

Appendix D

LICENSING DIRECTIVE

The European Union Directive, 97/13/EC, on a common framework for general authorisations and individual licences, in the field of telecommunications services, came into force on 1 January 1998. It has been enacted into UK legislation by Statutory Instrument 1997 number 2930, which amended both the Telecommunications Act 1984 (T Act) and the Wireless Telegraphy Act 1949 (WT Act).

In summary, the aim of the Directive is to ensure that Member States use fair and transparent procedures for issuing licences which allow licensees to provide telecommunications services or networks.

How will the Directive impact on Radio Licences issued by RA?

The Directive will apply to approximately 75% of licence classes, involving about a quarter of all licences on issue. However, it would be inequitable to treat licence holders differently, and therefore RA will seek to apply the provisions of the Directive to all of the licence classes it issues including, where applicable, licences in areas not covered by the Directive. In the interests of fairness to all customers, RA will also seek to apply the provisions to licence holders/applicants resident in The Isle of Man and the Channel Islands, as service based

Directives do not extend to these territories. In most cases current licensing policy and procedures within RA already follow the intentions of the Directive.

The main requirements of the Directive are as follows:

- No licence application shall be refused unless spectrum is unavailable, or on the grounds of public security, safety, morality, or if insufficient information has been provided by the applicant.
- Licences shall be granted within 6 weeks of receipt of a correctly completed application but this may be extended if International co-ordination is required or if the licence is subject to competitive bidding.
- Licence fees shall normally be set to recover administrative costs incurred by the licensing authority. However, where scarce resources (such as the radio spectrum) are to be used, the Directive permits national authorities to impose charges which reflect the need to ensure optimal use of these resources.
- Should an application be refused, or the licence varied or revoked, the applicant shall be told why and shall be able to make representations and have the right to appeal against the decision.
- The Agency may limit the number of licences for a new service where there is a spectrum constraint. In doing so, it must publish its reasons and allow interested parties to express their views. Such reasons must include the need to maximise benefits to users and to promote competition. Invitations for licences may then be invited. If more spectrum subsequently becomes available for the service, this fact must

be published and further applications will be invited.

- Member states shall have the authority to ensure that interference to users of the spectrum is minimised and can take remedial action against licensees who are causing (or may cause) interference to other users.
- Where the provision of a new telecommunications service (which is not yet covered by an existing authorisation) cannot operate without that authorisation, Member States shall, within six weeks of receiving an application, adopt provisional conditions allowing the services to operate, or reject the application and inform the concerned party of the reasons for the rejection.

Further Information

The Agency has produced an Information booklet, 'Guidance notes for applicants for radio licences granted under the WT Act' (RA342), which gives general information regarding all WT Act Licences. This includes the purpose of a radio licence, why one is needed, licensing procedures, terms and conditions as well as the Agency's set Quality of Service Performance Targets for issuing licences. Information is also included on forthcoming changes to the way in which licences are issued, information on the 3 broad types of licences - pre-packed, customised and spectrum licences and the way in which fees are set depending on the licence type.

Copies of the booklet are available from the Agency's Library and Information service and can also be found on our website.