



Office of the Director of
**Telecommunications
Regulation**

Telecommunications Levy Order

Compliance Guidelines for Providers of Telecommunications Services

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1. Introduction

The purpose of this document is to provide guidelines to licensees on the procedures to be used for the collection of the levy. These procedures are subject to amendment and updating and any changes will be notified to providers. This document is issued for guidance purposed only and is not a legal interpretation of the Levy Order. The Director is not bound by this document and may amend it from time to time. An updated version of these guidelines will be issued when the new liberalised regime is introduced

2. How the Levy Order works

The Telecommunications (Miscellaneous Provisions) Act, 1996 (Section 6) Levy Order, 1998 (the Levy Order) came into force on 1 April 1998 and the first payments of the levy fell due on 30 June 1998. Those liable to pay the levy are providers of telecommunications services licensed under Section 111 of the Postal and Telecommunications Services Act 1983. At present, this includes all current and future VAS licensees, infrastructure licensees and mobile telephony licensees.

Under the Levy Order the ODTR's levy year is 1 July to 30 June. The levy payment due from an individual licensee for any particular levy year is calculated based on the annual relevant turnover of that licensee, during the financial year of that licensee ended during that particular levy year.

The amount payable on an annual basis is 0.2% of the relevant turnover of each licensee, and is payable in four instalments, on 30 September, 31 December, 31 March and 30 June. In the case of licensees whose relevant turnover is less than £500,000, a flat rate levy of £800 is applied, again payable over four quarters.

Example: Telco Ltd. is a VAS licensee and will have a relevant turnover for its financial year 1 January to 31 December 1998 of £1.5m. The annual levy payable by Telco for the 1998/99 levy year will be 0.2% of this figure, which equals £3,000, payable over four quarters.

In order to allow the ODTR calculate the levy due, licensees are required by the Levy Order to send the ODTR a statement of relevant turnover certified by their auditors. A sample certified statement is set out overleaf for the guidance of licensees and their auditors.

Sample Certified Statement of Relevant Turnover

Bloggs and Bloggs Auditors

Dear ODTR

This statement is to certify the relevant turnover of Telco Ltd. for the levy year 1 July 1998 to 30 June 1999.

On 5 February 1999 we reported, as auditors of Telco Ltd., on the company's financial statements for the year ended 31 December 1998 to be laid before its annual general meeting.

The gross turnover excluding value added tax of Telco Ltd. as extracted from these financial statements is £2,000,000.

In our opinion the relevant turnover of Telco Ltd. as defined in the Telecommunications (Miscellaneous Provisions) Act, 1996 (Section 6) Levy Order, 1998 amounts to £2,000,000 and has been properly extracted from the books and records of the company with which the audited financial statement are in agreement.

Signed: Bloggs and Bloggs

Date: 20 February, 1999

[**Important:** In cases where the figure for relevant turnover differs from total turnover, precise details and the nature of the non-relevant turnover deducted from total turnover must be given.]

3. What happens if a licensee's relevant turnover is not available by 30 September?

The Levy Order allows companies to pay, on an interim basis, an estimate of the amount due, calculated using an estimate of relevant turnover. In most cases the estimate to be used will be the relevant turnover from the previous levy year. Most licensees have now supplied figures for their relevant turnover for the last levy year and these figures will be used to estimate the amount due from licensees on 30 September 1998, where a certified statement for this levy year is not available yet.

In the case where a licensee pays the levy on the basis of an estimate, a reconciliation of the estimate and the actual amount due, will be carried out as soon as a certified statement becomes available and is supplied to the ODTR.

Example: Telco Ltd. is a VAS licensee providing telecommunications services in Ireland. Its financial year is 1 January to 31 December. Its relevant turnover for 1997 was £1.5m, its auditors have supplied this office with a certified statement of this, and the company has made a quarterly payment of £750 (0.05% of £1.5m) due on 30 June 1998 for the last levy year.

