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*From the Private Secretary*

27 February 1990

*Dear Nabin,*

REGULATION OF PRIVATISED IBA TRANSMISSION COMPANY:  
DRAFT TELECOMMUNICATIONS ACT LICENCE

The Prime Minister has seen your Secretary of State's letter of 23 February to Mr. Mellor. She is content with the approach proposed.

I am copying this letter to Carys Evans (HM Treasury), Murdo Maclean (Chief Whip's Office), Sonia Phippard (Cabinet Office) and Sir John Fairclough.

*Yan.*  
*Pu*

(PAUL GRAY)

Martin Stanley, Esq.,  
Department of Trade and Industry.

*ls*



the department for Enterprise

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Your ref

Date

23 February 1990

Dear David

*Pine Mike*  
*No need for you to*  
*study this in detail, I*  
*you may like to glance at*  
*the highlighted passages. Brian*  
*Gifford (Selar) supports*  
*the package. Content?*

*Rec 6*  
*26/2*

*yes no*

**REGULATION OF PRIVATISED IBA TRANSMISSION COMPANY:  
DRAFT TELECOMMUNICATIONS ACT LICENCE**

You will recall that in deciding last summer that the transmission system presently run by the IBA should be privatised, MISC 128 decided that the economic and other regulation of the privatised company should be undertaken by the Office of Telecommunications (OFTEL). Broadcasting for general reception does, however, at present enjoy an exemption from licensing under section 6(1) of the Telecommunications Act 1984 (T Act) and so, as you know, this section will need to be repealed in the Broadcasting Act to enable the privatised system to be regulated through a licence issued under the T Act.

I am enclosing with this letter a draft of that licence which, if colleagues are content, you may wish to table for the Committee at the same time as the new clauses related to the privatisation.

The licence follows the form of other licences issued under the Act. It identifies the telecommunications system that is being licensed (Annex A) and combines an authorisation to provide services and to connect to other systems and apparatus (Schedule 3) with conditions related to fair dealing, sharing sites, the obligation to provide certain services and limits on ownership. It is a substantial document and I would draw your particular attention to the following provisions in it:



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- a) the licence itself, granted for 25 years and thereafter on ten years' notice;
- b) Conditions 1 and 2, which oblige the licensee to provide services to "Relevant Persons", such as Channel 3 and 5 franchisees and Radio Authority licensees, and "Transmission Operators" such as the BBC, to ensure the continuity of the broadcasting network;
- c) Conditions 3-5 and 7-11, which cover various aspects of fair dealing. These include the publication of charges, a prohibition on undue preference or discrimination towards customers, restrictions on cross subsidies and the price control mechanism;
- d) Condition 6, which requires the licensee to share its sites with the BBC and any new transmission companies where it is necessary to achieve the required coverage; and
- e) other conditions, mostly standard in individual Telecommunications Act licences, which cover apparatus approvals, radio interference, licence fees and restrictions on ownership.

You will notice that the conditions related to fair dealing are mostly in square brackets and that covering the price regime is blank. The final form of these will need to await the results of the study which our two Departments have engaged NERA to undertake into the economic regulation of the transmission company. These results are not expected until mid-April. The final conditions are, however, unlikely to be very different from what is contained in the draft and I consider that, on balance, we should issue the licence as drafted making clear where the text has yet to be finalised.

The only significant new element of policy which the draft licence contains and on which I would like colleagues' agreement relates to restrictions on ownership of the privatised company. I have taken the line that such ownership restrictions should be kept to a minimum and that problems of market dominance should generally be dealt with by normal competition legislation and the terms of the company's Telecommunications Act licence. Nonetheless the company will enjoy a virtual monopoly in the private transmission market which is likely to last until the BBC system is privatised, in 1997 at the earliest, and I have identified two classes of investor whose interest in the company should, I consider, be





limited at least initially.

First, there are the Channel 3 and 5 licensees. These will be the transmission company's major customer. As such, to allow them to own the company would run counter to the general philosophy of breaking vertical integration which lies behind the Broadcasting Bill, and in particular this privatisation. A transmission company dominated by its major customers would be little different in practice from the status quo. I am thus proposing that the total shareholding of Channel 3 and 5 licence holders in the transmission company should be limited to 20%.

I also consider that it will be necessary to limit the shareholding of British Telecom. Control of the transmission company would give them another near monopoly business and help them extend their dominance in the telecommunications market as a whole and in broadcasting in particular. Furthermore, the transmission company may in time provide the basis of a new competitor to BT in telecommunications. The Director General of Telecommunications supports the case for a restriction. I propose, therefore, that BT's shareholding should similarly be restricted to 20%.

