

STATUTORY INSTRUMENTS

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**WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) REGULATIONS, 1999**

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WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME RETRANSMISSION)
REGULATIONS, 1999

I, Etain Doyle, Director of Telecommunications Regulation, in exercise of the powers conferred on me by section 6 (1) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), and section 4 of the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996), as adapted by the Transport, Energy and Communications (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. 299 of 1997), and, pursuant to subsection (8) of the said section 4, with the consent of the Minister for Public Enterprise, hereby make the following Regulations:

Citation

1. These Regulations may be cited as the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 1999.

Interpretation

2. (1) In these Regulations -

"authorised officer" means a person appointed by the Director in writing to be an authorised officer for the purpose of these Regulations;

"the Director" means the Director of Telecommunications Regulation appointed under the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996);

"DTT" means Digital Terrestrial Television;

"force majeure event" means any of the following:

- (a) fire, flood, earthquake, elements of nature or act of God;
- (b) riot, civil disorder or act of war; and
- (c) strikes or other industrial action (unless the action affects only the licensee);

"gross revenue" in respect of any quarter means the aggregate of all payments (excluding value-added tax, and charges for installing or providing apparatus for receiving the services retransmitted by the licensee under the licence) paid or payable to the licensee, or to any other person for the benefit of the licensee, for the retransmission in that quarter by the licensee of licensed programme services;

"insolvency related event" in respect of the licensee means any of the following:

- (a) becoming insolvent or holding a meeting with or making a composition or arrangement with creditors or putting a proposal to creditors for a voluntary arrangement for a composition of debts or a scheme of arrangement or taking any preparatory steps in relation to any of the foregoing;
- (b) having a receiver or similar official or other encumbrancer take possession of or be appointed over or having any distress, execution or other process levied or enforced on the whole or any substantial part of the assets of the licensee (and not discharged within 7 days);
- (c) ceasing or threatening to cease to carry on business or becoming unable or being deemed to be unable to pay debts within the meaning of section 214 of the Companies Act, 1963 (No. 33 of 1963);
- (d) having a petition presented or making any other form of application for bankruptcy or winding-up of the licensee or the appointment of an examiner or similar official to the licensee or any preparatory steps being taken in relation to any of them or convening a meeting or taking any preparatory or other steps to convene a meeting for the winding up, bankruptcy or dissolution of the licensee (other than for the purposes of a solvent amalgamation or reconstruction); and
- (e) having any event analogous to any event referred to in paragraphs (a) to (d) occur under the laws under which the licensee is incorporated;

"licence" means a licence under section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), to which Regulation 3 of these Regulations applies and cognate words shall be construed accordingly;

"licensed programme service" means any of the following programme services:

- (a) television broadcasts (within the meaning of the Wireless Telegraphy (Television Programme Retransmission and Relay) Regulations, 1991 (S.I. No. 252 of 1991)) that originate in another Member State of the European Communities and that fall within the fields co-ordinated by Council Directive 89/552/EEC¹ of 3 October 1989 as amended by Council Directive 97/36/EEC² of 30 June 1997;
- (b) a television programme service (within the meaning of the Regulations referred to in paragraph (a)) that originates in a state (other than a Member State of the European Communities) being a party to the European Convention on Transfrontier Television done at Strasbourg on the 5th day of May, 1989 and that complies with the terms of the Convention;
- (c) a television programme service that originates in the State, other than a programme service to which paragraph (a) or (b) relates, authorised, for the time being, by law;

¹ O.J. No. L298 of 17 October 1989, pp. 23-30

² O.J. No. L202 of 30 July 1997, pp. 60-71

"licensee" means the holder of a licence;

“non-reserved spectrum” means those frequency channels that are not part of the reserved spectrum;

“quarter” means a period of 3 months beginning on the date of commencement of the licence and each subsequent period of 3 months beginning immediately after the end of the previous period of 3 months occurring during the licence term;

“reserved spectrum” means those frequency channels which are currently used to broadcast national analogue services and reserved for DTT and/or the further rollout of national analogue services at particular locations and with particular characteristics as specified in a document published periodically by the Director;

"retransmission" means the reception by means of wireless telegraphy of a licensed programme service and the subsequent transmission in the UHF broadcasting band (470.0 – 862.0 MHz) of that programme service, and cognate words shall be construed accordingly;

“retransmission station” means apparatus for wireless telegraphy (and any other apparatus associated therewith) that is used for retransmission and is situate at any one location, as particularised in Part I of the licence;

"UHF" means Ultra High Frequency.

