

STATUTORY INSTRUMENTS

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**WIRELESS TELEGRAPHY (TELEPORT FACILITY) REGULATIONS,
2001**

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WIRELESS TELEGRAPHY (TELEPORT FACILITY) REGULATIONS, 2001

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. No. 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 and Commencement

1. (1) These Regulations may be cited as the Wireless Telegraphy (Teleport Facility) Regulations, 2001.

- (2) These Regulations shall come into operation on the 1st day of February 2001

Interpretation

2. (1) In these Regulations -

“audit” means an independent audit carried out by a competent third party (the competency of the auditor to be determined by the Director) at the expense of the licensee, to assess compliance with any radiation emission standards adopted and published by the International Commission for Non-Ionising Radiation Protection (ICNIRP) or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation standards specified by national and EC law;

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

“equivalent isotropically radiated power” means the product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna;

“fixed satellite earth station” means a satellite earth station or satellite earth stations, operating to the geostationary orbit in the fixed satellite service and in frequencies above 3 GHz which form part of a teleport facility;

“fixed satellite service” means a radio-communication service between earth stations at specified fixed points when one or more satellites are used;

“harmful interference” means interference which endangers the functioning of a radionavigation service or other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts any lawfully operating radio-communications service;

“high altitude platform station” means apparatus for wireless telegraphy located on an object at an altitude of 20km to 50km and at a specified, nominal, fixed point relative to the Earth;

“Licence” means a Licence under section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), for a teleport facility as defined in these Regulations and cognate words shall be construed accordingly;

“Licensee” means the holder of a Licence;

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

“non-transportable satellite earth station” means a fixed satellite earth station operated at a single specified location;

“radio-communications service” means a service involving the transmission, emission and/or reception of radio waves specified for specific telecommunications purposes;

“satellite earth station” means apparatus for wireless telegraphy, located on the Earth’s surface, intended for the transmission of radio signals to, and/or the reception of radio signals from a space station;

“space station” means apparatus for wireless telegraphy that is located on an object which is beyond the major portion of the Earth’s atmosphere and which is not a high altitude platform station;

“steerable antenna” means an antenna that can be continuously varied in azimuth and elevation during its use, enabling it to operate to more than one space station, these being at different locations;

“telecommunications hub” means a facility providing access, to or from telecommunications networks, systems or services to which section 111 of the Act of 1983 applies (as amended by the Licensing Regulations);

“Telecommunications Licence” means a Licence under section 111(2) of the Act of 1983;

“teleport facility” means a telecommunications hub consisting of three or more non-transportable satellite earth stations which may be subject to international co-ordination as required and provided for under the Radio Regulations of the International Telecommunications Union, which are capable of transmitting on more than one frequency to more than one space station simultaneously using steerable antennae;

“the Act of 1926” means the Wireless Telegraphy Act, 1926 (No. 45 of 1926);

“the Act of 1983” means the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983);

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

“the Regulations” means the Wireless Telegraphy (Teleport Facility) Regulations, 2001 (S.I. No. of 2001);

“transportable satellite earth station” means a fixed satellite earth station which is transportable, which operates at varying locations and which remains in a fixed location during operation.

(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;
- (d) a reference to a Directive of the European Parliament and Council shall be construed as a reference to the Directive as amended or extended by any subsequent Directive.

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

Licences to which these Regulations apply

3. These Regulations apply to Licences to keep, have possession of, install, maintain, work and use non-transportable satellite earth stations comprising a teleport facility, having the characteristics set out in Part III of the Licence and operating in accordance with the technical conditions set out in Part VI of the Licence and at the geographical location set out in Part VII and Part VIII of the Licence.

Licence application

4. (1) An application for a Licence shall be in such form and subject to such conditions as shall be specified by the Director from time to time.
- (2) An application for a Licence shall be subject to such fees as are prescribed by these Regulations.
- (3) An applicant for a Licence must be a natural person or properly constituted legal entity.
- (4) An applicant for a Licence shall, if so requested by the Director, furnish such information as the Director may reasonably require for the purpose 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, subject to the Licensing Regulations as applicable.
- (5) Following the assessment of an application the Director may issue a Licence to any person but may, subject to the Licensing Regulations, as applicable, and any requirements under national and EC law, refuse to issue a Licence.

