



Office of the Director of  
**Telecommunications  
Regulation**

## **Notification of Proposed Amendment to Mobile Telecommunications Licence:**

### **Introduction of Pro-forma licence terms**

Document No. 99/42

13 July 1999

**Oifig an Stiúirthóra Rialála Teileachumarsáide**  
**Office of the Director of Telecommunications Regulation**  
Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1.  
*Telephone* +353-1-804 9600 *Fax* +353-1-804 9680  
*Web:* [www.odtr.ie](http://www.odtr.ie)

## **Introduction**

The Director of Telecommunications Regulation (the “Director”) is responsible for the regulation of the Irish telecommunications sector in accordance with national and EU legislation. As part of her functions, the Director is responsible for the licensing of mobile telecommunications operators. At present, there are two licensed operators in the mobile network and services market.

In relation to the licensing of this market, the Director’s proposal is that, henceforth, there should be a pro-forma licence text, which would be common to all mobile network and services operators. This text will be publicly available. The proposed licence terms are set out below. When an individual licence is granted, a schedule to the pro-forma text will set out the matters (if any) that are specific to that licence. The Director is of the view that, unless there are satisfactory reasons to the contrary, the content of such schedules would also be publicly available.

The principal objectives of the proposed licence terms are as follows:-

### **1. Liberalised Environment for Telecommunications**

There is a need to ensure that mobile licences reflect the liberalisation of the operating environment for telecommunications networks and services in Ireland.

### **2. Consistency with the current General and Basic Telecommunications Licences**

The General and Basic Telecommunications Licences granted by the Director set the framework within which fixed networks and services may be provided by telecommunications operators. The Director is of the view that this framework should, in general terms, also be applicable to the provision of mobile networks and services. The proposed licence text will make these licences comparable in form and relevant content with the General and Basic Telecommunications Licences. The purpose is to move towards a generic and modular licensing scheme, with modifications where appropriate to address the particular networks and services in question.

### **3. Compliance with the Licensing Regulations**

The Director is obliged to ensure that, inter alia, mobile licences conform with the provisions of the European Communities (Telecommunications Licences) Regulations, 1998<sup>1</sup>.

It should be noted that the Director does not regard this an appropriate forum to address fundamental issues of policy for the mobile telephony market. Rather, as they arise, such issues will be dealt with in the normal way.

The Director now welcomes comments from interested parties in relation to the proposals for mobile licensing. The closing date for receipt of comments is 6 August

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<sup>1</sup> SI No 96 of 1998

1999.

All submissions should be clearly marked “Reference: Submission re ODTR 99/42” and sent by post, facsimile or e-mail to:

Martina Sheridan  
Office of the Director of Telecommunications Regulation  
Irish Life Centre  
Abbey Street  
Dublin 1  
Ireland  
Ph: +353-1-804.9600  
Fax: +353-1-804.9680  
Email: [sheridanm@odtr.ie](mailto:sheridanm@odtr.ie)

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**Proposed terms for pro-forma mobile licence.**

## **Mobile Telecommunications Licence**

Under Section 111(2) of the Postal and Telecommunications Services Act, 1983, as amended, and the Telecommunications (Miscellaneous Provisions) Act 1996

**Telecommunications Licence No. XXX**

**[Name of Licensee]**

**LICENCE NO:**

**DIRECTOR OF TELECOMMUNICATIONS REGULATION**

**POSTAL AND TELECOMMUNICATIONS SERVICES ACT, 1983, as amended, and  
TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT, 1996**

**Mobile Telecommunications Licence**

(Name of Licensee)

**LICENCE:**

1. The Director, in exercise of the powers conferred on her by Section 111(2) of the 1983 Act, as amended by the Licensing Regulations, and the 1996 Act, grants to the Licensee a Licence to provide Licensed Mobile Services within and to and from the State, subject to the Conditions, all lawful directions of the Director and all applicable laws of the State.
2. In providing Licensed Mobile Services, the Licensee may apply for and use numbers under the National Numbering Scheme in compliance with the specific numbering conditions set out in these Conditions and any other numbering plans or conventions or directions issued by the Director from time to time.
3. The Licence commences on the Licence Commencement Date and continues, subject to the Conditions and to the provisions of the 1983 Act, as amended by the Licensing Regulations, and to the 1996 Act, for fifteen (15) years from the Licence Commencement Date.