(2) In these Regulations-

- (a) a reference to an enactment or regulation shall be construed as a reference to the enactment or regulation as amended or extended by or under any subsequent enactment or regulation;
- (b) a reference to a Regulation or a Schedule is to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other enactment is intended;
- (c) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

(3) The Interpretation Acts, 1937 to 1997, apply to these Regulations.

Licences to which these Regulations apply

3. These Regulations apply to a licence to keep, have possession of, install, maintain, work and use the retransmission stations having the characteristics set out in Part I of the licence for the purposes of the retransmission of licensed programme services.

Licence application

4. (1) An application for a licence shall be:

- (a) in such form and subject to such conditions as shall be specified by the Director; and
- (b) accompanied by a non-refundable application fee of £200 in respect of each frequency channel at each transmission station.

(2) An applicant for a licence must be a natural person or properly constituted legal entity.

(3) An applicant for a licence shall, if so requested by the Director, furnish such information as the Director may reasonably require for the purposes of assessing the application, and the Director may refuse to grant a licence to an applicant who fails or refuses to comply with a request under this paragraph.

(4) Following the assessment of an application the Director may, if he or she thinks proper, issue a licence to any person but may, at his or her discretion, refuse to issue a licence.

Addresses for notices

5. (1) The licensee shall on the grant of his or her licence furnish in writing to the Director the address and, where appropriate, fax number, to which notices and other documents under these Regulations may be delivered or sent by post or by telecommunications services operated in accordance with the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983), to him or her by or on behalf of the Director and shall, as occasion requires, likewise furnish any change of address or fax number and such notice or document delivered to, or sent by post, or by such telecommunications services, to such address or fax number so furnished shall be deemed for the purposes of these Regulations to have been duly served by the Director.

(2) Where the service of any notice or document is effected by fax in accordance with paragraph (1) of this Regulation, the service of such document shall, unless the contrary is proved, be deemed to have been effected at the time at which the sender's fax system generates a message confirming successful transmission of the total number of pages of the notice or document.

Form of licence

6. The licence shall be in the form specified in the First Schedule and the licensee shall comply with the conditions set out or referred to in the licence.

Continuance in force of licence

7. Subject to the provisions of these Regulations, every licence shall, unless previously surrendered by the licensee, or unless or until it is revoked or renewed by the Director, and subject to any suspension thereof, continue in force from the date of commencement specified in the licence until the 31st of December 2000 and shall then expire.

Renewal of licences

8. (1) Subject to the provisions of these Regulations and such terms and conditions as may be specified, the Director may renew the licence.

(2) Subject to the provisions of these Regulations, where the Director is satisfied that DTT is not available within the area served by the licensee, by the 31st of December 2000, the Director may renew the licence.

(3) A licence which is renewed under this Regulation shall, subject to the provisions of this Regulation and Regulation 18(3), continue in force for such period as may be specified by the Director: Provided that any licence that continues in force on the 31st day of December, 2001, shall expire on that date and shall not be renewed.

(4) In considering whether to renew a licence under this Regulation, the Director shall have regard, *inter alia*, to whether the licensee complied with these Regulations and the conditions attached to the licence pursuant to these Regulations.

Licence fees

9. (1) A fee shall be payable by the licensee in respect of each quarter or part thereof in which the licence continues in force.

(2) The amount of the fee shall be either:

- (a) equivalent to 3.5% of the gross revenue paid or payable to the licensee, or to any other person for the benefit of the licensee, in respect of the retransmission by the licensee, in the quarter to which the fee relates, of licensed programme services; or
- (b) £35;

whichever sum is the greater.

(3) The fee, assessed in accordance with paragraph (2), shall be payable on the first day of the quarter to which the fee relates.

(4) The licensee shall, prior to the commencement or, as the case may be, renewal of the licence, furnish to the Director a statement, certified by a person who is qualified under the Companies Acts, 1963 - 1990, for appointment as auditor of a company, of the estimated gross revenue payable to the licensee, or to any other person for the benefit of the licensee,

and the estimated number of subscribers in respect of the retransmission by the licensee of licensed programme services in the period during which the licence is due to continue in force, commencing on the date of commencement or, as the case may be, renewal of the licence.

