

Statutory Instrument

S.I. No. 645 of 2006

**WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) REGULATIONS, 2006**

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The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6(1) of the Wireless Telegraphy Act 1926, (No. 45 of 1926), transferred by section 9(1) of the Communications Regulation Act 2002, (No. 20 of 2002) and with the consent of the Minister for Communications, Marine and Natural Resources, pursuant to section 37 of the Communications Regulation Act 2002, hereby makes the following Regulations:

Citation

1. (1) These Regulations may be cited as the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 2006.
(2) These Regulations will come into force on 1st January 2007.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires -

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

“Act of 1972” means that Wireless Telegraphy Act 1972 (No.5 of 1972);

“Act of 2002” means the Communications Regulation Act 2002 (No. 20 of 2002);

“Apparatus” means apparatus for wireless telegraphy operating in the frequency bands designated by the Commission for UHF Television Programme Retransmission and, in relation to a Licence, means apparatus to which the Licence relates;

“Authorisation Regulations” mean European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003 (S.I. 306 of 2003);

“Commission” means the Commission for Communications Regulation established under the Act of 2002;

“DTT” means Digital Terrestrial Television;

“Deflector Network” means a network of retransmission stations;

“Licence” means a licence under section 5 of the Act 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 coordinated 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 programme service that originates in the State 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;

“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 Commission;

“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, unless the contrary intention appears:
- (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 Act 2005 applies 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 retransmission stations having the characteristics set out in Part I of the Licence for the purposes of the retransmission of licensed programme services.

Application for Licences and Form of Applications and Licences

4. (1) An application for a licence shall be made to the Commission and shall be:

(a) in such form as shall be specified by the Commission;

and

(b) accompanied by a non-refundable application fee, in respect of each frequency channel at each transmission station, the amount of which shall be specified by the Commission.

(2) A person who makes an application under paragraph (1) of this Regulation shall furnish to the Commission such information as the Commission may reasonably require for the purpose of its functions under these Regulations and, if the person, without reasonable cause, fails to comply with this paragraph, the Commission may refuse to grant a licence to the person.

(3) A Licence shall be in the form set out in the Schedule to these Regulations or such other form as the Commission may from time to time determine.

Addresses for notices

5. (1) Every Licensee shall on the grant of his or her Licence furnish in writing to the Commission the address and, where appropriate, fax number and e-mail address, to which notices and other documents under these Regulations may be delivered or sent by post or by telecommunications services, to him or her by or on behalf of the Commission and shall, as occasion requires, likewise furnish any change of address or fax number or e-mail address, and such notice or document delivered to, or sent by post, or by such telecommunications services, to such address or fax number or e-mail address so furnished shall be deemed for the purposes of these Regulations to have been duly served by the Commission.
- (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, or the sender's facility for the reception of electronic mail generates a message confirming receipt of the electronic mail.

Duration and Renewal of Licences

6. (1) A Licence that has been granted or renewed shall (unless it has been or is revoked) remain in force for the period of one year from the date on which it is expressed to come into operation and, unless renewed, shall then expire.
- (2) A Licence may be renewed from time to time by the Commission.
- (3) Notwithstanding paragraph (2) of this Regulation a Licence shall not be renewed on the third anniversary after the first grant of the Licence and shall then expire.
- (4) On application by or on behalf of a Licensee to the Commission before the expiration of his or her Licence, the Commission may, by notice in writing

given to the Licensee or sent to the Licensee at the address of the Licensee specified in the Licence or notified to the Commission by the Licensee in accordance with the Licence, renew the Licence for a specified period from the day following the expiration of the last previous period during which it was in force. 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) For the avoidance of doubt, no Licence shall be granted pursuant to these Regulations after 31st December 2009.
- (6) A holder of a Licence granted under the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 2003, may apply to renew that Licence under these Regulations.

Conditions of Licences

7. It shall be a condition of a Licence that:

- (1) the Licensee shall comply with the conditions contained within the Licence and these Regulations;
- (2) the Apparatus shall be used only for the purpose of Retransmission;
- (3) the Apparatus shall be used only on such frequency channels as may be specified in the Part I of the Licence;
- (4) the Licensee shall not, without the consent of the Commission, which shall not be unreasonably withheld, assign the Licence or any of the powers duties or functions conferred by it or otherwise transfer any of the rights or obligations conferred by it;
- (5) the Licensee shall ensure that non-ionising radiation emissions from each installation associated with the network operated by the Licensee for the purposes of the Service are within the limits specified by the guidelines published by the

International Commission for Non-Ionising Radiation Protection ("ICNIRP"). and that it complies with any radiation emission standards adopted and published from time to time by ICNIRP, any standards of the European Committee for Electrotechnical Standards and any standards which may from time to time be specified by the European Union and that a Deflector network operated by the Licensee is 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 it complies 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;

- (6) the Licensee shall comply with all commitments and obligations contained in the Schedule of its Licence;
- (7) the Licensee shall pay the fees set out in Regulation 9 of these Regulations;
- (8) the Licensee shall comply with any special conditions imposed under section 8 of the Act of 1972 and subject to which this Licence is deemed by subsection (3) of that section to be issued;
- (9) the Licensee shall not place any restriction on the make or type of apparatus for wireless telegraphy which may be used to receive a Licensed Programme Service;
- (10) the Licensee shall use the apparatus for the transmission of no more than four frequency channels as contained in the schedule to its Licence.