Addresses for notices

5. (1) Where the Licensee is domiciled in the European Union (the “EU”), the Licensee shall on the grant of his or her Licence furnish in writing to the Director the address and, where appropriate, fax number, within the EU 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 Licensee is domiciled outside the EU, the Licensee shall include an address for service in Ireland.
- (3) 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 with such variation, if any, (whether by addition, deletion or alteration) as the Director may determine from time to time in accordance with applicable national or EC law.

Duration and renewal of Licences

7. Subject to the provisions of these Regulations, every licence granted under these Regulations 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, in accordance with the provisions of these Regulations, continue in force from the date of commencement until the expiration of the period of 60 months, after the date of commencement.
8. (1) After the expiration of the licence and subject to these Regulations, the Licensing Regulations as applicable, any requirement under applicable national and EC law and any terms and conditions as may be specified by the Director, the Director, may renew the licence for a period of twelve months, and annually thereafter.
- (2) In considering whether to renew a Licence under this Regulation, the Director shall have regard, in particular to:
 - (i) whether the Licensee complied with these Regulations and the conditions attached to the expiring Licence pursuant to these Regulations;
 - (ii) the management and efficient use of radio spectrum; and
 - (iii) the avoidance of harmful interference.
- (3) An application for renewal of a Licence shall be made at least 28 days before expiration of the Licence.
- (4) The granting or renewal of a Licence shall not be construed as warranting that the Licence shall be renewed at any time in the future.
- (5) A Licence shall (unless it has been revoked or renewed) expire on the day following the termination date specified in Part IV of the licence.

Licence fees

9. Fees as set out and provided for in the Second Schedule are hereby prescribed in relation to Licences for the purpose of section 6 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926).
10. (1) Any fee paid in respect of a Licence pursuant to these Regulations shall not be refundable in any event, and in particular, in the event of revocation, suspension or amendment of the Licence pursuant to these Regulations or through the operation of any other law.

(2) All fees prescribed under these Regulations shall be recoverable by the Director as a simple contract debt in any Court of competent jurisdiction.
11. 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.

Licence conditions

12. It shall be a condition of a Licence that:–
 - (a) The Licensee is the holder of a Telecommunications Licence.
 - (b) The teleport facility shall be used only on such radio frequency spectrum as may be specified in the Licence and such radio frequency shall be used in an efficient manner.
 - (c) The Licensee shall ensure that the fixed satellite earth stations comprising the teleport facility shall comply with the requirements of the RTTE Directive 1999/5/EC of the European Parliament and the Council of 9 March 1999¹.

¹ O.J. No. L91, 7.4.1999, p.10.

(d) The Licensee shall not, save with the prior written consent of the Director (which consent shall not unreasonably be 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.

(e) The Licensee shall ensure:

(i) that non-ionising radiation emissions from the fixed satellite earth stations that comprise the teleport facility operated by the Licensee are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) and these comply with any radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and EC law; and

(ii) that the fixed satellite earth stations that comprise the teleport facility operated by the Licensee are not installed or operated at a location in a manner such as to be the cause of the aggregate non-ionising radiation emissions exceeding the limits specified by the guidelines published by the ICNIRP and that these comply with any radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and EC law; and

(iii) that the fixed satellite earth stations that comprise the teleport facility are audited every 10 months from the date of issue or renewal of the Licence, and the results of such audit shall be provided to the Director no later than 20 days after the audit has been completed.

(f) The Licensee shall ensure that the teleport facility, or any part thereof, shall be installed, maintained, operated and used so as not to cause harmful interference, and in particular to

apparatus for wireless telegraphy 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.

(g) The Licensee shall ensure that the installation of the teleport facility, or any part thereof is effected, and its maintenance and operation is carried on, in such a manner as to ensure that the safety of persons or property is not endangered.

(h) The Licensee shall, where –

(i) the Director, or his or her authorised officer, is satisfied that the Licensee has failed, or is failing, to comply with sub-paragraphs (f) or (g) of this Regulation; and

(ii) serves on the Licensee a notice pursuant to Regulation 15 of these Regulations,

ensure that the notice is complied with.

