



Office of the Director of
**Telecommunications
Regulation**

INFORMATION NOTICE

**NOTIFICATION OF PROPOSED
AMENDMENT TO WIRELESS
TELEGRAPHY (PROGRAMME
SERVICES DISTRIBUTION)
REGULATIONS 1999.**

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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 telecommunications operators.

The Director now proposes to amend the terms of the Wireless Telegraphy (Programme Services Distribution) (Amendment) Regulations subject to the consent of the Minister for Public Enterprise.

The reason for the amendment is to provide for the termination of in-platform exclusivity from the 1st of March 2002 and to make the consequential changes in the Regulations.

BACKGROUND TO THE AMENDMENT OF THE REGULATIONS

The cable and MMDS licences issued under the Wireless Telegraphy (Programme Services Distribution) Regulations, 1999 (SI. No. 73 of 1999), grant limited exclusivity to the licensee for the delivery of Licensed Programme Services over Cable/MMDS or any equivalent system, until April 2004.

It has been agreed by the licensees (Casey Cablevision, ntl and Chorus) that in-platform exclusivity will be surrendered from the 1st of March 2002. This necessitates an amendment to the 1999 Regulations. These Regulations cover Cable/MMDS or any equivalent system but do not apply to Deflectors or Digital Terrestrial Television.

KEY POINTS

The proposed Amended Regulations provide for a new scheme which will allow the ODTR to consider licence applications in respect of new systems. It will also facilitate the migration of operators who still hold licences under the 1974 regulations. The key points contained in the proposed Amended Regulations are as follows;

- In-platform exclusivity under the cable and MMDS licences issued under the 1999 Regulations is terminated from the 1st of March 2002.
- For licences issued after the 1st of March 2002 the licence duration has been reduced to 5 years but may be subject to renewals. A five year licence term is considered appropriate because if the licence duration were to be any longer the availability of specific spectrum for operators (where applicable), would be uncertain in the medium to long term. In the interests of fairness and non-discrimination all licences issued under the new system will be subject to review on the same basis and at the same time as licences issued in 1999. It should be noted that the licensing scheme (for those licensed under the 1999 Regulations as well as prospective licensees under the amended Regulations), will remain in place until superseded by the proposed EU framework. The timescale for this is expected to be around 15 months.
- The licensing regulations and licence text as proposed are largely platform neutral.
- The licensing scheme covers both analogue and digital technologies.
- The Regulations allow for the future cessation of analogue transmission.
- The powers of price control and investigation have been retained, but the power of price control is subject to review.
- The concept of licensed area has been retained.
- The concept in the current MMDS licences that service may not be provided in a ‘cabled area’ to encourage cable operators to continue the construction of their systems is maintained.

The provisions of the proposed Amendment Regulations 2002 are as follows:

Regulation 1 Citation.

Regulation 2 There are a number of changes to the definitions in Regulation 2. There is a change to the definition of “licensed programme services”. A new definition “network termination point” has been added. The definition of “system” has been amended to include network termination point within the ambit of the definition.

- Regulation 3** Regulation 3 has been amended to provide for the fact that the Regulations do not apply to systems for the distribution of licensed programme services at frequencies of less than 1GHz
- Regulation 4** This Regulation which deals with the address for notices to be provided by the licensee remains unchanged from the 1999 Regulations.
- Regulation 5** This Regulation sets out what form the licence shall be in and also the licence application procedure. Licences granted on or after the 1st of March 2002 are to be in the form set out in Part 2 of the Schedule to the Regulations.
- Regulation 6** Regulation 6 provides that licences granted before the 1st of March 2002 have a duration of 15 years and licences granted on or after the 1st of March 2002 have a duration of 5 years.
- Regulation 7** Licences issued after the 1st of March 2002 will be subject to review on the same basis and at the same time as the licences issued under the 1999 Regulations.
- Regulation 8 - 10** These Regulations set out the licence fees, the manner in which interest is charged and the way in which payments to the Director are made. These Regulations remain unchanged from those in the 1999 Regulations.
- Regulation 11** This Regulation remains largely unchanged apart from a change to subparagraphs 11(c) and 11(g) in order to include a reference to network termination point. It is proposed to continue the concept in the current licences granted under the 1999 Regulations that service may not be provided in a 'cabled area'.
- Regulation 12- 14** These Regulations which deal with competition, messages unintentionally received and information and inspections remain unchanged apart from an amendment to paragraph (2) of Regulation 13 in order to include a reference to "network termination point" within the ambit of the paragraph.
- Regulation 15** Regulation 15 deals with price control. The powers of price control and investigation have been retained but with the provision that prior price approval will be subject to review in the future. All references to period of exclusivity have been removed.
- Regulation 16-25** These Regulations which deal with issues such as technical audits, consumer interests, sanctions for breach of licence, licence revocation, prevention of interference and variation of licence remain unchanged from those set out in the 1999 Regulations.

Schedule

The original schedule has now been renamed Schedule Part 1. There is a change to the definition of “licensed programme services”. A new definition “network termination point” has been added. The definitions of “system” and “relay” have been amended to include network termination point within the ambit of the definition.

Licences granted under the 1999 Regulations are in the form set out in Schedule Part 1. A new Schedule Part 2 has been added. Licences granted on or after 1 March 2002 will be the form set out in Schedule Part 2.

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