**SIGNED BY THE DIRECTOR OF  
TELECOMMUNICATIONS REGULATION**

**DATED:**

## LICENCE CONDITIONS

### Part 1: General Conditions

#### 1. Definitions and Interpretation

1.1. In the Licence 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):

**“1983 Act”**: means the Postal and Telecommunications Services Act, 1983;

**“1996 Act”**: means the Telecommunications (Miscellaneous Provisions) Act, 1996;

**“Affiliate”**: means any company controlling, controlled by or under common control with the Licensee;

**“Conditions”**: means Conditions 1 through 20 and the Schedule as otherwise supplemented or amended from time to time and forming part of the Licence;

**“Director”**: means the Director of Telecommunications Regulation;

**“Licence”**: means the authorisation herein granted by the Director to the Licensee to provide Licensed Mobile Services;

**“Licence Commencement Date”**: means the date set out at Part 1 of the Schedule;

**“Licensed Mobile Services”**: means the establishment and/or operation of a Mobile and Personal Communications System and/or Mobile and Personal Communications Services, other than:

- (i) services to which Section 4(A) of the Telegraph Act 1869 (as inserted by the European Communities (Telecommunications Infrastructure) Regulations, 1997 (SI No 338 of 1997) and as amended by the European Communities (Telecommunications Infrastructure) (Amendment) Regulations, 1999 (SI No 70 of 1999)) relates;
- (ii) the reception and/or origination of Licensed Programme Services and their conveyance over a Telecommunications Network,

as more particularly set out in Part 2 of the Schedule;

**“Licensed Programme Services”**: means any service involving compilation of sound and/or visual programme material intended for reception by the public which comes within the scope of services provided over Cable and Multi-point Microwave Media Distribution Systems licensable in accordance with relevant regulations under the Wireless Telegraphy Act 1926;

**“Licensee”**: means the person to whom the Licence is granted, as identified on page 1 or any person to whom the Licence is lawfully transferred or sub-licensed in accordance with Condition 2.4;

**“Licensing Regulations”**: means the European Communities (Telecommunications Licences) Regulations, 1998 (SI No 96 of 1998);

**“Mobile and Personal Communications Services”**: means services other than satellite services the provision of which consists, wholly or partly, in the establishment of radiocommunications to a mobile user, and makes use wholly or partly of a Mobile and Personal Communications System;

**“Mobile and Personal Communications System”**: means a system consisting of the establishment and operation of a mobile network infrastructure as more particularly set out on Part 2 of the Schedule in accordance with the standards set out in the said Part 2 of the Schedule, whether or not connected to Network Termination Points, to support the transmission and provision of radiocommunications services to mobile users;

**“National Numbering Scheme”**: means the scheme administered by the Director which sets out the sequence of numbers or other characters which shall be used to route telephony traffic to specific locations;

**“Network Termination Point”**: means all physical connections and their technical access specifications which form part of a Public Telecommunications Network and are necessary for access to and efficient communication through that public network and which are individually identified by numbers allocated from the National Numbering Scheme;

**“Other Licensed Operator”**: means any person who, at the relevant time, has the benefit of a licence granted under Sections 111(2) or 111(3) of the 1983 Act;

**“Public Telecommunications Network”**: means a telecommunications network used, inter alia, for the provision of public telecommunications services (as defined in Section 111 of the 1983 Act) between Network Termination Points;

**“Relevant Market”**: means any market or markets in respect of which the Licensee has been designated as having SMP;

**“Schedule”**: means the Schedule attached to the Licence;

**“SMP”**: means Significant Market Power as defined in relevant national and European Community law;

**“State”**: means Ireland;

**“Telecommunications Network”**: means the transmission equipment and, where applicable, switching equipment and other resources which permit the conveyance of signals between defined termination points by wire, by radio, by optical or by other electro-magnetic means;

**“Term”**: means, subject to Condition 4 and to the 1983 Act, as amended by the Licensing Regulations, a period of fifteen years from the Licence Commencement Date;

**“Users”**: means individuals, including consumers or organisations, using or requesting publicly available telecommunications services.

**“USO”**: means universal service obligation as defined in the European Communities (Voice Telephony and Universal Service) Regulations, 1999 (SI No 71 of 1999).

1.2 In the Licence and the Conditions, unless the context indicates a contrary intention:

- (1) references to conditions, paragraphs, subparagraphs and the Schedule are to conditions, paragraphs, subparagraphs of, and to the Schedule as varied from time to time in accordance with the Conditions;
- (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 and the Schedule 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 includes 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 words importing persons shall include firms or companies.

## **2. Nature of the Licence**

2.1 The Licensee shall provide the Licensed Mobile Services to the public generally, without discrimination and in accordance with the Conditions.

2.2 The Licensee may refuse to extend or continue the provision of the Licensed Mobile Services to or from particular Network Termination Points and/or terminal equipment if such extension or continuation would, or would be likely to, cause damage or interference to the Licensee’s Licensed Mobile Services or to any other Telecommunications Network or services. If the Director considers that the extension or continuation of the provision of the Licensed Mobile Services to or from particular Network Termination Points would, or would be likely to, cause damage or interference to the Licensee’s Licensed Mobile Services or to any other Telecommunications Network or services, he or she may direct the Licensee in writing to refrain from extending or continuing the provision of the Licensed Service to or from those Network Termination Points.