(5) The licensee shall within 30 days of the end of each period in which the licence continues in force, or, as may be appropriate, of the expiration or revocation of the licence, furnish to the Director a statement, certified by a person who is qualified under the Companies Acts, 1963-1990, for appointment as auditor of a company, of the gross revenue paid or payable to the licensee or to any other person for the benefit of the licensee, and the number of subscribers, in respect of the retransmission by the licensee of licensed programme services in the period since the commencement or, as the case may be, last renewal of the licence.

(6) Where a statement of gross revenue is furnished by the licensee in accordance with paragraph (5), and 3.5% of such revenue is greater than the sum paid by the licensee in accordance with paragraph (3), an amount equal to the difference between the sum paid and 3.5% of the actual gross revenue shall be paid by the licensee on the first day of the quarter next occurring after the date on which the statement is furnished.

(7) Subject to the minimum payment specified in sub-paragraph (2)(b), where a statement of gross revenue is furnished by the licensee in accordance with paragraph (5), and 3.5% of such revenue is less than the sum paid by the licensee in accordance with paragraph (3), an amount equal to the difference between the sum paid and 3.5% of the actual gross revenue shall be deducted from the fee payable by the licensee on the first day of the quarter next occurring after the date on which a statement is furnished, or in case the licence has expired or been revoked and no such fee is payable, shall be repaid by or on behalf of the Director to the licensee.

Interest

10. If a fee or any part thereof payable by the licensee under Regulation 9 is not paid by the licensee within 7 days of the date on which it falls due under that Regulation, then interest shall be payable by the licensee at the rate per annum standing specified for the time being in section 26 of the Debtors (Ireland) Act, 1840 (1840 c.105), on the fee or part thereof in respect of the period between the date when such fee or part fell due and the date of payment of such fee or part thereof.

Entry into Bond

11. (1) The licensee shall, before a licence is granted to him or her under these Regulations, enter into an arrangement with the Director (a "bond") which shall be in the form and contain the terms and conditions set out in the Second Schedule to these Regulations, by which the licensee binds him or herself to forfeit to the Director, or a nominee of the Director, a sum of money (the amount of which shall be determined by the Director having regard to the circumstances and extent of the operations for which the licence is sought) in the event of the licensee's failure to cease to use any or all of the frequency channels authorised for use under the licence, or used by the licensee when directed to do so within such period as the Director

may specify, or upon the expiry of the licence, or any renewal thereof. Any such forfeited sum shall be applied by the Director, or the Director's said nominee, to reimburse the Director for any costs and expenses incurred by the Director in taking appropriate action to achieve the objective of the direction, requirement or notice with which the licensee has failed to comply.

(2) The bond provided for in Regulation 11(1) shall be secured by one of the following means: -

(a) a deposit of the sum in which the licensee is bound in a bank duly licensed under the Central Bank Act, 1971, in the sole name of the Director; or

(b) a guarantee of payment of the sum in which the licensee is bound provided by a bank duly licensed under the Central Bank Act, 1971.

(3) The residual balance (if any) of the monies which become available to the Director after the application of funds by the Director, or the Director's nominee, as provided for in Regulation 11(1) shall be returned to the licensee or the guarantor (if applicable) with such interest as may have accrued thereon.

(4) In the case of a bond secured in the manner specified in sub-paragraph (2)(b), the guarantee shall be in the form and contain the terms and conditions set out in the Third Schedule to these Regulations.

(5) In the case of a bond secured in the manner specified in sub-paragraph (2)(a), upon the expiry of the licence, or any renewal thereof, or revocation thereof, where no recourse has been had to the monies deposited in accordance with sub-paragraph (2)(a), and the Director is satisfied that the operations licensed by these Regulations have been definitively terminated, the Director shall cause the bond to be extinguished and the monies released to the licensee.

(6) In the case of a bond secured in the manner specified in sub-paragraph (2)(b), upon the expiry of the licence or any renewal thereof or revocation thereof, where no recourse has been had to the guarantee and the Director is satisfied that the operations licensed by these regulations have been definitively terminated, the Director shall cause the bond to be released.