Once the BBC transmission company is privatised, the market should become more competitive and the case for special restrictions diminished. Thereafter, anyone wishing to take control of the company would still be subject to normal mergers legislation and there would also remain the Secretary of State's power to make a monopoly reference under section 51 of the Fair Trading Act 1973.

The results of the telecommunications duopoly review and the identity of the Channel 3 and 5 licensees may also affect the need for the restrictions. I would suggest, therefore, that when you publish the draft licence with the ownership restrictions in Condition 17 you make the following announcement as to how the restrictions will be applied:

- a) Ministers would expect to lift the restrictions both on BT and the Channel 3 & 5 franchisees following the privatisation of the BBC's transmission system.
- b) three years after the IBA's system is privatised, Ministers would consider the case for retaining either restriction consulting the Director General of Telecommunications; but
- c) meanwhile Ministers would not expect to agree to a shareholding of more than 20% by BT (or a subsidiary or an associate) or a total of 20% held





the department for Enterprise

by one or more Channel 3 or 5 licensees. They would, however, be prepared to consider such shareholdings on the part of other public telecommunication operators.

The BBC will also require a licence to run their transmission system. I hope to circulate a copy of the draft round colleagues within the new few weeks.

I understand that you may need to table the relevant new clauses next week. I would be grateful, therefore, for colleagues' agreement to my proposals by 27 February.

I am copying this letter to the Prime Minister, the Chief Secretary, the Chief Whip, Sir Robin Butler and Sir John Fairclough.

A handwritten signature in dark ink, appearing to be 'John', is written above a smaller, less legible handwritten mark.



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LICENCE GRANTED UNDER SECTION 7 OF THE TELECOMMUNICATIONS ACT  
1984 TO TO RUN TELECOMMUNICATION SYSTEMS  
FOR THE PROVISION OF TELEVISION AND RADIO TRANSMISSION SERVICES.

The Licence

1 The Secretary of State, in exercise of the powers conferred on him by section 7 of the Telecommunications Act 1984 (hereinafter referred to as "the Act") and after consultation with the Director hereby grants to ..... (hereinafter referred to as "the Licensee") a Licence, for the period specified in paragraph 2, subject to the Conditions set out in schedule 1 and to revocation as provided for in Schedule 2, to run the telecommunication systems specified in Annex A (each such system being hereinafter referred to as "the Applicable System") and authorises the Licensee to do all or any of the acts specified in Schedule 3.

2 This Licence shall enter into force on the day on which it is granted and shall be of 25 years duration in the first instance but, without prejudice to Schedule 2 to this licence, shall be subject to revocation thereafter on ten years' notice in writing of such revocation and such notice shall accordingly not be given before the end of the fifteenth year after the granting of this licence.

3 The Interpretation Act 1978 shall apply for the purpose of interpreting this Licence as if it were an Act of Parliament.

4 Any word or expression used in this Licence shall unless the context otherwise requires have the same meaning as it has in the Act.

5 For the purpose of interpreting this Licence headings and titles shall be disregarded.

Eric Forth MP  
Parliamentary Under Secretary  
of State for Industry and  
Consumer Affairs

1990



SCHEDULE 1: CONDITIONS INCLUDED BY VIRTUE OF SECTION 7 OF THE ACT

Part 1: Definitions, Interpretations and Transitional Provisions relating to the Conditions in Schedule 1

(1) In these Conditions unless the context otherwise requires:

- (a) "Additional Services" has the same meaning as in the Broadcasting Act 1990;
- (b) "Associate of the Licensee" means any member of the Licensee's Group or another body corporate controlled by, the Licensee;
- (c) "BBC" means the British Broadcasting Corporation;
- (cc) "BBC's Home Services" has the same meaning as in the Royal Charter granted to the BBC and dated 7 July 1981;
- (d) "Channel 3, Channel 4 and Channel 5" have the same meaning as in Section ..... of the Broadcasting Act 1990
- (e) "Channel 3, Channel 4 and Channel 5 Licensees" means those persons licenced by the ITC under section ..... of the Broadcasting Act 1990 to provide Channel 3, Channel 4 and Channel 5 respectively;
- (f) "Core Business" means
- (g) "Emergency" means an emergency of any kind, including any circumstance whatever resulting from major accidents, natural disasters and incidents involving toxic or radioactive materials;
- (h) "Emergency Organisations" has the meaning given to it in Condition 3;
- (i) "Interference" and "Undue Interference" have the same meaning as given to them in the Wireless Telegraphy Act 1949;
- (j) "ITC" means the Independent Television Commission;
- (k) "Licence" means a licence granted or having effect as if granted under section 7 of the Act;
- (1) "Licensee's Group" means the company which holds (including, if applicable, through a nominee) more than half in nominal value of the equity share capital in the Licensee, and the Subsidiaries of that company, provided that if no company so holds more than half, it means the Licensee and its Subsidiaries; and for the purposes of this definition, "equity share capital" and "Subsidiary" shall be construed in accordance with section 744 of the Companies Act 1985 and section 144 of the Companies Act