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



- 2.4 The Licence is personal to the Licensee. The Licensee shall not sub-license or grant any right, interest or entitlement in the Licence. The Licensee shall not transfer, assign or otherwise dispose of the Licence, or any of its assets that are necessary to provide the Licensed Mobile Services, to any other person save with the prior written consent of the Director. Any consent to transfer granted by the Director under this Condition may be subject to such further conditions as the Director may reasonably consider appropriate in the circumstances.
- 2.5 Clause 2.4 does not apply to:
- (a) A mortgage or other transaction entered into for the purpose of securing borrowings of the Licensee or a subsidiary, being borrowings for the purposes of the Licensed Mobile Services or the provision thereof or anything incidental thereto, or
  - (b) A transfer, assignment or other disposal of assets that are intended to be, and are, immediately after their transfer, assignment or other disposal, assigned by way of lease to the Licensee, or, as the case may be, a subsidiary.
- 2.6 (a) The Licensee shall not issue or transfer or redeem shares such as would give rise to a change in control of the Licensee or a material change in the ability of the Licensee to perform the Licensed Mobile Services without the prior consent of the Director (which shall not be unreasonably withheld).
- (b) A consent under subparagraph (a) shall be subject to such conditions (if any) as the Director may determine and shall specify in writing to the Licensee, and any such condition shall be deemed to be a condition of this Licence.
- (c) The  
Licensee by itself or through its Board of Directors shall not act to give effect to any change in the beneficial or legal ownership of shares such as would give rise to a change in control of the Licensee or a material change in the ability of the Licensee to perform the Licensed Mobile Services without the prior consent of the Director (which shall not be unreasonably withheld).
- (d) In  
this Condition 2.6 "shares" means shares of any class in the Licensee.
- 2.7 The Licensee shall ensure that the administration and management of the business associated with the provision of the Licensed Mobile Services shall be carried on in premises in the State. The business aforesaid shall be carried on on a normal commercial basis and at arms' length from the business of any of the Licensee's shareholders.
- 2.8 (a) If the Licensee proposes to cease to provide the Licensed Mobile Services or any constituent part thereof, it shall give not less than two years notice in writing to the Director of the proposal and of its plans in accordance with which it proposes to effect such cessation. Such cessation shall be effected only with the consent of and in accordance with any conditions that may be imposed by the Director.

- (b) At any time within two years before the expiry of the Licence or if the Director receives a notice under Condition 2.8 (a) or if the Director suspends or revokes the Licence, the Director may after consultation with the Licensee direct it in writing to take such steps as are specified in the direction, being steps that he or she considers necessary or expedient to ensure the safety of the Mobile and Personal Communications System or the continuity and continuation of the provision of the Licensed Mobile Services or any constituent part thereof, and the Licensee shall comply with any such directions under this Condition 2.8(b).
- 2.9 If at any time the Licensee has or obtains the benefit of another licence under Sections 111(2) or 111(3) of the 1983 Act at the same time as it has the benefit of the Licence, the Director may thereafter, and for so long as the Licensee has the benefit of that other licence, and subject to Section 111(2)(f) of the 1983 Act, apply in relation to Licensed Mobile Services the Conditions under the Licence and/or those under that other licence, and Conditions 3 and 4 shall be construed accordingly.
- 2.10 Where any Affiliate of the Licensee has been designated as having SMP, such of the Conditions in Part 3 of any Mobile Telecommunications Licence granted under Section 111(2) of the 1983 Act held by that Affiliate and which apply to the Affiliate for the time being shall, for so long as they are applicable to the Affiliate, also apply to the Licensee if and to the extent that the Licensee provides Licensed Mobile Services in the market in which the Affiliate is designated as having SMP, and Conditions 3 and 4 shall be construed accordingly.
- 2.11 Nothing in this Licence shall absolve the Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the provision of Licensed Mobile Services and for the exercise of its rights or discharge of its obligations under the Licence. The Licensee is responsible for all costs, expenses and other commitments (financial and non-financial) in respect of the Licence and provision of the Licensed Mobile Services and the Director shall bear no responsibility for such costs, expenses or commitments.
- 2.12 The Licence and the Conditions supersede any prior communications from the Director relevant to Licensed Mobile Services and the Licensee acknowledges that nothing in any guidance notes or other prior communications with the Director shall be deemed to be incorporated into the Licence or the Conditions.
- 2.13 The Licensee shall make any payment required by the Telecommunications (Miscellaneous Provisions) Act, 1996 (Section 6) Levy Order, 1998.

### **3. Compliance**

- 3.1 The Licensee shall provide all documents, records, accounts, estimates or other information requested from time to time by the Director, in the form and at the times specified by the Director, for the purpose of verifying that the Licensee is complying with the Conditions, for statistical purposes or to assist the Director to perform any duty or function imposed by national or European Community law. The Licensee shall in particular, as soon as may be in each year, submit to the Director a copy of the accounts to be laid before its annual general meeting for that year and a copy of the accounts of each subsidiary to be laid before the annual general meeting of the subsidiary for that year. The Licensee shall notify the Director of any change in the address or telephone

number of the Licensee's principal office or on the occurrence of any event described in Conditions 4.8(2), (3), (4) or (5).