Payments to Director

12. All fees payable under these Regulations shall be paid to the Director of Telecommunications Regulation, Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1, and shall be so paid in cash, by cheque, money order or postal order, or by such other means as the Director for the time being considers appropriate.

Interference

13.(1)(a) The licensee shall ensure that every retransmission station, or part thereof, shall be designed, constructed, installed, maintained, operated and used so as not to cause

interference, of any type whatsoever, with any wireless telegraphy apparatus used for the purpose of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend.

(b) If the Director is satisfied that the licensee has failed to comply with sub-paragraph (a) and serves on the licensee a notice requiring that the use of such retransmission station, or part thereof, as may be specified in the notice, cease forthwith, or on or before such date and time as may be so specified, the licensee shall cease to use the retransmission station, or part thereof, unless and until such notice has been withdrawn by the Director and shall otherwise take such measures (if any) as may be specified by the Director in the notice.

(2) (a) The licensee shall ensure that every retransmission station, or part thereof, shall be designed, constructed, installed, maintained, operated and used so as not to cause interference, of any type whatsoever, to the lawful use or operation of any apparatus for wireless telegraphy, any broadcasting station, any television broadcasting transmitter, any telegraphic line or any telecommunications service.

(b) If the Director is satisfied that the licensee has failed to comply with sub-paragraph (a) of this Regulation and serves on the licensee a notice requiring that the use of such retransmission station, or part thereof, as may be specified in the notice cease forthwith, or on or before such date and time as may be so specified, the licensee shall cease to use the retransmission station, or part thereof, unless and until such notice has been withdrawn by the Director and shall otherwise take such measures (if any) as may be specified by the Director in the notice.

(3) (a) The licensee is not licensed in respect of any area or areas where interference, of any type whatsoever, from the lawful use or operation of any apparatus for wireless telegraphy, any broadcasting station, or any television broadcasting transmitter, is caused to the reception of any of the licensed programme services retransmitted by the licensee.

(b) Subject to the provisions of sub-paragraph (a), where the licensee is licensed to retransmit licensed programme services on non-reserved spectrum, the Director may suspend, revoke or vary the licence where the licensee suffers interference, of any type whatsoever, from the test transmissions of DTT.

(4) Where the licensee is licensed to retransmit licensed programme services on a frequency channel or channels that are part of the reserved spectrum the Director shall revoke the licence with respect to the reserved spectrum where he or she is satisfied that continued operation would cause interference, of any type whatsoever, with test transmissions of DTT.

(5) Where the licensee is licensed to retransmit licensed programme services on non-reserved spectrum and such retransmission causes interference, of any type whatsoever, with test transmissions of DTT the Director may suspend, revoke or vary the licence.

Information and Inspections

14. (1) The licensee shall -

- (a) furnish to the Director such information and reports relating to the operation of a retransmission station or the retransmission of licensed programme services as the Director may, from time to time, by notice in writing served on the licensee, require;
- (b) keep all or any records which the Director, from time to time, informs the licensee that he or she requires to be kept;
- (c) on request from an authorised officer, produce his or her licence for inspection by the authorised officer;
- (d) upon becoming aware of the occurrence of any insolvency related event, or of any event likely to materially affect his or her ability to comply with the provisions of these Regulations, or the conditions set out or referred to in the licence, notify the Director of that fact;
- (e) on request from an authorised officer, permit the authorised officer at all reasonable times to inspect any records which the Director requires to be kept or which are kept by the licensee in connection with the operation of a retransmission station to which the licence relates and the retransmission of licensed programme services;
- (f) on request from an authorised officer, make available any test equipment or apparatus necessary to facilitate testing by the authorised officer of a retransmission station or of any apparatus for wireless telegraphy situate therein and any other apparatus associated therewith.

(2) The Director may arrange for an authorised officer to carry out an audit, or for the carrying out of an independent audit, or may require the licensee to carry out an audit, or to arrange for an independent audit, of any aspect of the licensee's business concerning the retransmission of licensed programme services to ensure compliance with these Regulations or the licence; and the licensee shall allow the authorised officer, or any independent auditor, such access to any premises, equipment or any part of a retransmission station or any apparatus for wireless telegraphy situate therein or any other apparatus associated therewith, or to inspect, take copies of and acquire such information, as may be required in order to carry out the audit. The cost associated with any independent audit conducted under this paragraph shall be the responsibility of the licensee.

