



General Authorisation to provide Electronic Communications Networks and/or Services

General information and Notification Form

Notice C06/16

22nd November 2016

Gibraltar Regulatory Authority

Communications Division

2nd Floor, Eurotowers 4, 1 Europort Road
Gibraltar

Telephone +350 20074636 Fax +350 20072166

Email: communications@gra.gi

Web: <http://www.gra.gi>

Contents

- 1. Information on General Authorisations..... 1**
- 1.1 Definitions 1**
- 1.2 Exemptions from the requirement to notify 2**
- 1.3 Notification Form 3**
- 1.4 Important notice and additional requirements 3**
- 1.5 Method of submitting a Notification..... 3**
- 1.6 Register of authorised persons to provide electronic communications
networks/services..... 4**
- 1.7 General Authorisation administrative charges 4**
- 1.8 Calculation of administrative charge..... 5**
- 2. Notification of amendments to a General Authorisation 6**
- 2.1 Updates and changes to a General Authorisation..... 6**
- 2.2 Cessation of a General Authorisation 6**
- 3. Data Protection Clause 7**
- Notification Form 8**

1. Information on General Authorisations

In accordance with the provisions of the Communications Act (2006) (the Act) and the Communications (Authorisation and Licensing) Regulations 2006 (the Authorisation Regulations), a General Authorisation is required for the provision of electronic communications networks and/or services in Gibraltar.

Under the terms of the Authorisation Regulations, operators are free to commence operations once a completed notification has been received, but operations are subject to the conditions set out in "Notice No. 08/2011 - Notice on General Conditions (Notice on General Conditions)."

The respective categories of General Authorisation include the establishment and operation of:

- Publicly available Electronic Communications Networks;
- Publicly available Electronic Communications Services.

Under the Authorisation Regulations, any person may provide an electronic communications network and/or service, provided they have notified the Gibraltar Regulatory Authority (the Authority) in advance (unless the network or service concerned is exempt). See section 1.2.

The provision and use of radiocommunications based services are subject to Part VI of the Act. Under the Act, radiocommunications apparatus, if not licence exempt (Notice concerning exemptions from requirement to obtain a licence. Notice No. 11/08), require a licence. The procedures which apply to such licences are set out in Part 3 of the Authorisation Regulations.

1.1 Definitions

The Act defines Electronic Communications Networks and Services for the purposes of the regulatory framework as follows:

"Electronic communications network" means

(a) a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of signals of any description ; and

(b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of the signals –

(i) apparatus comprised in the system;

(ii) apparatus used for the switching or routing of the signals; and

(iii) software and stored data.

"Electronic communications service" means a service consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals, except in so far as it is a content service.

"Radiocommunications" means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy which either –

(a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or

(b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for radiocommunications and apparatus for radiocommunications or radiocommunications apparatus shall be construed as references to stations and apparatus for the emitting or receiving of such electro-magnetic energy:

Provided that where –

(i) a station or apparatus for radiocommunications cannot lawfully be used without a radiocommunications licence or could not lawfully be used without a radiocommunications licence but for regulations under Part VI of this Act,

(ii) any such electro-magnetic energy which is received by that station or apparatus serves for the conveying of messages, sound or visual images, and

(iii) any apparatus is coupled by wire, radio, optical or any electromagnetic means with that station or apparatus for the purpose of enabling any person to receive any such messages, sound or visual images,

the apparatus so coupled shall be deemed for the purposes of Part VI of this Act to be apparatus for radiocommunications”.

1.2 Exemptions from the requirement to notify

Persons intending to provide electronic communications networks and/or services should firstly establish whether the network and/or service which they intend to provide requires notification.

Under the “Notice Concerning An Exemption From The Requirement To Notify The Provision Of An Electronic Communications Network Or Service, Notice No. 3/2006” the GRA has exempted particular classes of networks or services from the notification requirement.

The GRA has determined that operators who do not offer electronic communications networks and/or services to third parties are exempt. Exempted operators are, however, still obliged to operate in conformity with the Notice on General Conditions and any other updates made to this Notice.

If there is any doubt about whether it is necessary to make a notification, please contact the Authority for guidance using the email: communications@gra.gi or the postal address below:

**Gibraltar Regulatory Authority
Communications Division
2nd Floor, Eurotowers 4
1 Europort Road
Gibraltar
GX11 1AA**

1.3 Notification Form

Any person who intends to provide any of the above services is required to notify the Authority by completing the **Notification Form** found at the end of this document.

Any person who intends to submit a notification for a general authorisation is encouraged to contact the Authority beforehand in order to facilitate the process and obtain guidance where appropriate.

There is no fee for the submission of the Notification Form.