1989;

- (n) "Message" means anything falling within paragraph (a) to (d) of section 4(1) of the Act;
- (o) "Private Circuit" means a communication facility which is
  - (i) provided by means of one or more Specified Public Telecommunication Systems;
  - (ii) for the conveyance of Messages between points, all of which are points of connection between a Specified Public Telecommunication System and a telecommunication system which is not a Specified Public Telecommunication System;
  - (iii) made available to a particular person or particular persons (including the operator of a Specified Public Telecommunication System in some other capacity);
  - (iv) such that, subject to paragraph (b) below, all of the Messages transmitted at any of the points mentioned in (ii) above are received at every other such point; and
  - (v) such that, subject to (b) below, the points mentioned in (ii) above are fixed by the way in which the facility is installed and cannot otherwise be selected by persons or apparatus sending Messages by means of that facility;

and for the purposes of this definition:

- (a) such a communication facility shall be regarded as one Private Circuit and not more, notwithstanding that more than one unidirectional or bidirectional channels may be derived from it by means of apparatus comprised within a telecommunication system which is not a Specified Public Telecommunication System; and
- (b) where, by means of a multiplexing facility comprised within that Specified Public Telecommunication System, Messages transmitted at a point mentioned in (ii) above can be discriminated so that different Messages are conveyed to different points or sets of such points, the facility of communication between that first mentioned point and each separate point or such set of points shall be regarded as a separate Private Circuit;
- (p) "Public Telecommunications Operator" has the same meaning as in the Telecommunications Act 1984;



- (q) "Relevant Connectable System" means a telecommunication system to which an Applicable System is authorised to connect which is run to convey messages to an Applicable System on behalf of a Relevant Person;
- (r) "Relevant Transmission System" means a Transmission System that has to be connected to an Applicable System to enable messages to be conveyed for general reception;
- (s) "Relevant Person" means:
  - (i) any person to whom the ITC has granted a licence to provide programme service for Channel 3, Channel 4 or Channel 5;
  - (ii) any person to whom the Radio Authority has granted a licence to provide programme services;
  - (iii) S4C;
  - (iv) the BBC;
  - (v) any person to whom the ITC or the Radio Authority has granted a licence to provide Additional Services under Section ..... of the Broadcasting Act 1990; and
  - (vi) any other person specified by the Secretary of State for the purpose of this Licence and described on a list kept for the purpose by the Director and made available by him for inspection by the general public.
- (t) "S4C" has the same meaning as in Section ..... of the Broadcasting Act 1990;
- (u) "Site Rental Business" means the business of charging for the accommodation of apparatus within a set of premises within which apparatus comprised in the Applicable System is situated;
 

"Site Rentals" are rentals provided under the Licensee's Site Rental Business.
- (v) "Specified Public Telecommunication System" means the public telecommunication systems run by British Telecommunications plc, Mercury Communications Limited, Kingston Communications Ltd or any other public telecommunication system which is specified by the Secretary of State for the purpose of this Licence and described in a list kept for that purpose by the Director and made available by him for inspection by the general public;

- (w) "Station for Wireless Telegraphy" and "Wireless Telegraphy Apparatus" have the same meaning as in the Wireless Telegraphy Act 1949 to 1967;
  - (x) "Subsidiary" has the same meaning as in section 144 of the Companies Act 1989;
  - (y) "Transmission Operator" means a person who has been granted a Licence to run a Transmission System;
  - (z) "Transmission System" means a telecommunication system other than an Applicable System, run by a person who has been granted a Licence to transmit over that system Messages for, or intended for, general reception;
- (2) The Interpretation Act 1978 shall apply for the purpose of interpreting these Conditions as if they were an Act of Parliament.
- (3) Any word or expression used in these Conditions shall unless the context otherwise requires have the same meaning as it has in the Act.
- (4) For the avoidance of doubt it is hereby declared that for the purposes of these Conditions references to the supply of telecommunication apparatus do not include the making available of apparatus comprised or to be comprised in any of the Applicable Systems.
- (5) For the purposes of interpreting these Conditions headings and titles to any Condition shall be disregarded.
- (6) Nothing which the Licensee may do, or omit to do, after the date on which any provision of these Conditions enters into force shall be held to constitute a failure to comply with an obligation imposed on the Licensee by or under these Conditions to the extent that the Licensee is obliged to do or to omit to do (as the case may be) that thing by the terms of any contract subsisting immediately before that date.