(3) Any information furnished to the Director under these Regulations or under and in accordance with the licence may, if the Director considers it proper so to do, be published by the Director.

Restrictions on the licensee

15. The licensee shall not -

(a) receive any money or other consideration in respect of the retransmission by the licensee of licensed programme services in any area or part thereof to which a licence within the meaning of the Wireless Telegraphy (Wired Broadcast Relay Licence) Regulations, 1974 (S.I. No. 67 of 1974), or a licence in respect of the distribution of licensed programme services by means of a wired broadcast relay system to which the Wireless Telegraphy (Programme Services Distribution) Regulations, 1999 (S.I. No. 73 of 1999) relates; except—

(i) with the prior approval of the Director and the agreement of the licensee under those Regulations, or

(ii) in any case, with the consent of the Director, where the Director is of the opinion, following consultation with the licensee under those regulations, that the licensee under those regulations has not provided, and will not imminently provide, a service to that area or part thereof under that licence;

(b) place any restriction on the make or type of apparatus for wireless telegraphy which may be used to receive licensed programme services;

(c) without the prior consent in writing of the Director (such consent not to be unreasonably withheld) assign the licence or any of the powers, duties or functions conferred by it, or lease or let the licence, or otherwise transfer to another person the benefit or any benefits of the licence. Any consent to transfer granted by the Director under this subparagraph may be subject to such further conditions as the Director considers appropriate in the circumstances;

(d) use any frequency channels for the purpose of a retransmission station or the retransmission of licensed programme services other than the frequency channels which have been approved of by the Director for use for such purpose, and are specified in Part I of the licence.

Technical Audit

16. (1) The Director may, from time to time, as occasion requires, by notice in writing, require the licensee to have a technical audit of a retransmission station and any apparatus for wireless telegraphy situate therein and any other apparatus associated therewith to which his or her licence relates carried out by persons holding such qualifications as may be specified by the Director and any such audit shall relate to such matters and be in such form as the Director may so direct.

(2) When the Director has requested a technical audit pursuant to paragraph (1) of this Regulation, the licensee shall, within 60 days after the request of the Director, furnish to the Director a full report in writing of the audit.

Sanctions for Breach of Licence

17. (1) If the Director has any reason to believe that the licensee has failed to comply with any provision of these Regulations or with any condition set out or referred to in the licence, the Director may serve a notice on the licensee –

(a) specifying how, in the opinion of the Director, the licensee has failed to comply with the relevant provision or condition, and

(b) giving the licensee within 14 days of the date of the notice or such further period as the Director considers appropriate, the opportunity to make representations about the alleged failure to comply.

(2) If, after consideration of such representations, if any, the Director is satisfied that the licensee has failed to comply with the relevant provision or condition then the Director may serve a notice on the licensee –

(a) specifying how, in the opinion of the Director, the licensee has failed to comply with the relevant provision or condition, and

(b) stating that unless the licensee takes, within the period specified in the notice, specified steps to remedy the failure, the Director may impose any or any number of the sanctions listed below:

(i) suspend the licence;

(ii) reduce the licence term;

(iii) amend the licence; or

(iv) revoke the licence;

and may publish the notice.

(3) If at the end of the period specified in any notice under paragraph (2) the Director is satisfied that:

(a) the licensee has failed to take the steps notified in the notice; and

(b) it would have been reasonably practicable for the licensee to take those steps,

the Director may, by further notice, impose the relevant sanctions specified in the notice under paragraph (2), and may publish such further notice.

(4) Following an application in that behalf by the licensee, the Director may withdraw any notice given under paragraph (2) or (3) by a further notice, if the Director is satisfied that this is appropriate because of the licensee's conduct since the date of the notice given under paragraph (2) or, as the case may be, paragraph (3).

(5) Where the licence term is reduced pursuant to paragraph (3), the Director may, subject to such conditions as the Director considers appropriate, restore the original licence term where he or she considers restoration to be appropriate, having regard, inter alia, to the behaviour of the licensee since the imposition of the sanction of reduction of the licence term. Any decision of the Director in relation to restoration of the licence term shall be notified to the licensee together with the reasons for such decision, and a notice of the restoration of the licence term shall be published by the Director.