1.4 Important notice and additional requirements

A general authorisation does not automatically entitle any person to, and does not exempt it from, the obligation to obtain and/or notify for and comply with, any permit, right of use, or licence in respect of numbering resources, equipment, or radio spectrum, and/or other approval or authorisation however so described, that may be necessary in Gibraltar law to construct, operate and maintain the network and/or services.

Where networks or services are provided by a number of separate legal entities with common ownership or control (e.g. different subsidiaries or associated companies established to provide distinct services), a separate notification form should be completed by each legal entity. When forwarding notifications, companies should indicate the identity of related or connected companies which are also engaged in the provision of networks or services.

1.5 Method of submitting a Notification

Original and duly filled-in notification forms must be submitted to the Authority in an envelope clearly marked "Notification Form for General Authorisation" by hand or registered mail addressed to:

**The Chief Executive Officer
Gibraltar Regulatory Authority
Communications Division
2nd Floor, Eurotowers 4
1 Europort Road
Gibraltar
GX11 1AA**

These forms may also be completed electronically, by filling in the required fields, solely to facilitate processing and sent to communications@gra.gi. However, formal notification will only be recognised once the original signed and duly filled-in forms are received by the Authority.

Persons who have submitted a completed Notification Form are deemed to be authorised and may commence operations without further formalities subject of course to meeting any other

requirements provided for in law, such as planning permission or any other form of licensing required for the physical network i.e. point-to-multipoint licence.

In handling a notification, the Authority will ensure that the Notification Form is properly completed and may, if necessary, contact the notifying entity. The notification process comprises the following steps:

(i) A completed Notification Form is sent to the GRA. If the form is completed correctly, the person is deemed to be authorised on the date of receipt of the Notification Form by the GRA.

(ii) The GRA may request further information from a notifying person if, in its opinion, the notification form submitted has not been completed properly.

(iii) The GRA will publish details of the name, address and telephone number of the notifying person on a register of persons that have notified the GRA along with details of the intended network and/or service.

1.6 Register of authorised persons to provide electronic communications networks/services

In accordance with Section 4(10) of the Authorisation Regulations, upon receipt by the Authority of a correctly completed Notification Form "*...the person concerned is deemed to be an authorised person who, as such, is entitled to provide the notified electronic communications network or electronic communications service.*" However, operations are subject to the conditions set out in the Notice on General Conditions.

The Authority shall then update the register of authorised persons after receipt of a correctly completed notification form. This register is publicly available and is published in accordance with Section 32(4) of the Act and Section 37 of the Authorisation Regulations.

In the event that the form is not completed correctly, the Authority shall inform the notifying party accordingly. Authorised persons are responsible for ensuring receipt of notification either directly with the Authority or by reference to the register of authorised persons, available on the Authority's website www.gra.gi.

1.7 General Authorisation administrative charges

In accordance with Section 18(4) of the Communications Act 2006 and by regulations 31 and 33 of the Authorisation Regulations, the following charging principles shall be applied:

- A service provider shall, at the beginning of each charging period, pay to the Authority an administrative charge of £2,000 and shall be increased by 4% cumulatively each charging year¹.
- A network provider shall, at the beginning of each charging period, pay the Authority an administrative charge which is to be calculated in accordance with the principle set

¹ For the period 1st April 2016 – 31st March 2017, this fee is currently £2960.00

out in 1.8 in each charging year and will never be for an amount which is less than £55,000.

1.8 Calculation of administrative charge

The administrative charge applicable to all network providers, shall be calculated in accordance with the following charging principle–

$$\frac{A \times C}{B}$$

where A is the relevant turnover of the network provider, B is the total relevant turnover of all network providers and C is the costs incurred by the Authority in accordance with regulation 31 of the Authorisation Regulations in the previous charging year, less the amount received by the Authority under paragraph 3(1).

A network provider must provide the Authority, at the end of each charging year, with –

(a) a statement of his relevant turnover for that charging year signed by that person or, if that person is a corporation, by two of its directors; and

(b) if that person is an individual, a report by an auditor supporting the statement referred to in paragraph (a); or

(c) if that person is a corporation, a copy of its annual accounts.

2. Notification of amendments to a General Authorisation

2.1 Updates and changes to a General Authorisation

In accordance with regulation 4(8) of the Authorisation Regulations, authorised undertakings or persons are required to notify the Authority of any changes to the information supplied in the Notification Form within seven days following such change in relation to the information supplied, namely:

- particulars identifying the person giving the notification including, in the case of a body corporate, the company registration number, its business address and, where that address differs from the address of its registered office, the address of its registered office;
- particulars identifying one or more persons with addresses in Gibraltar who, for the purposes of matters relating to the notified network or service, are authorised to accept service at an address in Gibraltar on behalf of the person giving the notification;
- particulars identifying one or more persons who may be contacted if there is an emergency that is caused by or affects the provision of the notified network or service;
- addresses and other particulars necessary for effecting service on or contacting each of the persons mentioned above.