- 3.2 The Director may at her discretion publish any information provided to the Director under this Licence; in exercising her discretion under this Condition, the Director shall have regard to the obligation concerning professional secrecy imposed on her under Regulation 7 of the Licensing Regulations.
- 3.3 The Licensee shall comply forthwith with any demand made by a person authorised by the Director under Section 111 (7) of the 1983 Act and/or Section 12 of the 1996 Act in relation to any entry, inspection, test, measurement, copying of any record or the giving of information as may reasonably be required by that authorised officer.
- 3.4 The Licensee shall notify the Director in writing of the date on which it proposes to commence providing Licensed Mobile Services and shall confirm in writing when it has commenced such services.
- 3.5 Where, prior to the date on page 1 of the Licence, the Licensee was lawfully operating a Telecommunications Network or providing telecommunications services, as defined in Section 111 of the 1983 Act (whether under a licence granted under Section 111 of the 1983 Act or as otherwise authorised by law) and where the Director is satisfied that the Licensee reasonably requires additional time in which to change established procedures or to adapt existing systems in order to comply with the Conditions, the Director may, on request from the Licensee, agree to defer the applicability of such of the Conditions as he or she considers appropriate in the circumstances for a period of not longer than three months. The Director shall publish notice of the deferment of the applicability of any Condition made in accordance with this Condition.

#### **4. Enforcement and Amendment**

- 4.1 The Director may amend the Licence from time to time where objectively justifiable and in a proportionate manner. Any amendment, including any amendment under Condition 4.3(2), shall be made in accordance with Section 111(2)(e)(iv) and Section 111(10) of the 1983 Act, and any other requirements under applicable national or European Community law.
- 4.2 If the Licensee, whether by act or omission, fails or refuses to comply with any Condition or any lawful direction issued by the Director from time to time, the Director shall serve a written notice on the Licensee (a "Warning Notice"):
  - (1) specifying how, in the Director's opinion, the Licensee is failing or refusing to comply with the Condition or, as the case may be, direction and requesting that, subject to sub-paragraph (2) below, such failure be corrected by the Licensee; and
  - (2) affording the Licensee the opportunity to make representations to the Director in respect of the alleged breaches within 14 days of the date of the Warning Notice. The Director may, at the request of the Licensee, extend the 14 day period for submission of representations by such period as the Director may consider reasonable in the circumstances.

4.3 If, after expiry of one month from the date of the Warning Notice, the Licensee shall not have corrected the acts or, as the case may be, omissions specified in the Warning Notice and the Director, having taken account of any representations made by the Licensee in accordance with Condition 4.2, is satisfied that such acts or omissions constitute a breach of the Conditions or of a lawful direction of the Director, he or she may impose any one or more of the following sanctions (the "Sanctions") on the Licensee:

- (1) subject to Condition 4.5, revocation or suspension of the Licence;
- (2) without prejudice to the generality of Condition 4.1, amendment of the Licence by way of reduction of the Term;
- (3) imposition of specific measures aimed at ensuring compliance in accordance with Section 111(4) of the 1983 Act.

No sanction shall be imposed by the Director save in accordance with the procedures set out in Section 111(10) of the 1983 Act.

4.4 The Director may publish notice of his or her intention to impose any Sanction under Condition 4.3 in such manner as he or she considers appropriate from time to time.

4.5 The Director shall not take action under Condition 4.3 to revoke or suspend the Licence save in respect of a breach of any Condition or any lawful direction of the Director which the Director considers to be material or persistent. For the avoidance of doubt this provision shall not in any way limit the power of the Director to revoke or suspend the Licence pursuant to Condition 4.8.

4.6 Invocation of any Sanction (other than that of revocation) against the Licensee for breach of a Condition or a lawful direction of the Director shall not prejudice the right of the Director to initiate procedures to invoke any other Sanction against the Licensee whether in respect of the same or any other breach of the Conditions or lawful direction of the Director.

4.7 If the Term is reduced pursuant to Condition 4.3, the Director may at his or her discretion restore the original Term where he or she considers restoration to be justifiable having regard inter alia to the behaviour of the Licensee since imposition of the Sanction of reduction of the Term. Restoration of the Term may be made subject to such conditions as the Director may consider objectively justifiable and proportionate in the circumstances of the case. Any decision of the Director in relation to restoration of the Term shall be notified in writing to the Licensee together with an explanation of the reasons for such decision. Notice of the restoration of the Term shall be published by the Director.