Licence Revocation

18. (1) Without prejudice to the provisions of these Regulations, the Director may revoke the licence in any of the following circumstances:

- (a) if, within thirty days following the grant of a licence, the licensee has not commenced retransmission of licensed programme services;
- (b) if the licensee notifies the Director that he or she does not intend to retransmit licensed programme services;
- (c) if the licensee agrees with the Director in writing that the licence should be revoked;
- (d) if the Director is satisfied that, in connection with the grant of the licence or in purporting to comply with any provision of the Regulations or any condition referred to or set out in the licence, the licensee provided the Director with information that was false in a material particular or withheld any material information requested;
- (e) where, in the opinion of the Director, such revocation is required for the purpose of complying with any laws for the time being in force;
- (f) if any insolvency related event occurs in respect of the licensee;
- (g) if the licensee fails to use a retransmission station for a period of more than 30 consecutive days;
- (h) if the licensee ceases to be entitled to use the frequency channels allocated to him or her, as set out in Part I of the licence.

(2) Prior to any such revocation mentioned in paragraph (1) the Director shall serve notice on the licensee specifying the reason therefor and shall give the licensee a reasonable opportunity to make representations about the proposed revocation.

(3) Without prejudice to the generality of paragraph (1) of this Regulation, the licence shall be revoked in respect of any transmitter or other apparatus used or operated by the licensee to retransmit licensed programme services, where the Director is satisfied that DTT is available within the area served by the transmitter or other apparatus in question.

Limitation of Licence

19. (1) A licence does not grant the licensee any right, interest or entitlement other than the right to keep, have possession of, install, maintain, work and use retransmission stations to retransmit licensed programme services.

(2) The licensee is responsible for obtaining any other approvals, consents, licences, permissions and authorities required to lawfully use the retransmission stations to which the licence relates or lawfully retransmit licensed programme services.

Compliance

20. (1) The licensee shall comply with any direction, requirement or notice given to him or her by or on behalf of the Director in respect of any matter which direction, requirement or notice is, in the opinion of the Director, appropriate having regard to the functions of the Director.

(2) Without prejudice to the generality of paragraph (1), the licensee shall comply with any direction, requirement or notice given to him or her by or on behalf of the Director in respect of the use or the cessation of use of any frequency channel or in respect of an amendment to any characteristics used in the operation of a retransmission station, as particularised in Part I of the licence.

Variation of licence

21. The Director may, by notice in writing served on the licensee, amend or vary the licence

(a) with the consent of the licensee; or

(b) without the consent of the licensee, provided that the licensee has been given a reasonable opportunity to make representations to the Director regarding the proposed amendment or variation and that the Director has considered those representations.

Authorised Officer

22. An authorised officer shall, when exercising any power conferred on him or her by these Regulations, if so requested, produce to any person affected a copy of his or her appointment as such authorised officer.

Force majeure events

23. If a force majeure event occurs which prevents the licensee from complying with any of the provisions of these Regulations or any of the conditions set out or referred to in the licence:

(a) the licensee shall, as soon as reasonably practicable, notify the Director of that fact, of the nature of the event and of the manner in which and the extent to which the licensee is prevented from so complying, and

(b) the obligation to comply with the provisions or conditions shall be suspended, for so long as the event continues to occur but in each case only if and to the extent that, the inability to comply could not have been prevented by taking steps specifically required under those provisions or conditions or by taking other reasonable precautions and the inability cannot reasonably be overcome by the licensee.

FIRST SCHEDULE

Wireless Telegraphy Act, 1926

UHF TELEVISION PROGRAMME RETRANSMISSION LICENCE

1. (1) Subject to sub-paragraph (2) the licensee is authorised to keep, have possession of, maintain, work and use the retransmission stations having the characteristics set out in Part I of this licence to retransmit licensed programme services.

(2) The licensee is not licensed in respect of any area or areas where interference, of any type whatsoever, from the lawful use or operation of any apparatus for wireless telegraphy, any broadcasting station, or any television broadcasting transmitter, is caused to the reception of any of the licensed programme services retransmitted by the licensee.

2. The licensee shall be responsible for obtaining such way leave and other approvals, consents, licences, permissions and authorities as may be necessary for the installation, maintenance, work and use of a retransmission station.