The first two quarterly levy payments for the levy year 1998/99 are due from Telco on 30 September and 31 December, however, as its relevant financial year does not finish until 31 December, no figure for relevant turnover will be available. Based on its relevant turnover in the previous year Telco will pay an estimate of £750 on both 30 September and 31 December.

Before the 3rd quarter levy payment falls due on 31 March 1999 Telco's accounts for 1998 will be finalised and a certified statement of relevant turnover of £2.0m will be sent to the ODTR. Based on this figure the ODTR will calculate the actual levy due from Telco for the 1998/99 levy year. The balance due will be calculated as £2,500. The balance payable on 31 March will be £1,500 and a final payment of £1,000 will be payable on 30 June, thus bringing Telco's payments for the levy year 1998/99 up to £4,000.

4. What constitutes relevant turnover?

The Levy Order defines relevant turnover as “in relation to a provider of telecommunications services the gross revenue excluding value added tax paid to the provider in respect of such services”. As revenue generated from telecommunications services in Ireland forms the bulk of the revenue generated by most licensees, the ODTR expects that relevant turnover for most licensees will not differ from total turnover.

Turnover generated by Licensees which is clearly not related to telecommunications services, may be deducted from total revenue. Examples of such revenue might be revenue generated from non-telecommunications related business, or generated from services carried out in their entirety outside the state for clients outside the state. For foreign resident licensees relevant turnover includes all revenue from telecommunications services generated by their Irish operation.

Revenue generated by a licensee from other licensees for telecommunications services is relevant turnover and is not deductible. In particular revenue generated by licensees for telecommunications services supplied to subsidiaries or other connected undertakings of the licensee (whether or not the other party is also a licensee) is not deductible from relevant turnover.

If a company's relevant turnover differs from its total turnover precise details and the nature of any non-relevant turnover deducted from total turnover must be given in a statement certified by their auditors, as noted above in the sample statement. Such deductions from total turnover will be assessed on a case by case basis.

5. What if a Licensee has no relevant turnover?

In such a case the licensee will be deemed not to be a provider of telecommunications services in Ireland for that particular levy year and will not be required to pay a levy in that year. However, such licensees will be asked to reconfirm this on a year by year basis and once they begin to generate relevant turnover they will be liable to pay the levy.

Examples of companies for which this may be the case are companies which have obtained licenses, but are not yet offering any telecommunications services in Ireland, or start up companies which have not yet generated any revenue for services provided.

6. What if a Licensees relevant financial year is not 12 months?

In certain cases, particularly when a licensee has recently changed status, its financial year-end may change, resulting in a financial year that is either longer or shorter than 12 months. The intention of the Levy Order is for it to be applied based on annual turnover. In such cases the ODTR will use a pro-rata estimate of 12 months relevant turnover for calculating the levy due.

7. Procedures for quarterly payments of Levy Orders

The following procedures will be used, for the time being, for collection of the levy.

Approximately one month prior to the quarterly payment date licensees will be written to requesting payment of the levy due on that date and requesting that they supply a certified statement of relevant turnover for their relevant financial year. If a Licensee has already supplied such a statement the Licensee will be written to requesting payment of the actual levy due.

A reminder will be sent one week prior to the payment date if payment has not been received.

Once Licensees, who have already made payments on the basis of estimates, have supplied the ODTR with a certificate of relevant turnover for their relevant financial year, the actual levy due will be reconciled with the estimates already paid, and appropriate requests for payment will be made, or credit given, at the next payment date.

It is an offence under section 13 of the Telecommunications (Miscellaneous) Act, 1996, not to pay the levy.

8. Automated Payments

Direct payments may be made to the ODTR bank account as detailed below.

Bank Sort Code:	90 00 33
Account Number:	17806887
Branch:	Bank of Ireland, 28 Lwr. O'Connell Street, Dublin 1, Ireland

If automated payment is being made licensees should include a reference to their licence number, to allow the payment to be identified.