



Commission for
Communications Regulation

General Authorisation

General Authorisation

Pursuant to Regulation 8 of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2003 (S.I. No. 306 of 2003)

Conditions for the provision of Electronic Communications Networks and Services

Document No:	03/81, R1
Date:	25 July, 2003
Date Revision One (R1):	5 November, 2008

Part 1: Definitions and Interpretation

1.1. In the Authorisation and the Conditions, the expressions set out below have the meanings given to them below (and other grammatical forms of the expressions have corresponding meanings):

“2002 Act”: means the Communications Regulation Act, 2002 (No. 20 of 2002);

“Access Regulations”: means the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (S.I. No. 305 of 2003);

“Affiliate”: means any company or entity directly or indirectly controlling or controlled by the Authorised Person or any company or entity subject to common control as the Authorised Person from the same source;

“Authorisation”: means an authorisation pursuant to Regulation 4 of the Authorisation Regulations to provide Authorised Services;

“Authorisation Regulations”: means the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2003 (S.I. No. 306 of 2003);

“Authorised Person”: means the person who is deemed to be authorised to provide Authorised Services under Regulation 4 of the Authorisation Regulations;

“Authorised Services”: means the establishment, operation, control and/or making available of any Electronic Communications Network and/or the provision of Electronic Communication Services to any third party;

“Cessation of Service” means any Termination, Suspension, or Restriction, howsoever arising, of an Electronic Communications Network or of an Electronic Communications Service, or access thereto, provided by an Authorised Person to Consumers. It does not include the replacement of an Electronic Communications Network or an Electronic Communications Service by a functionally equivalent Electronic Communications Network or Electronic Communications Service. For the purposes of the definition of Cessation of Service:

“Suspension or Restriction” shall mean where an Electronic Communications Network or an Electronic Communications Service is suspended or restricted for at least 12 hours in any 24 hour period but is likely to be restored;

“Termination” shall mean where an Electronic Communications Network or an Electronic Communications Service is unlikely to be restored by the Authorised Person in the immediate future;

“Commission”: means the Commission for Communications Regulation established by section 6(1) of the 2002 Act;

“Conditions”: means the Conditions set out in Parts 2 and 3 of this Authorisation and as otherwise supplemented or amended from time to time;

“Consumer” shall mean any natural person who is acting for purposes which are outside his or her trade, business or profession;

“Electronic Communications Network”: means the transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the propose of transmitting signals, networks used for radio and television broadcasting and cable television networks irrespective of the type of information conveyed;

“Electronic Communications Service”: means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on Electronic Communications Networks, including telecommunications services and transmission services in networks used for broadcasting;

“End-User”: means a user not providing public Communications Networks or publicly available Electronic Communications Services.

“Framework Regulations”: means the European Communities (Electronic Communications) (Framework) Regulations, 2003 (S.I. No. 307 of 2003);

“Harmful interference”: means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable European Community or national regulations;

“Minister”: means the Minister for Communications, Marine and Natural Resources;

“Other Authorised Person”: means any person who, at the relevant time, is deemed to be authorised to provide Authorised Services under Regulation 3 of the Authorisation Regulations;

“Public Communications Network”: means an Electronic Communications Network used wholly or mainly for the provision of publicly available Electronic Communications Services;

“Specific Obligation”: means an obligation which the Commission may impose on an Authorised Person pursuant to Regulations 5 and 7-13 of the

Access Regulations and Regulations 14, 15 and 16 of the Universal Services Regulations.

“**Substantial Number**” for the purposes of paragraphs 18.2 and 18.3 shall mean 2,000 Consumers in the case of any Termination of an Electronic Communications Network or an Electronic Communications Service, or access thereto and shall mean 20,000 Consumers in the case of any Suspension or Restriction of any Electronic Communications Network or an Electronic Communications Service, or access thereto;

“**User**”: means a legal entity or natural person using or requesting publicly available Electronic Communications Services;

“**Universal Service Regulations**”: means the European Communities (Electronic Communications Networks and Services) (Universal Service) Regulations, 2003 (S.I. No. 308 of 2003);

“**Universal Service Directive**”: means the European Communities Directive 2002/22/EC of 24 April 2002 on universal service and users’ rights relating to Electronic Communications Networks and Services;

“**Working day**” means a day which is not a Saturday, Sunday or public holiday in Ireland.