3. This licence shall come into operation on the date specified in Part II and shall, unless previously surrendered by the licensee or unless or until it is revoked or renewed by the Director, and subject to any suspension thereof, continue in force from the date specified in Part II until the 31st of December 2000 and shall then expire.

4. (1)(a) The licensee shall ensure that every retransmission station, or part thereof, shall be designed, constructed, installed, maintained, operated and used so as not to cause interference, of any type whatsoever, with any wireless telegraphy apparatus used for the purpose of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend.

(b) If the Director is satisfied that the licensee has failed to comply with sub-paragraph (a) and serves on the licensee a notice requiring that the use of such retransmission station, or part thereof, as may be specified in the notice, cease forthwith, or on or before such date and time as may be so specified, the licensee shall cease to use the retransmission station, or part thereof, unless and until such notice has been withdrawn by the Director and shall otherwise take such measures (if any) as may be specified by the Director in the notice.

(2)(a) The licensee shall ensure that every retransmission station, or part thereof, shall be designed, constructed, installed, maintained, operated and used so as not cause interference, of any type whatsoever, to the lawful use or operation of any apparatus for wireless telegraphy, any broadcasting station, any television broadcasting transmitter, any telegraphic line or any telecommunications service.

(b) If the Director is satisfied that the licensee has failed to comply with sub-paragraph (a) and serves on the licensee a notice requiring that the use of such retransmission station, or part thereof, as may be specified in the notice cease forthwith, or on or before such date and time as may be so specified, the licensee shall cease to use the retransmission station, or part thereof, unless and until such notice has

been withdrawn by the Director and shall otherwise take such measures (if any) as may be specified by the Director in the notice.

5. (1) Where the licensee is licensed to retransmit licensed programme services on a frequency channel or channels that are part of the reserved spectrum the Director shall revoke the licence with respect to the reserved spectrum where he or she is satisfied that continued operation would cause interference, of any type whatsoever, with test transmissions of DTT.

(2) Where the licensee is licensed to retransmit licensed programme services on non-reserved spectrum and such retransmission causes interference of any type whatsoever with the test transmissions of DTT the Director may suspend, revoke or vary the licence.

(3) Subject to paragraph 1(2) where the licensee is licensed to retransmit licensed programme services on non-reserved spectrum, the Director may suspend, revoke or vary the licence where the licensee suffers interference, of any type whatsoever, from the test transmissions of DTT.

6. Nothing in this licence shall authorise the licensee to do any act which is an infringement of any copyright or other legal right.

7. The licensee shall maintain separate accounts in respect of the retransmission by him or her of licensed programme services.

8. The licensee shall comply with the technical conditions for retransmission stations set out in Part IV and with any alterations or additions thereto notified to the licensee in writing by or on behalf of the Director.

9. The provisions of the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 1999, and the conditions set out and referred to in the licence supersede any prior communications with the Director regarding licensed programme services and nothing in any guidance notes or other prior communications with the Director shall be deemed incorporated into those Regulations or into the licence.

10. In this licence -

“the Director” means the Director of Telecommunications Regulation appointed under the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996);

“DTT” means Digital Terrestrial Television;

“licensed programme service” means any of the following programme services:

(a) television broadcasts (within the meaning of the Wireless Telegraphy (Television Programme Retransmission and Relay) Regulations, 1991 (S.I. No. 252 of 1991)) that originate in another Member State of the European Communities and that fall within

the fields co-ordinated by Council Directive 89/552/EEC¹ of 3 October 1989 as amended by Council Directive 97/36/EEC² of 30 June 1997;

(b) a television programme service (within the meaning of the Regulations referred to in paragraph (a)) that originates in a state (other than a Member State of the European Communities) being a party to the European Convention on Transfrontier Television done at Strasbourg on the 5th day of May, 1989 and that complies with the terms of the Convention;

(c) a television programme service that originates in the State, other than a programme service to which paragraph (a) or (b) relates, authorised, for the time being, by law;

"licensee" means the holder of a licence;

"non-reserved spectrum" means those frequency channels that are not part of the reserved spectrum;

"reserved spectrum" means those frequency channels which are currently used to broadcast national analogue services and reserved for DTT and/or the further rollout of national analogue services at particular locations and with particular characteristics as specified in a document published periodically by the Director;

"retransmission" means the reception by means of wireless telegraphy of a licensed programme service and the subsequent transmission in the UHF broadcasting band (470.0 – 862.0 MHz) of that programme service, and cognate words shall be construed accordingly;

"UHF" means Ultra High Frequency.