(i) The Licensee shall ensure that he or she obtains any other approvals, consents, licences, permissions and authorities required by law for the installation, transport, maintenance, work and use of the fixed satellite earth stations that comprise the teleport facility to which the Licence relates and that he or she complies with any requirements relating to the fixed satellite earth stations that comprise the teleport facility under applicable national and EC law.

(j) The Licensee shall ensure that, save as may be required by law, access and use of the teleport facility to which the Licence relates is restricted to the Licensee, employees or agents of the Licensee and persons authorised by or on behalf of the Licensee.

(k) The Licensee shall take all reasonable measures to prevent any message or information which the Licensee is not authorised to receive from being received by the teleport facility.

(l) If any message or information which a Licensee is not authorised to receive is unintentionally received by means of the teleport facility, the Licensee shall not –

- (i) make known, or allow to be made known, its contents, its origin, its destination, its existence or the fact of its receipt to any person other than an authorised person, or
- (ii) reproduce in writing or otherwise, make use of or copy such message or information or allow it to be reproduced in writing, made use of or copied.

(m) The Licensee shall:–

- (i) furnish to the Director such information and reports relating to the operation of the teleport facility as the Director may, from time to time, by notice in writing served on the Licensee, require;
- (ii) keep all or any records which the Director, from time to time, informs the Licensee that he or she requires to be kept;
- (iii) on request from an authorised officer, produce his or her Licence for inspection by the authorised officer;
- (iv) upon becoming aware 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;
- (v) on request from an authorised officer, permit the authorised officer to inspect any records which the Director requires to be kept or which are kept by the Licensee in connection with the operation of the teleport facility to which the Licence relates;
- (vi) on request from an authorised officer, make available any test equipment or apparatus necessary to facilitate testing by the authorised officer of the teleport facility, or part thereof, or of any apparatus for wireless telegraphy situated therein and any other apparatus associated therewith;

(vii) within 28 days after the occurrence of any of the following events notify the Director of such an occurrence:

- (a) any change in the persons having control of the Licence, or in the directors of the Licensee or in the directors of any body corporate having control of the Licensee; and
- (b) any change in the persons having any interest in the Licensee or in a body corporate having direct or indirect control of the Licensee such that a person or group of persons acting together:-
 - (I) has acquired an interest of more than 20 per cent in aggregate; or
 - (II) having (or having had) an interest of more than 20 per cent in aggregate in the Licensee, has increased or decreased that interest.

For the purposes of this subparagraph, control means the possession, directly or indirectly of the power to direct or cause the direction of the management policies whether through ownership of voting rights, by contract or otherwise.

(n) The fixed satellite earth stations that comprise the teleport facility shall be used only at such geographic location or geographic locations as may be specified in Part VII and Part VIII of the Licence.

Enforcement, amendment, revocation and suspension

13. (1) The Director may amend the Licence from time to time where objectively justifiable and in a proportionate manner, in accordance with the Licensing Regulations, as applicable, and any requirement under applicable national or EC law.

- (2) Without prejudice to Regulations 14 and 15 of these Regulations and sub-section (1) of this Regulation, the Director may, in accordance with the Licensing Regulations as applicable, and in any case after serving notice on the Licensee specifying reasons and after affording the Licensee reasonable opportunity to make representations and after having considered any such representations, suspend or revoke the Licence in any of the following circumstances:
- (i) where a condition of the Licence (including any condition imposed under these Regulations or other relevant enactments) is contravened;
 - (ii) where the Licensee fails or refuses to comply with a direction of the Director or hinders or obstructs an authorised officer in the performance of his or her functions;
 - (iii) where the Licensee contravenes any provision of these Regulations or any other relevant enactment;
 - (iv) where the application made by the Licensee is or was false or misleading in a material respect;
 - (v) where, in the opinion of the Director, such revocation or suspension is required for the purpose of complying with national or EC law;
 - (vi) where the Licensee is an individual, a receiving order for bankruptcy has been made in respect of the estate of the Licensee;
 - (vii) 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 a 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;

