



Office of the Director of  
**Telecommunications  
Regulation**

**Text of Proposed Amended  
Programme Services Distribution Licence:**

**The Facilitation of the Provision of Additional  
Services.**

**Document No. 99/60  
October 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 and management of the radio spectrum sector in accordance with national and EU legislation. Part of this responsibility includes, *inter alia*, the licensing of television delivery platforms. Following the establishment of the Office of the Director of Telecommunications Regulation ('ODTR') in 1997, the Director reviewed the options for the future delivery of television services and published the report prepared for her by NERA/Smith “The Future Delivery of Television Services in Ireland”, ODTR Document No. 98/06. Following public consultation on that report, the Director concluded in “The Future of TV Transmission in Ireland - The Way Forward” ODTR Document No. 98/20, *inter alia*, that the MMDS platform should be facilitated, to deliver digital television and related services into the future. The MMDS operators were accordingly licensed.

The Director now proposes to amend the terms of the Programme Services Distribution Licence granted to the MMDS licensees. The reason for this proposal is to facilitate the provision of the related services, mentioned above and described in ODTR 98/20. The text of the proposed amended licence is set out herein.

The Director has notified the holders of such licences of the proposed amendment. The holders may make representations to the Director in relation to the proposal. The proposal to amend the licence has also been published in *Iris Oifigiúil*. Interested parties may make representations to the Director on the proposal.

The text of the current licence is ODTR Document No. 99/44. This document together with ODTR 98/20 and ODTR 98/06 may be viewed on the ODTR website ([www.odtr.ie](http://www.odtr.ie)).

All communications should be clearly marked “Reference: Submission re ODTR 99/60” and sent by post, facsimile or e-mail to:

Mr. Des Hackett  
Office of the Director of Telecommunications Regulation  
Irish Life Centre  
Abbey Street  
Dublin 1  
Ireland  
Ph: +353-1-804.9600  
Fax: +353-1-804.9671  
Email: [hackettd@odtr.ie](mailto:hackettd@odtr.ie)

to arrive not later than 5.00 p.m. on Tuesday 2<sup>nd</sup> November 1999.

This document does not constitute legal, commercial or technical advice. The Director is not bound by it. This document is without prejudice to the legal position or the rights and duties of the Director to regulate the market generally or to the exercise of the Director's discretion. The text set out herein is without prejudice to the final form and content of any licence the Director may issue.

## WIRELESS TELEGRAPHY ACT, 1926

### PROGRAMME SERVICES DISTRIBUTION LICENCE

1. The licensee specified in Part I of this licence is hereby authorised to: -
  - (a) keep, have possession of, install, maintain, work and use the system specified in Part II to distribute licensed programme services in the area described in Part III.
  - (b) keep, have possession of, install, maintain, work and use any apparatus for wireless telegraphy for the purposes of enabling the provision of additional services, otherwise lawfully authorised, in the area described in Part III.
2. (1) Subject to paragraph 9 (3), the Director shall not, prior to 19<sup>th</sup> April 2004, grant a licence to any third party to keep, have possession of, install, maintain, work or use any equivalent system to distribute licensed programme services in the licensed area.
  - (2) For the avoidance of doubt, nothing in this licence shall be construed as prohibiting the Director from -
    - (a) granting, on or after the date specified in subparagraph (1), a licence to any third party to keep, have possession of, install, maintain, work or use any equivalent system to distribute licensed programme services in all or part of the licensed area; or
    - (b) granting, prior to the date specified in subparagraph (1), a licence to any third party to keep, have possession of, install, maintain, work or use a system other than an equivalent system to distribute licensed programme services in all or part of the licensed area.
    - (c) granting a licence to any third party to keep, have possession of, install, maintain, work or use any apparatus for wireless telegraphy for the purposes of enabling the provision of additional services, otherwise lawfully authorised, in all or part of the area described in Part III.
3. 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 the system or apparatus for wireless telegraphy.
4. (1) The licensee shall distribute such licensed programme services as are specified in Part VI and VII by analogue transmission:
  - (a) unless the Director gives prior consent in writing; or

- (b) unless the Director directs the licensee, by notice in writing served on the licensee, to discontinue analogue transmission of such of those licensed programme services as are specified in the notice.

(2) The licensee may distribute programme services to the holders of other licences whether inside or outside the licensed area to which his or her licence relates and may facilitate the distribution of such services whether inside or outside that licensed area by or on behalf of the holders of other licences.