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- (e) in the case of a Transmission Operator, such as to enable that Transmission Operator where it runs a Relevant Transmission System to satisfy the conditions relating to the provision of telecommunication services, in the licence granted to the Transmission Operator by the Secretary of State under Section 7 of the Act except where the Transmission Operator is the BBC and the service is being provided in respect of the BBC's Home Services in which case the Licensee shall be obliged to agree to any reasonable request to provide such services.

1.3 Nothing in this Condition shall oblige the Licensee to provide services which causes it to infringe the terms of any licences granted to it under Section 1 of the Wireless Telegraphy Act 1949 in respect of any Station for Wireless Telegraphy or any item of Wireless Telegraphy Apparatus comprised in the Applicable Systems.



CONNECTION OF THE APPLICABLE SYSTEMS TO CERTAIN OTHER SYSTEMS

2.1 The Licensee shall, on request, unless it is impracticable to do so enter into an agreement with the Operator:

- (a) to connect, and keep connected, to the Applicable Systems, or permit to be so connected and kept connected the Relevant Connectable System or the Relevant Transmission System and accordingly establish and maintain such one or more points of connection as are reasonably required and are of sufficient capacity and in sufficient number to enable Messages conveyed by means of the Relevant Connectable System or the Relevant Transmission System to be conveyed by means of any of the Applicable Systems in such a way as conveniently to meet all reasonable demands for the conveyance of Messages from the Relevant Connectable System or the Relevant Transmission System to any of the Applicable Systems; and
- (b) to provide such other telecommunication services (including the conveyance of Messages which have been, or are to be, [transmitted or] received at such points of connection), information and other services as the Director determines are reasonably required (but no more than reasonably required) to secure that points of connection are established and maintained and to enable the Operator effectively to provide the Connection Services which he provides or proposes to provide.

2.2 The Licensee shall not be obliged under paragraph 2.1 to enter into an agreement to do anything if:

- (a) in the opinion of the Licensee it would be liable to cause the death of or personal injury to, or damage to the property of, the Licensee or any person engaged in the Licensee's business, or materially to impair the quality of any telecommunication service provided by means of any of the Applicable Systems and the Director has not expressed a contrary opinion; or
- (b) in the opinion of the Licensee:
  - (i) it would require an adjustment to, or modification of, any of the Applicable Systems whether by incorporation of apparatus or otherwise or the provision by the Licensee of services or information which in any particular case would not be reasonably required; or



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PUBLICATION OF CHARGES, TERMS AND CONDITIONS TO BE APPLIED

[3.1 The Licensee shall, except in so far as the Director may otherwise consent in writing:

- (a) publish in the manner and at the times specified in paragraph 3.3 a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions on which it offers:
  - (i) to provide each description of telecommunication service by means of any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
  - (ii) to connect to any of the Applicable Systems any apparatus or any other system which, in either case, is not and is not to be comprised in any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
  - (iii) to grant permission to connect such systems or apparatus to, or to provide services by means of, any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
  - (iv) to grant permission to locate telecommunication apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated in accordance with an obligation imposed by or under this licence; or
  - (v) to provide Relevant Services;

and

- (b) where it does any of the things mentioned in paragraph 3.1(a), do those things at the charges and on the other terms and conditions so published and not depart therefrom.]

3.2 The requirement to publish under paragraph 3.1 shall not apply in respect of any service which is materially different from any service already provided by the Licensee by means of any of the Applicable Systems until such time as it is provided.

3.3 Publication of the notice shall be effected by:

- (a) sending a copy thereof to the Director not more than 28 days after the date on which this Licence enters into force or not less than 28 days before the date on which the charges, terms and conditions in the first notice to be published come into effect (whichever date is the later) and thereafter not less than 28 days before any

proposal to amend any charge, term or condition or the method of determining the same is to become effective;

- (b) sending as soon as practicable thereafter a copy thereof or such part or parts thereof as are appropriate to all persons to whom the Licensee is providing any service as described in paragraph 3.1(a)(i) to (iii) or is granting permission as described in paragraph 3.1(a)(iii) or (iv); and
- (c) sending a copy thereof or such part or parts thereof as are appropriate to any person who may request such a copy.