4.8 Without prejudice to the foregoing Conditions 4.1 to 4.7, the Director may suspend or revoke the Licence in any of the following circumstances:

- (1) where, in the opinion of the Director, such revocation or suspension is required for the purpose of complying with national or European Community law;
- (2) where the Licensee has ceased to provide Licensed Mobile Services;

- (3) if the Licensee is an individual, a receiving order for bankruptcy has been made in respect of the estate of the Licensee;
  - (4) where the Licensee is a company within the meaning of the Companies Acts 1963 to 1990, an order for its winding up has been made or a resolution for voluntary winding up (within the meaning of those Acts) has been passed by the company otherwise than for the purpose of a merger or solvent reconstruction, or a receiver of the property of the company has been appointed or an examiner to the company has been appointed;
  - (5) if the Licensee shall, in respect of its activities in providing Licensed Mobile Services, have been found guilty of an offence under the Competition Acts, 1991-1996.
- 4.9 Upon the revocation or expiration of the Licence, the Licensee shall not be entitled as of right, or be deemed to enjoy any equity entitling it, to the grant of another licence under the 1983 Act.

## **5. Application of Additional Conditions where SMP is designated**

- 5.1 Unless and until the Licensee has received notification from the Director of an appropriate designation, the Conditions set out in Part 3 of this Licence shall not apply to the Licensee.
- 5.2 If the Director designates the Licensee as having SMP, he or she shall notify the Licensee of the designation and all the Conditions set out in Part 3 of the Licence shall apply to the Licensee in respect of all Licensed Mobile Services carried on by it in the Relevant Market with effect from the date which is 30 days after the notification of the designation.
- 5.3 Where a designation as to SMP has been made prior to the date on page 1 of the licence, the relevant Conditions or obligations shall apply as from that date.
- 5.4 Any Condition or obligations activated pursuant to this Condition 5 shall only apply to the Licensee for so long as the Licensee continues to have SMP in a Relevant Market.

## **6. Public Service Conditions**

- 6.1 The Licensee shall, in the manner and at the times specified by the Director, publish the standard terms and conditions under which it provides each category of Licensed Mobile Services to its customers. In the absence of any other instruction from the Director, the Licensee shall ensure that a statement of all applicable terms and conditions is:
  - (1) filed with the Director; and
  - (2) promptly made available for inspection at the request of any member of the public.
- 6.2 The Licensee shall publish, prior to the commencement of the Licensed Service, a customer's charter which provides for commitments by the Licensee to customers in respect of the standard and quality of the Licensed Service. The charter shall provide for

the making of payments or other recompense by the Licensee to customers in cases of failure by the Licensee to meet commitments specified in the charter. The Director may, after consultation with the Licensee, direct the Licensee in writing to make specified amendments to the charter and the Licensee shall comply at its own cost with such a direction.

- 6.3 The Licensee shall ensure the accuracy and reliability of any systems, equipment, data or procedures which the Licensee uses to measure or to track the provision of Licensed Mobile Services or for the calculation of related charges.
- 6.4 The Licensee shall establish and maintain the capability to intercept messages delivered by the Licensed Mobile Services and to provide information regarding the use of Licensed Mobile Services and, in this respect, shall comply with any directions given by the Minister for Public Enterprise to the Licensee under Section 110 of the 1983 Act as applied under Section 111(5) of the 1983 Act. In this Condition “intercept” shall be construed in accordance with the meaning assigned to “interception” by Section 98 (5) of the 1983 Act.
- 6.5 The Licensee shall safeguard the privacy and confidentiality of any telecommunications messages associated with the Licensed Mobile Services in accordance with applicable national and European Communities laws in force from time to time and shall comply with all applicable national and European Communities laws from time to time regarding the protection of personal data.
- 6.6 The Licensee shall not attach to Public Telecommunications Networks any terminal equipment unless it is lawful to do so, or other equipment which fails to comply with essential interfaces or other essential requirements notified from time to time by the Director.
- 6.7
  - (a) The Licensed Mobile Services shall comply with the directives of the European Community regarding electromagnetic compatibility and the safety of electrical equipment.
  - (b) The Licensee shall observe good radio site engineering practices in accordance with ETSI Technical Report, ETR053, and any revisions of the practices or report.
  - (c) The Licensee shall ensure that non-ionising radiation emissions from the Telecommunications Network are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) and that it complies with any radiation emission standards adopted and published from time to time by IRPA, the Standards of ETSI and the European Committee for Electrotechnical Standardisation and any other standards specified by European Community law.
  - (d) The Licensee shall ensure that only terminal equipment which is type approved in accordance with directives issued by the European Community from time to time, is connected to the Mobile and Personal Communications System.

