
6. Any definitive plans for the future extension of the frequencies referred to in paragraph 5.