- (viii) where the Licensee notifies the Director that he or she does not intend to use the teleport facility for a licensed purpose;
 - (ix) where the Licensee agrees with the Director that the Licence should be revoked;
 - (x) where the Licensee fails to use a teleport facility, or part thereof, for a period of more than 30 consecutive days during any time after the commencement of the Licence;
 - (xi) where, in circumstances where the Licensee is a body corporate, a change of which the Licensee is required to notify the Director under sub-paragraph (vii) of paragraph (m) of Regulation 12 of these Regulations occurs and that change is such that, if the Director was determining whether to award the Licence to the Licensee in the new circumstances, the Director would not award the Licence to the Licensee because of the change.
14. In addition to any power of revocation or suspension of a Licence conferred by these Regulations, the Director may at any time, by notice in Iris Oifigúil, suspend, in whole or part, for such a period as may be specified in the notice, all Licences for the time being in force or all such Licences relating to teleport facilities in a specified district, where he or she deems this necessary due to an emergency or in the interest of national security.
15. Notwithstanding any other provision of these Regulations, the Director or an authorised officer, may, where he or she is of the opinion that the fixed satellite earth stations that comprise a teleport facility, or part thereof, are causing, or are likely to cause, harmful interference, and in particular but not only to apparatus for wireless telegraphy 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, serve on the Licensee a notice, prohibiting the use, or as appropriate requiring that the use of such fixed satellite earth station, or any part thereof, as may be specified in the notice, cease forthwith or, on or before such date and time as may be so specified, and the Licensee shall not use, or as appropriate shall cease to use the fixed satellite earth station, or part thereof, unless and

until such notice has been withdrawn by the Director, or an authorised officer, and shall otherwise take such measures (if any) as may be specified by the Director, or an authorised officer, in the notice.

Compliance

16. (1) Subject to the provisions of these Regulations, the Licensing Regulations as applicable and any requirement under applicable national or EC law, 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 the fixed satellite earth stations that comprise the teleport facility or part thereof, as particularised in Part III of the Licence.

Authorised Officer

17. (1) The Director may appoint such members of the staff of the Director as he or she considers appropriate to be authorised officers for the purpose of these Regulations.
- (2) Without prejudice to any other functions or powers of authorised officers under these Regulations an authorised officer shall have the powers and obligations conferred on them by the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996) or such other legislation as may be enacted from time to time.

FIRST SCHEDULE

Wireless Telegraphy Act, 1926

Wireless Telegraphy (Teleport Facility) Regulations, 2001

Licence under Section 5 of the Wireless Telegraphy Act, 1926, to keep, have possession of, install, maintain, work and use fixed satellite earth stations comprising a teleport facility

1. The Director, in exercise of the powers conferred on him or her by Section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), and Section 4 of the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996) and pursuant to the provisions of the Wireless Telegraphy (Teleport Facility) Regulations, 2001 (S.I. No. of 2001) grants to the Licensee specified in Part I of this Licence authorisation to keep, have possession of, install, maintain, work and use the fixed satellite earth stations comprising the teleport facility having the characteristics described in the Licence and subject to the terms and conditions as set out in the Licence and prescribed by the Regulations and any other applicable provision of national or EC law.
2. This Licence shall come into operation and terminate on the dates specified in Part IV 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 commencement date until the termination date.
3. (1) Where the Licensee is domiciled in the European Union (the “EU”), the Licensee shall on the grant of his or her Licence furnish in writing to the Director the address and, where appropriate, fax number, within the EU to which notices and other documents under this Licence 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 this Licence to have been duly served by the Director.

- (2) Where the Licensee is domiciled outside the EU, the Licensee must include an address for service in Ireland.
4. The Licensee shall comply with the technical conditions set out in Part VI and with any alterations or additions thereto notified to the Licensee in writing by or on behalf of the Director.
5. It shall be a condition of the Licence that:-
 - (a) The Licensee is the holder of a Telecommunications Licence.
 - (b) The teleport facility shall be used only on such radio frequency spectrum as may be specified in the Licence and such radio frequency shall be used in an efficient manner.
 - (c) The Licensee shall ensure that the fixed satellite earth stations comprising the teleport facility shall comply with the requirements of the RTTE Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999¹.
 - (d) The Licensee shall not, save with the prior written consent of the Director (which consent shall not unreasonably be 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.
 - (e) The Licensee shall ensure:

¹ O.J. No. L91, 7.4.1999, p.10.