- (e) The Licensed Mobile Services shall comply with such revisions of the foregoing standards or GSM technical specifications of ETSI as are published by NSAI from time to time.
- 6.8 The Licensee shall make contributions to assist in the funding of a USO in accordance with any directions issued by the Director under applicable legislation governing USO in force from time to time.
- 6.9 The Licensee shall comply with any directions issued by the Director from time to time regarding emergency services in accordance with the terms of Part 3 of the Schedule.
- 6.10 The Licensee shall comply with any direction issued by the Director for the purposes of protecting the interests of its Users, having regard to relevant legislation in force from time to time, including, but without limitation, directions regarding:
- (a) the dialling and other tones used on Public Telecommunications Networks; and
  - (b) the provision of such services as may be specified by the Director from time to time, including, but without limitation, call barring and calling line identification.
- 6.11 The Licensee shall implement an appropriate code of practice for the resolution of User disputes and in relation to non-payment of bills and disconnection. The Director may from time to time issue directions to the Licensee specifying any modifications or additions that she considers should be made to the code or as to the publication, republication, implementation or further modification of the code. The Licensee agrees to participate in good faith in any dispute resolution procedure established by the Director for the resolution of disputes.
- 6.12 The Licensee shall ensure that Users have access to directory information services offered by every Directory Information Service Provider, subject to fair and reasonable interconnect arrangements being arrived at between the Licensee and the relevant Directory Information Service Provider. The Licensee shall maintain a complete and accurate database of its Users' numbers and, for the sole purpose of facilitating provision of directory information services, make that information available to every Directory Information Service Provider and co-operate in the supply or compilation of comprehensive and accurate directory information on terms that are fair and reasonable. For the purpose of this Condition 6.12, a Directory Information Service Provider shall mean any person to whom the Director has allocated a directory enquiry access dialling code designated by the Director from time to time under the National Numbering Scheme as a dialling code to be used for the provision of directory information services. Insofar as any directory information is disclosed to the Licensee for the purpose of facilitating provision by the Licensee of directory information services, the Licensee shall not use such information for any other purpose unless specifically authorised to do so by the person disclosing same and shall comply with all applicable national and European Communities laws and regulations from time to time regarding the protection of personal data.

## **7. Trench Sharing**

- 7.1 Where the Licensee proposes to carry out any trenching work on a public highway or in any public place, it shall notify the Director of its intention and shall publish a notice of same in at least one national and one local newspaper of general circulation not less than 21 days in advance of commencement of such works, or as otherwise agreed with the Director. If the Licensee receives a request from any Other Licensed Operator for permission to lay separate ducts in the trenches opened by the Licensee and sharing would not result in any material deviation from the Licensee's timetable for completion of the trenching work or roll-out of its Telecommunications Network, the Licensee shall negotiate in good faith with the Other Licensed Operator with a view to agreeing the terms on which such trench-sharing shall take place. Such terms may include a provision that the Other Licensed Operator makes a fair contribution to the costs incurred in connection with the trenching work.
- 7.2 Recognising timetable issues of the kind described in Condition 7.1, the Director may on her own initiative at any time, and shall if requested by the Licensee and the Other Licensed Operator concerned in any particular instance, make directions specifying the issues to be covered in any agreement of this type, the conditions that shall apply and the time limits within which the agreement is to be completed.



## **Part 2: Additional Conditions on Numbering and Quality of Service**

### **8. Numbering**

- 8.1 The Licensee shall not use any short code or number from the National Numbering Scheme for the purpose of terminating telecommunications messages on any Public Telecommunications Network within the State unless that short code and number shall have been allocated to the Licensee by the Director for that purpose.
- 8.2 Insofar as any short code or number from the National Numbering Scheme, which is allocated to the Licensee by the Director, is used for terminating telecommunications messages, the Licensee shall use the same for terminating telecommunications messages solely on a Public Telecommunications Network in the State. Any short codes or numbers from the National Numbering Scheme allocated to the Licensee shall be used in accordance with the conditions applicable to their allocation and with the other provisions of this Condition 8 and the National Numbering Scheme and any other numbering plans or conventions or directions issued by the Director from time to time.
- 8.3 No Licensee shall acquire any proprietary rights in any short code or codes, number or range of numbers allocated to it or used by its Users. No short code or codes, number or range of numbers may be sold or otherwise transferred by the Licensee without the prior written consent of the Director.
- 8.4 The Licensee shall manage any short codes and numbers allocated to it:
- (1) with a view to conserving short codes and numbers as a public resource; and
  - (2) in conformity with the National Numbering Scheme and any other numbering plans or conventions or directions issued by the Director from time to time.
- 8.5 The Licensee shall maintain a record of the status of all short codes and numbers allocated to it by the Director and shall, on request, make that information available to the Director. The Licensee shall ensure that the allocation of individual short codes, numbers or number ranges by the Licensee to its Users is carried out in an objective, transparent, non-discriminatory and timely manner.
- 8.6 The Licensee shall make any changes in any equipment, facilities or processes required in order to continue to comply with the National Numbering Scheme and any other numbering plans or conventions or directions issued by the Director from time to time. The Director may change the short codes and/or numbers allocated to the Licensee at any time. The Licensee shall comply with any direction of the Director in relation to the implementation of short codes or number changes and informing Users of such changes.
- 8.7 The Director may reclaim any short code or codes, numbers or numbering ranges allocated to the Licensee if, in the opinion of the Director, the Licensee is found to be in breach of any Condition, including specific numbering Conditions.
- 8.8 The Licensee shall not charge its Users for allocations of short codes or numbers except where authorised and in accordance with any direction from the Director.