Amendment and Revocation

- 8. (1) The Commission may amend the Licence from time to time where objectively justifiable and in a proportionate manner. Any Amendments shall be in accordance with the Authorisation Regulations and any other requirements under applicable national or European Community law.

- (2) The Commission may amend the Licence where it is of the opinion that, in the interest of the efficient and orderly use of apparatus for wireless telegraphy or radio frequency spectrum, it is necessary to do so.
- (3) Without prejudice to paragraph (1) of this Regulation, at the request of the Licensee, the Commission may, if it considers it appropriate to do so, amend the Licence by adding to, deleting from or altering the radio frequency spectrum specified in the Licence on which the Apparatus may be used, and any such amendment shall be effected by notice in writing from the Commission specifying the amendment and given to the Licensee or sent to the Licensee at the address specified in the Licence or notified to the Commission pursuant to the Licence.
- (4) The Commission may revoke the Licence where objectively justifiable, and in a proportionate manner. Any revocation shall be in accordance with the Authorisation Regulations and any other requirements under applicable national or European Community law.

Fees

9. (1) A fee shall be payable by the Licensee to the Commission prior to the grant or renewal of a Licence.
 - (2) The amount of the fee shall be equivalent to €50 per transmitter per annum.
 - (3) Additional fees may be levied by the Commission in accordance with the provisions of the Authorisation Regulations.
 - (4) The fee specified in this Regulation shall be paid to the Commission for Communications Regulation by way of banker's draft or such other means and on such terms as the Commission may decide.

- (5) Where a Licence is suspended or revoked, the Licensee shall not be entitled to repayment of any part of the fee paid by the Licensee under this Regulation.
- (6) Notwithstanding Regulation 6(2) an amount payable by a person in respect of a fee under this Regulation may be recovered by the Commission from the person as a simple contract debt in any court of competent jurisdiction.
- (7) If the Licence is awarded for a portion of a year then the Licence fee to be paid by the Licensee shall be calculated as follows:

$$A \times (B \div 12) = C$$

Where A is the appropriate annual fee; B is the number of whole months, or parts thereof, for which the Licence is granted and C is the appropriate Licence Fee to be paid.

Interference

- 10. (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 Commission is satisfied that the Licensee has failed to comply with subparagraph (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 Commission and shall otherwise take such measures (if any) as may be specified by the Commission 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 Commission is satisfied that the Licensee has failed to comply with subparagraph (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 Commission and shall otherwise take such measures (if any) as may be specified by the Commission 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 Commission may suspend, revoke or vary the Licence where the Licensee suffers interference, of any type whatsoever, from the 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 Commission shall revoke the Licence with respect to the reserved spectrum where it is satisfied that continued operation would cause interference, of any type whatsoever, with transmissions of DTT.

(5) Where the Licensee is licensed to retransmit Licensed Programme Services on nonreserved spectrum and such retransmission causes interference, of any type whatsoever, with transmissions of DTT the Commission may suspend, revoke or vary the licence.

Licensee to satisfy all Legal Requirements

11. Nothing in these Regulations shall absolve the Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the operation of a Deflector Network and for the exercise of his or her rights or discharge of his or her obligations under the Licence. The Licensee is responsible for all costs, expenses and other commitments (financial and non-financial) in respect of the Licence and the provision of a Deflector Network and the Commission shall bear no responsibility for such costs, expenses or commitments.

SCHEDULE

**WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) REGULATIONS, 2006**

Licence under section 5 of the Wireless Telegraphy Act, 1926, to keep and have possession of apparatus for wireless telegraphy for the purpose of operating a UHF television programme retransmission network.

The Commission, in exercise of the powers conferred on it by section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926) and transferred by Section 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002) hereby grants to the licensee specified authorisation to keep, have possession of, install, maintain, work and use apparatus as specified in the Second Schedule of this licence and subject to the terms and conditions as set out in the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 2006 (S.I. No. 645 of 2006).

The Commission for Communication Regulation, hereby grants the following Licence to:
_____ of _____ / having its registered office at

1. The Licence shall come into operation on the ____ day of ____, 20__ and unless previously revoked or renewed shall expire on the ____ day of ____, 20__
2. The Licensee shall ensure that it complies with the Technical details and conditions contained in Parts II and IV of this licence;

Part I

The Apparatus,

Places at which the Licensee is authorised by this Licence to keep and have possession of the Apparatus,

Portion of radio frequency spectrum on which the Apparatus is authorised by this Licence to be used,

Particulars of retransmission stations

Part II

Licence commencement date.

Part III

Address for notices

Part IV

Technical Conditions

Part V

Specific content provided by the licensee

GIVEN under the Official Seal of the Commission for Communications Regulation,
this 18th day of December, 2006

L.S.

Mike Byrne

On behalf of the Commission for Communication Regulation

The Minister for Communications, Marine and Natural Resources consents to the making of
the foregoing Regulations.

GIVEN under the Official Seal of the Minister for Communications, Marine and Natural
Resources this 18th day of December, 2006

L.S.

Noel Dempsey 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 issue of licences to keep and have possession of apparatus for wireless telegraphy for the purposes of the retransmission of Licensed Programme Services in the UHF television bands.