Authorised undertakings are required to fill in the Notification Form and submit to the Authority with all the relevant amendments.

2.2 Cessation of a General Authorisation

Under the provisions of 4(6) of the Authorisation Regulations, authorised persons must notify the Authority of their intention to cease providing a network and/or service before the provision of such network and/or service is terminated.

Formal notification to the Authority is required in the form of an original letter.

The register of authorised persons will then be updated following receipt of the original letter.

3. Data Protection Clause

The Authority will process any personal data supplied on this application/notification form, in accordance with the provisions of the Data Protection Act 2004, for all or any of the following purposes:

- the proper processing of your application/notification form as submitted;
- preventing, detecting and/or prosecuting fraud, any administrative non-compliance, and any other non-compliant or criminal activity or omission which the Authority is bound to report and/or act upon whilst meeting any other legal or regulatory obligations;
- internal management and administration, research and statistics, and the development and improvement of the Authority's services;
- the proper conduct of the Authority's obligations arising under any law.

Relevant data will be disclosed or shared as appropriate with all our employees and with other third parties if pertinent to any of the purposes listed above.

By signing this form, you confirm that you are giving your explicit consent, on behalf of yourself and all the other persons specified in this form, for the Authority to process your respective personal information as outlined above.

The Authority will implement appropriate measures and safeguards with a view of protecting the confidentiality, integrity and availability of all data processed.

Notification Form

| DETAILS OF NOTIFYING PERSON | |
|------------------------------------|--|
| Name of undertaking: | |
| Company registration number: | |
| Registered address: | |
| Website: | |
| Email: | |
| Telephone: | |

| CONTACT DETAILS (Primary contact person) | |
|---|--|
| Name: | |
| Job Title: | |
| Email: | |
| Tel: | |
| Mobile: | |

| CONTACT DETAILS (Secondary contact person) | |
|---|--|
| Name: | |
| Job Title: | |
| Email: | |
| Tel: | |
| Mobile: | |

ELECTRONIC COMMUNICATIONS NETWORK AND/OR SERVICE

Please indicate whether you intend to provide a communications network, a service or both:

Publicly available Electronic Communications Networks
Publicly available Electronic Communications Services

ELECTRONIC COMMUNICATIONS NETWORK

Indicate one or more categories of networks and/or services to be provided from the following list:

Type of Network:

Radiocommunications
Copper Lines
Co-axial cable
Fibre cable
N/A

Others (*please specify*) _____

Connectivity to end-users:

Fixed
Mobile
Wireless
N/A

Others (*please specify*) _____

ELECTRONIC COMMUNICATIONS SERVICES

Telephony:

Fixed Traditional
Mobile
IP

Others (*please specify*) _____

TV:

Satellite
Cable
IP
Off the air / Terrestrial

Others (*please specify*) _____

Internet Access:

- Fixed
- Fixed Wireless
- Mobile
- Hosting

Others (please specify) _____

Data:

- Leased Circuit
- Mobile

Others (please specify) _____

Geographical Coverage and Scope of Network:

- North District
- South District
- Upper Town
- Midtown
- Westside
- Eastern side

Others (please specify) _____

Planned date(s) of commencement of the relevant activity:

(please specify) _____

On behalf of the notifying undertaking, we/I hereby declare that:

- The information as provided in the Notification Form is accurate and complete in all respects; and I have noted the following documents:
 - The Communications Act 2006
 - The Communications (Authorisation & Licensing) Regulations 2006
 - Notice No. 08/2011: Notice on General Conditions
 - Notice No. 03/2006: Notice concerning an exemption from the requirement to notify the provision of an electronic communications network or service.
- We/I have read and understood the contents of all the pages listed in this document; and
- Shall at all times comply with lawful decisions and directions of the Gibraltar Regulatory Authority and with the obligations in law; and
- Shall be responsible to pay fees with effect from the date of notification and as may be lawfully requested and according to the timeframes established by the Authority; and
- Shall at all times comply in every respect with the conditions attached to the applicable category or categories of the General Authorisation; and
- Shall inform the Gibraltar Regulatory Authority of any amendments in accordance with this notification.

Full Name of Signatory # 1: _____

Job Title: _____

Signature: _____ *(signature required)*

ID Card (or passport) No.: _____

Date: _____

Full Name of Signatory # 2 (if applicable): _____

Job Title: _____

Signature: _____ *(signature required)*

ID Card (or passport) No.: _____

Date: _____