1.2 In this Authorisation unless the context indicates a contrary intention:

- (1) a reference to a paragraph shall be to a paragraph of this Authorisation unless otherwise stated;
- (2) a document will be incorporated into and form part of the Conditions if it is referred to in the Conditions and a reference to such a document is to that document as varied from time to time;
- (3) headings used for Conditions, paragraphs, subparagraphs are for ease of reference only and will not affect the interpretation of the Conditions;
- (4) references to any law, ordinance, by-law, regulation or other statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (5) use of the word ‘includes’ or ‘including’ is to be construed as being without limitation; and
- (6) the masculine gender shall include the feminine and neuter, and the singular shall include the plural, and vice versa, and references to persons shall include bodies corporate, unincorporated associations or partnerships. References to a person shall include that person’s personal representatives, successors and lawful assigns.

2. Nature of the Authorisation

2.1 An Authorised Person may:-

- (a) subject to Regulation 8(3) of the Authorisation Regulations, provide the electronic communications networks or services as described in a notification under Regulation 4(2) or 4(4) or, where a notification is not required, as described in a determination by the Commission made in accordance with Regulation 4(6) of the Authorisation Regulations,
- (b) apply for a consent under section 53 of the 2002 Act, and
- (c) apply for a licence under section 254(1) of the Planning and Development Act, 2000 for the establishment of overground electronic communications infrastructure and any associated physical infrastructure.

2.2 Where the Authorised Person is providing an Electronic Communications Service or Network to the public he/she may:

- (a) under the conditions of, and in accordance with, the Access Regulations negotiate interconnection with and where applicable obtain access to or interconnection from another Authorised Person or another undertaking deemed to be authorised in another Member State to provide a publicly available Electronic Communications Network or Service; and
- (b) be given an opportunity by the Commission to be designated under Regulation 7 of the Universal Service Regulations to carry out obligations referred to in that Regulation.

2.3 For the avoidance of doubt, the Authorisation is non-exclusive.

2.4 The Authorisation is personal to the Authorised Person. The Authorised Person shall not sub-authorise or grant or otherwise transfer any right, interest or entitlement in the Authorisation.

2.5 Nothing in this Authorisation shall absolve the Authorised Person from any requirement in law to obtain such additional consents, permissions or Authorisations as may be necessary for the provision of Authorised Services and for the exercise of its rights or discharge of its obligations under the Authorisation. The Authorised Person is responsible for all costs, expenses and other commitments (financial and non-financial) in respect of the Authorisation and provision of the Authorised Services and the Commission shall bear no responsibility whatsoever for such costs, including without limitation expenses or commitments.

2.6 This Authorisation supersedes any prior communications from the Commission relating to the authorisation of electronic communications networks and services and nothing in any guidance notes or other prior

communications by the Commission shall be deemed incorporated into this Authorisation.

- 2.7 This Authorisation is subject to the provisions of the Authorisation Regulations, all applicable national and European Community law and all decisions, determinations, requirements, specifications, notifications and directions made by the Commission from time to time in accordance with the applicable national or European Community laws.

3. Amendment and enforcement

- 3.1 The Commission may amend this Authorisation from time to time where objectively justifiable, and in a proportionate manner. Any amendment shall be made in accordance with Regulations 15 of the Authorisation Regulations, and any other requirements under applicable national or European Community law.
- 3.2 The Commission may enforce the Authorisation Conditions in accordance with Regulations 16, 17, 23 and 24 of the Authorisation Regulations, and any other requirements under applicable national or European Community law.

4. Procedures for Imposition, Maintenance, Amendment or Withdrawal of Specific Obligations

- 4.1 Without prejudice to the provisions of Regulation 8 of the Access Regulations and Regulation 13 of the Universal Service Regulations, or other relevant transitional provisions agreed or to be agreed in accordance with European law, the Commission shall not impose specific obligations on Authorised Persons otherwise than in accordance with the provisions of the Framework Regulations.
- 4.2 The Commission shall define relevant markets in accordance with the requirements of Regulation 26 of the Framework Regulations.
- 4.3 The Commission shall carry out analysis of such markets in accordance with the requirements of Regulation 27(1) of the Framework Regulations and shall determine on the basis of such analysis whether each relevant market is effectively competitive
- 4.4. Where the Commission concludes that a relevant market is effectively competitive, the Commission shall not impose any specific obligations on any Authorised Person. In cases where an Authorised Person had previously been designated as having Significant Market Power (“SMP”) in such market and such specific obligations already exist, the Commission shall, after giving reasonable notice to any parties which it considers to be affected by such withdrawal, withdraw such specific obligation from the Authorised Person concerned.

