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COMMUNICATIONS ACT 2006

NOTICE CONCERNING THE GENERAL CRITERIA FOR THE GRANT OF LICENCES LIMITED IN NUMBER.

NOTICE No. 7/2006.

In exercise of the powers conferred on it by Section 69 (1) (b) of the Communications Act 2006, and having obtained the consent of the Minister with responsibility for Communications, the Gibraltar Regulatory Authority hereby issues this Notice pursuant to section 12 of the Communications Act 2006.

1. Title.

This Notice may be cited as the Communications (General Criteria for the Grant of Licences Limited in Number) Notice 2006.

2. Interpretation.

(1) In this Notice and in the Schedule—

“the Direction” means Direction M05/2006 concerning the limitation on the number of licences to be granted in respect of particular classes and descriptions of station or apparatus for radiocommunications for the provision of an electronic communications network or an electronic communications service;

“licence” means a licence listed in the Schedules to the Direction ;

“the Act” means the Communications Act 2006;

“the Regulations” means the Communications (Authorisation and Licensing) Regulations 2006;

“the Schedule” means the Schedule to this Notice.

(2) Except where the context otherwise requires and subject to sub-paragraph (1), any word or expression used in this Notice which is also used in the Act has the same meaning in this Notice as it has in the Act.

3. Object and Effect of this Notice.

(1) Section 61 (9) (a) of the Act provides as follows :

“An application for the grant of a licence shall be determined in accordance with procedures prescribed in-

(a) regulations made by the Minister ; or

(b) a notice issued by the Authority with the consent of the Minister.”

(2) In accordance with, and in order to give effect to, section 61 (9) (a) of the Act, the Regulations set out detailed procedures for the grant, refusal to grant, variation, suspension and revocation of all types of radiocommunications licences necessary for the provision of an electronic communications service or network.

(3) Regulation 7 (1) of the Regulations nonetheless provides that the procedures to be established for the grant of such licences shall include provisions on-

“(a) how to make an application to the Minister for the grant of a licence ;

(b) the information that must accompany such an application and for the handling of such an application;

(c) the time limits for dealing with the application for the licence;

(d) the requirements that must be met for the grant of a licence; and

(e) the particulars of the terms, provisions, limitations and conditions to which licences which may be granted are to be subject.”

(4) It has been determined that it is necessary to provide further detail on the matters listed in Regulation 7 (1) of the Regulations in respect to licences which fall within the scope of application of the Direction¹. This is the object and effect of this Notice and the Schedule which the Authority adopts on the basis of section 61 (9) (b) of the Act.

4. General Criteria.

¹ The GRA has determined that it is not necessary to develop procedures for the grant of licences which do not fall within the scope of application of the Direction. Such licences will, by and large, be granted subject only to the completion of the relevant application form.

- (1) Due to the assignment of frequency bands for a vast array of communication systems it is impractical to provide detailed procedures for all types of licences which fall within the scope of application of the Direction. In some cases, detailed information will be required whilst in other cases the procedure will be relatively straightforward.
- (2) Accordingly, the Authority has determined to set out general criteria that will be followed for the grant of all the licences which fall within the scope of application of the Direction.
- (3) These general criteria are set out in the Schedule.

5. Procedure.

By letter dated 19th October 2006, the Minister gave his consent to the Authority to issue this Notice in accordance with section 61 (9) (b) of the Act.

Dated this 19th day of October 2006

**Paul J. Canessa
Chief Executive Officer
Gibraltar Regulatory Authority**

**SCHEDULE TO NOTICE 07/2006. : COMMUNICATIONS (GENERAL
CRITERIA FOR THE GRANT OF LICENCES LIMITED IN NUMBER)
NOTICE 2006.**

Due to the assignment of frequency bands for a vast array of communication systems it is impractical to provide detailed procedures for all types of licences which fall within the scope of application of the Direction. In some cases, detailed information will be required whilst in other cases the procedure will be relatively straightforward.

Accordingly, the Authority has determined to set out general criteria that will be followed for the grant of all the licences which fall within the scope of application of the Direction.

These general criteria are as follows.