- (i) that non-ionising radiation emissions from the fixed satellite earth stations that comprise the teleport facility operated by the Licensee are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) and that these comply with any radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and EC law; and
 - (ii) that the fixed satellite earth stations that comprise the teleport facility operated by the Licensee are not installed or operated at a location in a manner such as to be the cause of the aggregate non-ionising radiation emissions exceeding the limits specified by the guidelines published by the ICNIRP and that these comply with any radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emissions standards specified by national and EC law; and
 - (iii) that the fixed satellite earth stations that comprise the teleport facility are audited every 10 months from the date of issue or renewal of the Licence and the results of such audit shall be provided to the Director no later than 20 days after the audit has been completed.
- (f) The Licensee shall ensure that the teleport facility, or any part thereof, shall be installed, maintained, operated and used so as not to cause harmful interference, and in particular to apparatus for wireless telegraphy 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.
- (g) The Licensee shall ensure that the installation of the teleport facility, or any part thereof is effected, and its maintenance and operation is carried on, in such a manner as to ensure that the safety of persons or property is not endangered.
- (h) The Licensee shall, where –

(i) the Director, or his or her authorised officer, is satisfied that the Licensee has failed, or is failing, to comply with sub-paragraphs (f) or (g) of this Paragraph; and

(ii) serves on the Licensee a notice pursuant to Regulation 15 of the Regulations,

ensure that the notice is complied with.

(i) The Licensee shall ensure that he or she obtains any other approvals, consents, licences, permissions and authorities required by law for the installation, transport, maintenance, work and use of the fixed satellite earth stations that comprise the teleport facility to which the Licence relates and that he or she complies with any requirements relating to the fixed satellite earth stations that comprise the teleport facility under applicable national and EC law.

(j) The Licensee shall ensure that, save as may be required by law, access to and use of the teleport facility to which the Licence relates is restricted to the Licensee, employees or agents of the Licensee and persons authorised by or on behalf of the Licensee.

(k) The Licensee shall take all reasonable measures to prevent any message or information which the Licensee is not authorised to receive from being received by the teleport facility.

(l) If any message or information which a Licensee is not authorised to receive is unintentionally received by means of the teleport facility, the Licensee shall not—

(i) make known, or allow to be made known, its contents, its origin, its destination, its existence or the fact of its receipt to any person other than an authorised person, or

(ii) reproduce in writing or otherwise, make use of or copy such message or information or allow it to be reproduced in writing, made use of or copied.

(m) The Licensee shall: -

- (i) furnish to the Director such information and reports relating to the operation of the teleport facility as the Director may, from time to time, by notice in writing served on the Licensee, require;
- (ii) keep all or any records which the Director, from time to time, informs the Licensee that he or she requires to be kept;
- (iii) on request from an authorised officer, produce his or her Licence for inspection by the authorised officer;
- (iv) upon becoming aware of any event likely to materially affect his or her ability to comply with the provisions of the Regulations, or the conditions set out or referred to in the Licence, notify the Director of that fact;
- (v) on request from an authorised officer, permit the authorised officer to inspect any records which the Director requires to be kept or which are kept by the Licensee in connection with the operation of the teleport facility to which the Licence relates;
- (vi) on request from an authorised officer, make available any test equipment or apparatus necessary to facilitate testing by the authorised officer of the teleport facility, or part thereof, or of any apparatus for wireless telegraphy situated therein and any other apparatus associated therewith;
- (vii) within 28 days after the occurrence of any of the following events notify the Director of such an occurrence:
 - (a) any change in the persons having control of the Licence, or in the directors of the Licensee or in the directors of any body corporate having control of the Licensee; and

(b) any change in the persons having any interest in the Licensee or in a body corporate having direct or indirect control of the Licensee such that a person or group of persons acting together:-

- (I) has acquired an interest of more than 20 per cent in aggregate; or
- (II) having (or having had) an interest of more than 20 per cent in aggregate in the Licensee, has increased or decreased that interest.

For the purposes of this subparagraph, control means the possession, directly or indirectly of the power to direct or cause the direction of the management policies whether through ownership of voting rights, by contract or otherwise.

(n) The fixed satellite earth stations that comprise the teleport facility shall be used only at such a geographic location or geographic locations as may be specified in Part VII and Part VIII of the Licence.

6. (1) The Director may amend the Licence from time to time where objectively justifiable and in a proportionate manner, in accordance with the Licensing Regulations, as applicable, and any requirement under applicable national or EC law.