- (3) (a) Subject to sub-paragraph (b), the licensee may utilise a forward path on the frequencies assigned to him or her for the purposes of the provision of additional services by means of digital transmission.
- (b) The amount of capacity on the frequencies assigned to the licensee used as a forward path for the purposes of the provision of additional services shall not exceed a maximum of 15% of the total capacity of those frequencies at any one time, and shall not exceed an aggregate of 10% of such capacity in any given 24 hour period.
- (c) For the avoidance of doubt, nothing in this licence shall be construed as permitting the licensee to establish, operate and/or make use of a return path by means of wireless telegraphy for the purpose of the provision of additional services, the receipt of signals and/or data related thereto or the receipt of signals and/or data related to programme services.

5. This licence shall come into operation on the date specified in Part IV and shall, unless previously surrendered by the licensee or unless or until it is revoked by the Director, and subject to any suspension thereof, continue in force from the date specified in Part IV to the 19<sup>th</sup> day of April 2014.

6. (1) The system shall be designed, constructed, installed, maintained and used so that no avoidable harmful interference with any authorised apparatus for wireless telegraphy, and no avoidable harmful effect on any authorised telegraphic line or authorised telecommunication service is caused.

(2) If the Director is satisfied that the licensee has failed to comply with sub-paragraph (1) of this paragraph and notifies the licensee in writing of that fact, the licensee shall cease to use the system until further notice from the Director and shall otherwise take such measures as may be specified by the Director in the notice.

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

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

9. (1) The licensee shall, by the dates specified in the digital roll-out plan, design, construct, install, work and put into use a digital transmission network.

(2) The licensee shall be responsible for obtaining all approvals, consents, licences, permissions and authorities required by law to design, construct, install, work and put into use such a network.

(3) If, within a period of 6 months after the dates specified in the digital roll-out plan, the licensee does not comply with the requirements specified in the plan, the Director may, without prejudice to any other powers or remedies he or she may have under the Wireless Telegraphy (Programme Services Distribution) Regulations, 1999, reduce the period of exclusivity granted to the licensee under paragraph 2 (1) for part or all of the area described in Part III by such period as the Director considers appropriate.

10(1) The licensee shall publish the prices, terms and conditions for distributing, to a member of the public, licensed programme services and for installing or providing the means necessary to receive the licensed programme services and shall publish any changes to such prices, terms and conditions.

(2) The licensee shall provide copies of those prices, terms and conditions to the Director forthwith and to members of the public on request, in each case free of charge.

11. The licensee shall comply with:

- (a) the technical conditions for analogue transmission systems set out in Part IX;
- (b) the technical conditions for digital transmission systems set out in Part X;
- (c) the conditions for the operation of conditional access systems set out in Part XI;
- (d) any other technical conditions notified to the licensee in writing by the Director;

and with any alterations or additions thereto so notified to the licensee.

12. The provisions of the Wireless Telegraphy (Programme Services Distribution) 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.

13. Definitions;

“additional service” means a service that consists of the distribution by the licensee of a service other than programme services or programme associated services by wireless telegraphy by means of the use of the spare capacity within the signals carrying any licensed programme service.

"apparatus for wireless telegraphy" has the meaning ascribed to it by the Wireless Telegraphy Act, 1926 (No. 45 of 1926), as amended, and includes a system as defined in this licence.

“Director” means the Director of Telecommunications Regulation appointed under the Telecommunications (Miscellaneous Provisions) Act, 1996;

“distribute” means receive or originate programme services and convey them over the system, and cognate words shall be construed accordingly;

“equivalent system” means, as regards a licence that relates to a television programme retransmission system, another television programme retransmission system; and as regards a licence that relates to a wired broadcast relay system, another wired broadcast relay system;

“forward path” means a unidirectional broadband broadcast channel used for the purposes of the provision of additional services from the licensee to its subscriber.

“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/EEC of 3 October 1989 as amended by Council Directive 97/36/EEC 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 programme service, other than a programme service to which paragraphs (a), (b) or (d) relate, approved of, for the time being, by the Director;
- (d) a programme service that originates in the State, other than a programme service to which (a), (b) or (c) relate, authorised, for the time being, by law;

“licensee” means a holder of a licence;

"programme associated service" means any services distributed by the licensee that are ancillary to programme services and directly related to the content thereof.

“programme service” means a service which consists of sound or visual programme material of any description, or a compilation of both, intended for general or approved reception, whether encoded or not;

“relay” means, in relation to television programme services or television programme services and sound programme services, receive the services by means of wireless telegraphy apparatus and then convey them by wire from the place of reception to system outlets, and cognate words shall be construed accordingly;

“return path” means a unidirectional narrowband channel used for the purposes of the receipt by the licensee of signals or data from its subscriber.

"system", in relation to a licence, means the system used by the licensee for the distribution of licensed programme services starting at the headend and ending either at the system outlets or, in cases where the licensee provides subscribers with a device incorporating specialised decoding means, at the output port of such device, and including all other apparatus directly or indirectly connected between those points, as more specifically described in Part II of this licence.