- 8.9 The Licensee shall not reallocate to another customer a subscriber number previously allocated to a customer before the expiration of a period specified by the Director in the National Numbering Scheme and any other numbering plans or conventions or directions issued by the Director from time to time, or otherwise from time to time, from the date of the termination of the contract with that customer in respect of that number and unless the Licensee has ascertained that the customer has not continued the use of that number for the purpose of another mobile telephony service within the State.

## **9. Quality of Service and Publication of Performance Data**

- 9.1 The Licensee shall comply with the standards set out in Part 4 of the Schedule, and any directions issued by the Director from time to time regarding quality of service indicators and measurement methods for Licensed Mobile Services. In issuing further directions, the Director shall have due regard to any applicable European (ETR) Regulations. The Director may also, following a public consultation, issue directions regarding quality of service indicators and measurement methods for other Licensed Mobile Services, again having due regard to any applicable European (ETR) Regulations.
- 9.2 The Licensee shall, as and when required, supply to the Director, in a form specified by her, the results of its own measurements of actual performance against any quality of service requirements specified by the Director in respect of the Licensed Mobile Services from time to time. The Director may include the figures supplied to her in any compilation of the quality of service indicators of licensed operators in the State and/or in the European Community, and may publish the compilation.

## **10. Interference with other Radio Systems**

- 10.1 The Licensee shall at all times facilitate the Director in the management of the radio frequency spectrum and shall ensure that the equipment and systems of the Licensee are adequate to prevent or, if necessary, eliminate interference with other authorised radio systems.
- 10.2 The Licensee shall, if so directed by the Director in writing or if so directed by an authorised officer in a case where the officer reasonably believes that an emergency exists:
- (1) modify, in such manner as may be specified in the direction, the operating characteristics of any radio transmitting station used for the purposes of the Licensed Mobile Services; or
  - (2) cease operating any radio channel or any radio transmitting station used for the purposes of the Licensed Mobile Services.
- 10.3 Where the Director proposes to give a direction under Condition 10.2, she shall, if practicable, consult with the Licensee in relation to the proposal.

### **Part 3: Additional Conditions applying where the Licensee is designated as having Significant Market Power**

#### **11. Cross-subsidisation**

- 11.1 Where the Director, after consulting the Licensee and such other interested parties as she considers appropriate, determines that the Licensee or an Affiliate is unfairly cross-subsidising or unfairly subsidising any category of Licensed Mobile Services in the Relevant Market, or is unfairly cross-subsidising any Offered Services by activities in the Relevant Market, he or she may issue a direction to that effect and require the Licensee to cease to do so. For the purposes of this Condition, an Offered Service shall mean any service provided by the Licensee or on Affiliate (whether pursuant to a licence granted under Section 111 of the 1983 Act or otherwise) the cross-subsidisation of which the Director considers will affect a telecommunications market or markets.
- 11.2 In order to enable the Director to evaluate whether any unfair cross-subsidisation or unfair subsidisation is taking place, the Licensee shall record at full cost in its accounting records any material transfer of assets, funds, rights or liabilities between a part and any other part of its business, and between itself and any Affiliate, and shall observe any directions issued by the Director for this purpose.

#### **12. Separate Accounts**

- 12.1 The Licensee shall maintain accounting records in a form which enables the activities of any business unit specified in any direction given by the Director to be separately identifiable, and which the Director considers to be sufficient to show and explain the transactions of each of those business units and shall:
- (1) prepare, in respect of each calendar quarter, accounting statements setting out and fairly presenting the costs (including capital costs), the revenue and the financial position of each of those business units including a reasonable assessment of the assets employed in and liabilities attributable to them and deliver copies of the same to the Director on demand; and
  - (2) deliver to the Director each year a copy of its annual audited accounts forthwith on publication of the same.
- 12.2 The Licensee shall comply with any directions made by the Director from time to time in relation to the preparation and delivery of accounting statements.