- 4.5 Where the relevant market is not effectively competitive, the Commission shall designate the Authorised Person(s) with SMP (“SMP Operators”) in that market in accordance with Regulation 25 of the Framework Regulations. In relation to such SMP Operators, the Commission shall impose, maintain or amend such specific obligations as the Commission considers appropriate in accordance with the provisions of the Framework, Access and Universal Service Regulations.
- 4.6 The Commission shall, jointly with any other relevant national regulatory authority concerned, apply the provisions of this paragraph 4 in relation to transnational markets identified in a decision referred to in Article 15(4) of the Framework Directive.
- 4.7 The Commission shall, after such period as it considers appropriate, carry out a further analysis of each relevant market in accordance with the provisions of the Framework Regulations.
- 4.8 The provisions of this paragraph 4 are without prejudice to the duties of the Commission under Regulations 19 and 20 of the Framework Regulations.

5. Procedures for Imposition of Universal Service Obligations

- 5.1 The Commission shall, in accordance with the provisions of the Universal Service Regulations, designate one or more Authorised Persons as having Universal Service Obligations.
- 5.2 The obligations which the Commission may impose on Authorised Persons so designated shall, *inter alia*, relate to:
- (a) The provision to the public of access at a fixed location of
 - (i) connections to the public telephone network, and
 - (ii) access to publicly available telephone services,
 - (b) The provision to end users of a directory inquiry services and directories
 - (c) The provision of public pay telephones
 - (d) Specific measures to ensure that disabled end-users can enjoy access to and affordability of publicly available telephone services
- 5.2 The Commission shall specify the period of each designation.
- 5.3 In designating an Authorised Person under paragraph 5.1, the Commission shall adopt an efficient, objective, transparent and non-discriminatory designation mechanism whereby no undertaking is *a priori* excluded from being designated.

Part 2: General Conditions

6. Provision of Information

6.1 The Authorised Person shall provide such information requested from time to time by the Commission, in the form and at the times specified by the Commission, for the purpose of the objectives set out in Regulations 17(1) and 18(1) of the Authorisation Regulations and in Regulation 17(1) of the Framework Regulations; and in accordance with the provisions of Regulation 18(3) of the Authorisation Regulations and Regulation 17(2) of the Framework Regulations

7. Emergency Services and Major Disasters

7.1 The Authorised Person shall comply with any decisions, determinations, requirements, specifications, notifications and directions issued by the Commission from time to time regarding emergency services and the provision of Authorised Services during major disasters.

8. Electromagnetic Radiation

8.1 The Authorised Person shall comply with any radiation emission standards adopted and published by the International Commission for Non-Ionising Radiation Protection (ICNIRP) or its successors from time to time; any radiation emission standards of the European Committee for Electrotechnical Standards and any other radiation emission standards specified by law.

8.2 The Authorised Person shall ensure that non- ionising radiation emissions from apparatus operated by the Authorised Person are within the limits specified by the guidelines published by ICNIRP.

8.3 The Authorised Person shall ensure that apparatus operated by the Authorised Person is not installed or operated at a location in such a manner as to cause the aggregate of non- ionising radiation emissions to exceed the limits specified by the guidelines published by ICNIRP.

9. Integrity of Public Communications Networks

9.1 The Authorised Person shall ensure that his or her Electronic Communications Network and parts thereof shall be designed, constructed, installed, maintained, operated and used so as not to cause harmful interference with the lawful use or operation of any Electronic Communications Network.

9.2 The Authorised Person shall comply with any decisions, determinations, requirements, specifications, notifications and directions issued by the Commission from time to time regarding the maintenance of the integrity of Public Electronic Communications Networks and in connection with investigations by the Commission into cases of interference with the operation

of Electronic Communications Networks or other authorised apparatus for wireless telegraphy.

10. Use of Radio Frequencies

10.1 Where the Authorised Person uses apparatus for wireless telegraphy of a class or description set out in an order(s) under Section 3(6) of the Wireless Telegraphy Act, 1926 which provides an exemption from licensing, the Authorised Person shall use such apparatus in accordance with such orders.

11. Standards to Ensure Harmonised Electronic Communications Networks and Services

11.1 The Authorised Person shall have regard to any notices or guidelines issued by the Commission under Regulation 29 of the Framework Regulations which are issued for the purpose of encouraging the use of standards, specifications or recommendations adopted by the International Telecommunication Union, the International Organisation for Standardisation or the International Electrotechnical Commission.

Part 3: Conditions Applying to Persons Obligated to Notify the Commission under Regulation 4 of the Authorisation Regulations

12. Universal Service Funding

12.1 The Authorised Person shall make contributions to assist in the funding of a Universal Service in conformity with the Universal Service Regulations and in accordance with any directions issued by the Commission under applicable laws and regulations governing Universal Service Obligations in force from time to time.

13. Administrative Charges

13.1 The Authorised Person shall make any payment required to be paid in accordance with an order made by the Commission under the powers of the Commission set out in Section 30 of the 2002 Act as amended by Regulation 19 of the Authorisation Regulations.

