



Commission for  
**Communications Regulation**

## Information Notice

### **Renewal of RTÉ Licence**

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**An Coimisiún um Rialáil Cumarsáide**

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## 1 Introduction

ComReg is required to issue a licence to the RTÉ Authority for the transmission of its programme services under the Broadcasting Authority Act 1960 as amended. The Licence must also conform, with the new EU regulatory framework.

In summary:

- The Licence permits the transmission of RTÉ radio and television services.
- The Licence is being renewed for analogue broadcasting only and does not allow for digital broadcasting.
- The Licence maintains the status quo and ensures that the public service broadcaster can continue to deliver television and radio to viewers and listeners.

The current RTÉ Licence expires on 28 February 2005. The new Licence comes into effect on 1 March 2005. A copy of the Licence will be laid before the Oireachtas as soon as may be after the date of issue.

## 2 The Licence

The Licence is in essence substantially the same as the existing Licence<sup>1</sup> modified to bring it in line with the EU regulatory framework<sup>2</sup>. The Licence is issued to Radio Telefís Éireann (RTÉ) under the Broadcasting Authority Act, 1960 and covers only analogue broadcasting (digital terrestrial television is covered by the Broadcasting Act, 2001). It also provides that RTÉ may use a third party to provide transmission services. The licence permits the frequency rights of use for the transmission of RTÉ radio and television services and TG4. The Licence does not cover the independent broadcasting sector which is covered by Radio and Television Act, 1988 Licences issued to the Broadcasting Commission of Ireland (BCI).

The Licence has been redrafted and simplified to comply with the permitted conditions set out in Part B of the schedule to the Authorisation Regulations<sup>3</sup>. An Information Notice<sup>4</sup> published in July 2003 detailed which conditions of the current

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<sup>1</sup> ComReg document 00/27 and ComReg document 00/27B: Director of Telecommunications Regulation Issues Licence to RTE

<sup>2</sup> Directive 2002/21/EC of the European Parliament and Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services

<sup>3</sup> S I no.306 of 2003 European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations, 2003

<sup>4</sup> ComReg document 03/84: Wireless Telegraphy Licences - Future Applicability of Licence Conditions

RTÉ Licence no longer applied as a consequence of the new framework. The new Licence formally incorporates the changes set out in that document. The changes have, of course, had effect from 25 July 2003 so essentially there is no change to the Licence except for the duration.

The duration of the Licence is for seven years which is two years longer than the current licence issued in 2000. Seven years was generally the duration of RTÉ Licences when the licences were granted by the Minister (prior to the RTÉ Licence issued in 2000). A licence which falls due for renewal in 2012 is appropriate in our view, as by that date there should be much more clarity in relation to the prospects for digital video broadcasting, digital audio broadcasting and the future of analogue television broadcasting.

### 3 Legal Background

ComReg is the licensing authority by virtue of section 9 of the Communications Regulation Act, 2002. Section 16(3)(a) of the Broadcasting Authority Act 1960 provides for the licensing of certain broadcasting activities of the Radio Telefis Éireann Authority:-

*“The powers conferred on the Authority by virtue of paragraphs (a) and (b) of subsection (2) of this section shall not be exercised save under licence issued by the Minister [read ComReg] and in accordance with any conditions attached by the Minister [read ComReg] to such licences.*

The licence issued under section 16(3) (a), permits RTÉ to exercise its powers to, *inter alia*, establish maintain and operate broadcasting stations and to operate apparatus for wireless telegraphy.

ComReg’s licensing regime under national legislation is subject to the EU Regulatory Framework for Electronic Communications with effect from 23 July 2003. The conditions and obligations which can be included in a licence are set down in Part B of the Schedule to the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations, 2003.

Regulation 22(9) of the Authorisation Regulations 2003 deals directly with the renewal and conditions of a licence. Regulation 22(9) limits the conditions of the licence, where the licence is renewed:-

*“Where a licence referred to in paragraph (8) expires and is renewed, the holder of the licence is, notwithstanding any provision to the contrary in such licence or in or under the enactment under which such licence is issued, only required to comply with such conditions, referred to in Part B of the Schedule as are specified by the Regulator to be applicable to such licence.”*