#### **13 Approval of Customer Contracts**

- 13.1 The Licensee shall deliver to the Director, who may publish and consult on the same, copies of all standard-form contracts from time to time issued by the Licensee in connection with the provision of any Licensed Mobile Service provided within the Relevant Market, and shall supply a true and complete copy of any particular contract within five days of any written request from the Director.
- 13.2 The Licensee shall also prepare and deliver to the Director a draft statement setting out the minimum service levels for customers (including Other Licensed Operators) in respect of each category of Licensed Mobile Services it offers within the Relevant

Market, any exceptions to these and the compensation or refunds it will offer to customers or prospective customers in case service levels are not met. The Director may publish and initiate a consultative process on the draft statement and, after considering the responses received and consulting the Licensee, issue directions to the Licensee specifying any modifications or additions that she considers should be made to the draft statement. The Licensee shall then publish the statement in the agreed amended form, in accordance with any directions as to publication made by the Director and shall forthwith implement the same. The Director may from time to time issue further directions requiring modifications or additions to the statement and as to its republication and implementation.

- 13.3 The Director may, on her own initiative or at the request of a body of the kind referred to in Condition 16, and acting in an objective and proportionate manner and in order to protect the rights of the Licensee's customers, direct that the Licensee alter its standard form contracts and/or compensation or refund schemes offered to customers or prospective customers.

#### **14. Selling Practices**

The Licensee shall draw up an appropriate code of practice directed to its and its Affiliates' employees and agents concerning selling practices for Licensed Mobile Services within the Relevant Market and designed to avoid unfair or anti-competitive practices, and shall submit the same to the Director in draft form. The Director may initiate a consultative process on the draft code and, after considering the responses received and consulting the Licensee, issue directions to the Licensee specifying any modifications or additions that she considers should be made to the draft code. The Licensee shall then publish the code in the agreed amended form, in accordance with any directions as to publication made by the Director, externally and internally to its and its Affiliates' employees and agents; and shall forthwith implement the same. The Director may from time to time issue further directions requiring modifications or additions to the code and as to its republication and application.

#### **15. Misuse of Data**

The Licensee shall not make use of network or traffic data, traffic profiles or any other data of any nature, and which are not otherwise lawfully publicly available and which become available to the Licensee directly or indirectly as a result of entering into interconnection arrangements or otherwise as a result of carrying telecommunications messages, in such a way which, in the reasonable opinion of the Director, would unduly prefer the interests of any business carried on by the Licensee or an Affiliate or place persons competing with that business at an unfair disadvantage.

#### **16. Bodies Representing Users' Interests**

The Director shall from time to time publish details of bodies recognised by her as representing the interests of Users. The Licensee shall give due consideration to any matter relating to the provision of Licensed Mobile Services which is raised by any such body and shall, at the request of the Director, furnish the Director with a written report of its dealings with that body.

#### **17. Undue Preference and Unfair Discrimination**

- 17.1 The Licensee shall not, in respect of a Relevant Market, whether in respect of the prices charged or other terms or conditions applied or otherwise, show undue preference to, or exercise unfair discrimination against, particular persons or persons of any class or description regarding the provision of any Licensed Mobile Service or access to any Telecommunications Network. The Licensee will be deemed to have shown undue preference or exercised undue discrimination if it favours any business carried on by the Licensee or an Affiliate so as to place persons competing with that business or Affiliate at an unfair disadvantage.
- 17.2 The Licensee shall not, in respect of a Relevant Market, show undue preference to or exercise unfair discrimination against any Other Licensed Operator in respect of the quality of any Licensed Mobile Service provided by the Licensee to such Other Licensed Operator. The Licensee may be deemed to have shown undue preference or to have exercised unfair discrimination if it favours a business carried on by it or by an Affiliate in relation to the quality of any Licensed Mobile Service provided to that business or Affiliate as compared with the Licensed Mobile Services provided to any Other Licensed Operator, so as to place the Other Licensed Operator at an unfair disadvantage.

## **18. Linked Sales**

The Licensee shall not, in any Relevant Market, make it a condition of providing any Licensed Mobile Services that a person should require from the Licensee, or any person specified by the Licensee, any service or apparatus other than the one that is specifically requested, unless the Licensee has notified the Director of its intention to do so and satisfied her that there are technical reasons why this bundling should occur.

*All new conditions taken from existing licences*

#### **Part 4: Additional Conditions applying to Mobile Licences**

##### **19. Priority to Certain Communications**

- 19.1 The Director may, at the request of the Minister for Public Enterprise (in this Condition referred to as the “Minister”) and where, in the opinion of the Minister, there are special circumstances so justifying, direct the Licensee to give absolute priority on the Mobile and Personal Communications System to communications of such kind as the Director may specify at the request of the Minister, and a specification for the purposes of this provision may be effected in such manner and by reference to such matters as the Minister may determine.
- 19.2 The Licensee shall comply with a direction under this Condition and shall do so at its own expense.

##### **20. Safety Measures**

- 20.1 The Licensee shall take all reasonable measures in relation to the provision of the Licensed Mobile Services to ensure the safety of its employees and other persons whose employment relates wholly or partly to the Licensed Mobile Services and of its customers and the public and shall conform with best international practice in relation to health and safety in the provision of the Licensed Mobile Services.