¹ O.J. No. L298 of 17 October 1989, pp. 23-30

² O.J. No. L202 of 30 July 1997, pp. 60-71

PARTS

Part I

Particulars of Retransmission Stations

Part II

Licence Commencement Date

Part III

Addresses for Notices

Part IV

Technical Conditions for Retransmission Stations

SECOND SCHEDULE

TERMS OF BOND TO BE PROVIDED BY LICENSEE

_____ of _____ (“the licensee”) hereby undertakes and acknowledges itself bound to pay to the Director of Telecommunications Regulation (“the Director”) the sum of IR£_____ to be applied in accordance with the provisions of Regulation 11 of the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 1999, (“the Regulations”) and for the purposes therein provided.

This bond shall come into effect on the _____ day of _____ and shall continue to have effect until the Director is satisfied the licensee has definitively ceased operations of the type licensed under the Regulations.

The licensee agrees that the entire sum indicated in this bond shall become payable upon demand in writing from the Director in the event of the licensee’s failure to cease to use any or all of the frequency channels authorised for use under the licence, or used by the licensee when directed to do so within such period as the Director may specify, or upon the expiry of the licence, or any renewal thereof, and that if the entire sum due under this bond is not immediately paid on demand as aforesaid, the Director shall have the right to have recourse to the monies put on deposit in the Director’s name as security for this bond or, if applicable, to call upon the person guaranteeing the payment obligation arising in this bond (“the guarantor”) to pay the sum in respect of which the licensee is hereby bound.

Monies becoming available to the Director, or a nominee of the Director, under this bond shall be applied to reimburse the Director for any costs and expenses incurred by the Director in taking appropriate action to ensure that the objective of the said direction, requirement or notice is achieved.

The Director shall repay to the licensee or the guarantor (if applicable) such part of the sum becoming available to the Director or a nominee of the Director under this bond as shall not be expended by the Director under this bond. The sum of money expended by the Director under this bond shall be certified by a person appointed by the Director, who is qualified under the Companies Acts 1963 – 1990, for appointment as auditor of a company and the sum so certified shall be definitively accepted by the licensee and the guarantor (if applicable) as the sum by which the amount of money to be repaid to the licensor or guarantor (as applicable) is to be calculated.

Present when the common seal
of _____
was affixed hereto: -

THIRD SCHEDULE

GUARANTEE BY BANK

_____, having its registered office at _____ hereinafter referred to as “the guarantor”, hereby guarantees the due payment to the Director of Telecommunications Regulation (“the Director”) of the entire sum specified in the attached bond (the “bond”), ie £IR_____.

It is agreed that the sum covered by this guarantee shall be paid by the guarantor upon receipt of written notice from the Director that the sum of money in respect of which the bond giver is bound has become payable under the terms of the bond and has not been paid by the bond giver.

The Director shall repay to the guarantor such part of the sum paid by the guarantor to the Director as shall not be expended in accordance with the terms of the bond. The sum of money expended by the Director in accordance with the terms of the bond shall be certified by a person appointed by the Director who is qualified under the Companies Acts 1963 - 1990 for appointment as auditor of a company and the sum so certified shall be definitively accepted by the guarantor as the sum by which the amount of money to be repaid to the guarantor is to be calculated.

This guarantee shall come into effect on the _____ day of _____ and shall continue to have effect for the term of the bond.

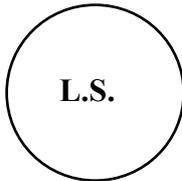
Present when the common seal
of _____
was affixed hereto:-

GIVEN under my hand this 8th day of November, 1999

Etain Doyle
Director of Telecommunications Regulation

The Minister for Public Enterprise hereby consents to the foregoing Regulations.

GIVEN under the Official Seal of the Minister for Public Enterprise
this 8th day of November, 1999



Mary O'Rourke

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the issue of licences for apparatus for wireless telegraphy used for the purposes of retransmitting television programme services and for the conditions of such licences.