1. How to make an application for the grant of a licence and the information that must accompany such an application.

- (1) An application for a licence must —
 - (a) be sent to the Authority in such form and manner as the Authority may, from time to time, require; and
 - (b) contain all such information as the Authority may require.
- (2) Where a standard Application Form for the type of licence applied for exists, paragraph (1) (b) shall be deemed to be complied with where the Application Form is accurately and fully completed.
- (3) Without prejudice to such further information as may be required in order to fully complete the Application Form referred to in subparagraph (2), an application shall contain the following minimum information—
 - (a) a short description of the network or service in respect of which the licence is required, including a statement as to whether such network or service is to be publicly available ;
 - (b) the estimated commencement date for the provision of that network or service ;
 - (c) particulars identifying the person making the application 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 ;

- (d) particulars identifying one or more persons with addresses in Gibraltar who, for the purposes of matters relating to the application, are authorised to accept service at an address in Gibraltar on behalf of the person making the application;
 - (e) 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 network or service in respect of which the licence is required; and
 - (f) addresses and other particulars necessary for effecting service on or contacting each of the persons mentioned in paragraphs (c) to (e).
- (4) Requirements imposed under sub-paragraph (1) (b) are not to require an application by a person to contain particulars falling within sub-paragraph (3)(d) in a case in which —
- (a) that person is resident in a Member State or has a place of business in a Member State;
 - (b) the application contains a statement under sub-paragraph (5);
 - (c) the application sets out an address in a Member State at which service will be accepted by the person who, in accordance with that statement, is authorised to accept it; and
 - (d) the Authority is satisfied that adequate arrangements exist for effecting service on that person at that address.
- (5) That statement is one which —
- (a) declares that the person authorised, for the purposes of matters relating to the network or service in respect of which the licence is required, to accept service on behalf of the person making the application is that person himself; or
 - (b) identifies another person who is resident in a Member State, or has a place of business in such State, as the person so authorised.
- (6) A person who has applied for a licence must, before—
- (a) providing the network or service, in respect of which the licence is required, with any significant differences;
 - or
 - (b) ceasing to provide it,

give a notification to the Authority of the differences or, as the case may be, of his intention to cease to provide the network or service.

- (7) The reference in sub-paragraph (6) to providing a network or service with significant differences is a reference to continuing to provide it after a change to the information supplied in the application in relation to the matters referred to in sub-paragraph (3) (a) and (b).
- (8) A person shall notify the Authority of any changes to the information supplied in the application in relation to the matters referred to in sub-paragraph (3)(c) to (f) within 7 days of such change.
- (9) References in this paragraph to accepting service at an address are references—
 - (a) to accepting service of documents or process at that address; or
 - (b) otherwise to receiving notifications at that address,

and the reference in sub-paragraph (4) to effecting service at an address is to be construed accordingly.

2. The handling of, and the time limits for dealing with, an application for a licence.

- (1) The Authority shall not register an application until such time as it has received a correct and complete application.
- (2) The Authority shall, within the period of two weeks beginning with the date of the submission of the original application, notify the applicant of any clarifications or any further information he must provide in order for the Authority to be able to consider that it has received a correct and complete application.
- (3) The date of registration of the application shall be the date on which the Authority is satisfied that it has received a correct and complete application.
- (4) Without prejudice to Regulation 7 (3), the Authority shall take a decision on whether to grant or refuse a licence and notify that decision to the applicant as follows —
 - (a) in the case of an application for a licence relating to a frequency allocated in accordance with the Gibraltar Frequency Allocation Table, not more than six weeks after the day of the receipt of the complete application; and

- (b) in any other case, as soon as possible after the receipt of the complete application.

3. The requirements that must be met for the grant of a licence.

Without prejudice to the requirements that must be met for the grant of a licence which are specified in the Direction for that specific licence, the following requirements will, where applicable or relevant, have to be met for the grant of a licence-

- (a) the equipment is compliant with the current or future use of the allocated frequency band on the Gibraltar Frequency Allocation Table (GFAT) and operates within the relevant technical criteria specified for that band;
- (b) the equipment will not cause any harmful interference to-
 - i. registered entries in the Gibraltar Frequency Register (GFR),
or
 - ii. registered entries in the Master Frequency Register (MFR) held by the International Telecommunication Union (ITU);
- (c) successful site inspection;
- (d) availability of radio spectrum;
- (e) the reliability of the licence is sufficient to provide a robust network.

4. The particulars of the terms, provisions, limitations and conditions to which licences which may be granted are to be subject.

The particulars of the terms, provisions, limitations and conditions to which licences which may be granted are to be subject are those which are specified for that specific licence in the Direction.