(2) Without prejudice to Paragraph 7 of this Licence and sub-paragraph (1) of this Paragraph, the Director may, in accordance with the Licensing Regulations as applicable, and in any case after serving notice on the Licensee specifying reasons and after affording the Licensee reasonable opportunity to make representations and after having considered any such representations, suspend or revoke the Licence in any of the following circumstances:

(i) where a condition of the Licence (including any condition imposed under the Regulations or other relevant enactments) is contravened;

- (ii) where the Licensee fails or refuses to comply with a direction of the Director or hinders or obstructs an authorised officer in the performance of his or her functions;
- (iii) where the Licensee contravenes any provision of the Regulations or any other relevant enactment;
- (iv) where the application made by the Licensee is or was false or misleading in a material respect;
- (v) where, in the opinion of the Director, such revocation or suspension is required for the purpose of complying with national or EC law;
- (vi) where the Licensee is an individual, a receiving order for bankruptcy has been made in respect of the estate of the Licensee;
- (vii) 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 a 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;
- (viii) where the Licensee notifies the Director that he or she does not intend to use the teleport facility for a licensed purpose;
- (ix) where the Licensee agrees with the Director that the Licence should be revoked;
- (x) where the Licensee fails to use the teleport facility or part thereof for a period of more than 30 consecutive days during any time after the commencement of the Licence;

(xi) where, in circumstances where the Licensee is a body corporate, a change of which the Licensee is required to notify the Director under sub-paragraph (vii) of paragraph (m) of Regulation 12 of the Regulations occurs and that change is such that, if the Director was determining whether to award the Licence to the Licensee in the new circumstances, the Director would not award the Licence to the Licensee because of the change.

7. Notwithstanding any other provision of the Licence, the Director or an authorised officer, may, where he or she is of the opinion the fixed satellite earth stations that comprise a teleport facility, or part thereof, are causing, or are likely to cause, harmful interference, and in particular but not only to apparatus for wireless telegraphy 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, serve on the Licensee a notice, prohibiting the use, or as appropriate requiring that the use of such fixed satellite earth station, or any part thereof, as may be specified in the notice, cease forthwith or, on or before such date and time as may be so specified, and the Licensee shall not use, or as appropriate shall cease to use the fixed satellite earth station, or part thereof, unless and until such notice has been withdrawn by the Director, or an authorised officer, and shall otherwise take such measures (if any) as may be specified by the Director, or an authorised officer, in the notice.
8. (1) Subject to the provisions of the Regulations, the Licensing Regulations as applicable and any requirement under applicable national or EC law, 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 sub-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 the fixed satellite earth stations that comprise the teleport facility or part thereof, as particularised in Part III of this Licence.

9. In this Licence –

“audit” means an independent audit carried out by a competent third party (the competency of the auditor to be determined by the Director) at the expense of the licensee, to assess compliance with any radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation standards specified by national and EC law;

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

“equivalent isotropically radiated power” means the product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna;

“fixed satellite earth station” means a satellite earth station or satellite earth stations, operating to the geostationary orbit in the fixed satellite service and in frequencies above 3 GHz which form part of a teleport facility;

“fixed satellite service” means a radio-communication service between earth stations at specified fixed points when one or more satellites are used;

“harmful interference” means interference which endangers the functioning of a radionavigation service or other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts any lawfully operating radio-communications service;

“high altitude platform station” means apparatus for wireless telegraphy located on an object at an altitude of 20km to 50km and at a specified, nominal, fixed point relative to the Earth;

“Licence” means a Licence under section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), for a teleport facility as defined in the Regulations and cognate words shall be construed accordingly;

“Licensee” means the holder of a Licence;

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

“non-transportable satellite earth station” means a fixed satellite earth station operated at a single specified location;

“radio-communications service” means a service involving the transmission, emission and/or reception of radio waves specified for specific telecommunications purposes;

“satellite earth station” means apparatus for wireless telegraphy, located on the Earth’s surface, intended for the transmission of radio signals to, and/or the reception of radio signals from a space station;

“space station” means apparatus for wireless telegraphy that is located on an object which is beyond the major portion of the Earth’s atmosphere and which is not a high altitude platform station;

“steerable antenna” means an antenna that can be continuously varied in azimuth and elevation during its use, enabling it to operate to more than one space station, these being at different locations;