14. Interconnection

14.1 The Authorised Person shall comply with the provisions of the Access Regulations and with any decisions, determinations, requirements, specifications, notifications and directions issued by the Commission from time to time regarding access and interconnection under applicable laws and regulations in force.

14.2 The Authorised Person shall, when requested by any Other Authorised Person negotiate interconnection with that Other Authorised Person for the purpose of providing publicly available electronic communications services in order to ensure provision and interoperability of services throughout the Community.

14.3 Without prejudice to Regulation 18 of the Authorisation Regulations, the Authorised Person shall, in respect of information acquired from another Authorised Person before, during or after the process of negotiating access or interconnection arrangements, use such information solely for the purpose for which it was supplied and shall respect at all times the confidentiality of such information transmitted or stored.

14.4 The Authorised Person shall offer access and interconnection to Other Authorised Persons on terms and conditions consistent with any obligations imposed by the Commission pursuant to Regulations 6, 7, 8 and 9 of the Access Regulations.

15. Accessibility of numbers

- 15.1 The Authorised Person must at all times comply with the National Numbering Conventions in force from time to time in respect of numbers allocated from the national numbering scheme, as well as any special conditions that ComReg may attach to specific numbers from time to time.

16. Co-location and Facility Sharing

- 16.1 The Authorised Person shall comply with any decisions, determinations, requirements, specifications, notifications and directions issued by the Commission in relation to co-location and facility sharing.

17. Misuse of Data

- 17.1 The Authorised Person shall safeguard the privacy and confidentiality of any electronic communication messages associated with the Authorised Services in accordance with any applicable national and European Community law in force from time to time.
- 17.2 The Authorised Person shall not make use of network or traffic data, traffic profiles or any other data of any nature, which are not otherwise lawfully publicly available and which become available to the Authorised Person directly or indirectly either as a result of entering into interconnection arrangements or otherwise as a result of carrying electronic communications messages, in such a way which, in the reasonable opinion of the Commission, would unduly prefer the interests of any business carried on by the Authorised Person or an Affiliate or place persons competing with that business at an unfair disadvantage.
- 17.3 The Authorised Person must at all times comply with all applicable national and European Community law in force from time to time, including but not limited to the requirements of EC Directive 97/66/EC of 15 December 1997, regarding personal data and privacy protection specific to the electronic communications sector.

18. Consumer Protection Rules

- 18.1 The Authorised Person shall comply with all decisions, determinations, requirements, specifications, notifications and directions issued by the Commission in relation to End-User interests and rights pursuant to the Universal Service Regulations.
- 18.2 An Authorised Person shall notify the Commission in writing;
- (i) immediately where it believes there is a reasonable probability of a Cessation of Service affecting a Substantial Number of Consumers; or

(ii) without prejudice to the contractual rights and obligations of the Authorised Person, upon, and at the same time that it takes any action (such as issuing a notice of termination of a contract) against another Authorised Person, if it is of the view, in relation to that Authorised Person, that there is a reasonable probability of any Cessation of Service affecting a Substantial Number of Consumers as a consequence of that action; or

(iii) in any event no later than ten working days prior to the actual or anticipated Cessation of Service affecting a Substantial Number of Consumers, save where action is urgently required to ensure network integrity or safety of life, such that notification to the Commission is not possible. In this situation the Authorised Person shall notify the Commission as soon as possible.

18.3 Without prejudice to the provisions of Regulation 17(4) of the Universal Service Regulations, an Authorised Person shall notify its Consumers as soon as possible in the event of a Termination affecting a Substantial Number of its Consumers. Without prejudice to the provisions of Regulation 17(4) of the Universal Service Regulations, an Authorised Person shall notify its Consumers immediately, where a final decision has been taken to implement a Cessation of Service affecting a Substantial Number of its Consumers.

18.4 Where the Commission forms the view that there is a reasonable probability of any Cessation of Service, the Authorised Person shall, upon request from the Commission, provide it with any information which the Commission considers necessary.

18.5 An Authorised Person shall at all times use reasonable endeavours to ensure the effect of any Cessation of Service is minimised. An Authorised Person shall use reasonable endeavours to ensure the continuous provision of the Electronic Communications Network or the Electronic Communications Service, where practicable, taking proper account of the nature and extent of the Cessation of Service and the likely Consumer requirement for the Electronic Communications Network or the Electronic Communications Service to continue to be provided. This is without prejudice to the contractual rights and obligations of the Authorised Person.

19. Security of Public Networks

19.1 The Authorised Person shall take all measures necessary to ensure the security of Public Electronic Communications Networks against unauthorised access according to EC Directive 97/66/EC of 15 December 1997.