“telecommunications hub” means a facility providing access, to or from telecommunications networks, systems or services to which section 111 of the Act of 1983 applies (as amended by the Licensing Regulations);

“Telecommunications Licence” means a Licence under section 111(2) of the Act of 1983;

“teleport facility” means a telecommunications hub consisting of three or more non-transportable satellite earth stations which may be subject to international co-ordination as required and provided for under the Radio Regulations of the International

Telecommunications Union, which are capable of transmitting on more than one frequency to more than one space station simultaneously using steerable antennae;

“the Act of 1926” means the Wireless Telegraphy Act, 1926 (No. 45 of 1926);

“the Act of 1983” means the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983);

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

“the Regulations” means the Wireless Telegraphy (Teleport Facility) Regulations, 2001 (SI. No. of 2001);

“transportable satellite earth station” means a fixed satellite earth station which is transportable, which operates at varying locations and which remains in a fixed location during operation.

PARTS

Part I

Licensee

Part II

Type of Licence

Part III

Particulars of Fixed Satellite Earth Stations comprising the Teleport Facility

Part IV

Licence Commencement and Termination Dates

Part V

Addresses for Notices

Part VI

Technical Conditions for Each Fixed Satellite Earth Station comprising the Teleport Facility

Part VII

Geographic Locations of Each Fixed Satellite Earth Station comprising the Teleport Facility

Part VIII

Geographic Location of the Teleport Facility

SECOND SCHEDULE

FEES PAYBLE IN CONNECTION WITH LICENCES

Co-ordination Fees

1. (i) For a Licence for a teleport facility an initial, non-refundable co-ordination fee of IR£ 78,756.40 shall be paid by the licensee on application for a licence.

(ii) For each additional fixed satellite earth station which it is desired to add to the teleport facility subsequent to the initial grant of the licence, a further fee of £1575.13 shall be paid by the Licensee on application for the addition of the additional fixed satellite earth station by way of amendment to Part III, Part VI and Part VII of the licence, in accordance with the provisions of these Regulations.

(iii) For each additional space station to which it is desired for one or more of the fixed satellite earth stations, comprising the teleport facility, to communicate with, a further co-ordination fee of £1575.13 shall be paid by the Licensee, in respect of each fixed satellite earth station comprising the teleport, on application for the addition of the space station by way of amendment to Part III of the licence, in accordance with the provisions of these Regulations.

Operation Fees

2. The Licensee shall pay an operation fee, calculated on the basis of each individual fixed satellite earth station comprising the teleport, on the issue of the Licence. The amount payable in relation to the operation fee will depend on the bandwidth of the radio spectrum used by each of the fixed satellite earth stations comprising the teleport, each of which shall be set out in Part III of the Licence. The amount of the Licence fee is provided for in the numerical table of this paragraph as set out below:

Bandwidth of Radio Spectrum Used	Licence Fee (£IR)
Less than 500kHz	39378.20
500kHz to <2MHz	49222.75
2MHz to <11MHz	59067.30
11MHz to <40MHz	78756.40
40MHz to 80MHz	98445.50

3. The Licensee shall pay an operation fee, calculated on the basis of each individual fixed satellite earth station comprising the teleport, on the renewal of the Licence for a period of 12 months in accordance with the provisions of Regulation 8. The amount payable in relation to the operation fee payable on renewal of the licence will depend on the bandwidth of the radio spectrum used by each of the fixed satellite earth stations comprising the teleport, each of which shall be set out in Part III of the Licence. The amount of the Licence fee is provided for in the numerical table of this paragraph as set out below:

Bandwidth of Radio Spectrum Used	LicenceFee (£IR)
Less than 500kHz	7875.64
500kHz to <2MHz	9844.55
2MHz to <11MHz	11813.46
11MHz to <40MHz	15751.28
40MHz to 80MHz	19689.10

GIVEN under my hand this 22nd day of January, 2001

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 22nd day of January , 2001

Mary O'Rourke T.D.

EXPLANATORY NOTE

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

These Regulations provide for the issuing of Licences for Teleport Facilities which comprise of three or more satellite earth stations of the Fixed Satellite Service (as set out by the ITU), operating to satellites in the geostationary orbit, in frequencies above 3 GHz.