PROHIBITION ON UNDUE PREFERENCE AND UNDUE DISCRIMINATION

[4.1 The Licensee shall not (whether in respect of the charges or other terms or conditions applied or otherwise) show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description as respects:

- (a) the provision by means of any of the Applicable Systems of any telecommunication service in accordance with an obligation imposed by or under this Licence;
- (b) the connection to any of the Applicable Systems of any telecommunication apparatus or any other system which, in either case, is not and is not to be comprised in any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
- (c) the granting of permission to connect such systems or apparatus to, or to provide services by means of, any of the Applicable Systems in accordance with an obligation imposed by or under this Licence; or
- (d) the granting of permission to locate telecommunication apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated in accordance with an obligation imposed by or under this licence; or
- (e) the provision of Relevant Services.]

4.2 The Licensee may be deemed to have shown such undue preference or to have exercised such undue discrimination if it unfairly favours to a material extent a business carried on by it in relation to the doing of any of the things mentioned in paragraph 4.1 so as to place at a significant disadvantage persons competing with that business.

4.3 Any question relating to whether any act done or course of conduct pursued by the Licensee amounts to such undue preference or such undue discrimination shall be determined by the Director, but nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if and to the extent that the Licensee is required to do that thing in that manner by or under any provision of this Licence.

WIRELESS TELEGRAPHY ACT LICENCE

5.1 There shall be in force in respect of each Station for Wireless Telegraphy and each item of Wireless Telegraphy Apparatus comprised in the Applicable Systems a licence granted to the Licensee under section 1 of the Wireless Telegraphy Act 1949.



REQUIREMENT TO SHARE SITES

6.1 Subject to paragraphs 6.2 to 6.6 below, the Licensee shall, except to the extent that the Director, having consulted the Secretary of State, determines, make available on request at an Agreed Rate to a Transmission Operator space within a set of premises within which apparatus comprised in an Applicable System is situated which is sufficient to accommodate apparatus comprised in that Operator's system and to allow such a system to be run there.

6.2 The Licensee shall not be obliged to do anything under paragraph 6.1 except where the Transmission Operator wishes to provide telecommunication services to a Relevant Person by means of that Transmission Operator's system on that site.

6.3 Where Interference of the kind described in paragraph 6.4, is likely to arise or does arise, the Licensee shall use every reasonable endeavour to enter into an agreement with the Transmission Operator whose apparatus is to be situated on the same set of premises as an Applicable System as to the engineering principles to be adopted and the allocation and apportionment of costs which will arise in ensuring that such interference does not arise in meeting the obligation placed on the Licensee in paragraph 6.1

6.4 For the purpose of paragraph 6.3, the interference referred to is Undue Interference:

- (a) to a system run by a third party caused by signals transmitted by the Transmission Operator's system combining with any other signals;
- (b) caused by the Transmission Operator's system to the Applicable System; or
- (c) caused by the Applicable Systems to the Transmission Operator's System

6.5 The Licensee shall inform the Director of the steps taken to implement paragraph 6.3 above and of the terms of any agreement entered into by it with the Transmission Operator.

6.6 The Licensee shall include in any agreement with a Transmission Operator in respect of an obligation under paragraph 6.1, provision for reasonable access by the Transmission Operator or its agent to any of its telecommunications apparatus subject to that agreement.

6.7 Where the Licensee has been unable to reach an agreement as required under paragraphs 6.3 or 6.6 the Director, in consultation with the Secretary of State on radio interference matters, may make a direction on the matters specified in that paragraph.

6.8 In this condition "Agreed Rate" means the initial and periodic charges that the Licensee may impose for the occupancy of space within a set of premises within which apparatus comprised in an Applicable System is situated and if the Licensee and the Transmission Operator fail to agree on such charges those charges shall be determined by the Director.



RESTRICTION OF PRICES FOR CERTAIN SERVICES

PROHIBITION ON CROSS SUBSIDIES

[8.1 Where it appears to the Director that the Licensee is unfairly cross-subsidising any of the following activities carried out by itself or another member of the Licensee's Group within the United Kingdom that is to say:

- (a) the provision of services [other than telecommunication services provided by the Core Business];
- (b) the production of, or supply or offer for supply of telecommunications apparatus; or
- (c) the provision of rented space, for the location of telecommunication apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated.

it shall take such steps as the Director may direct for the purpose of remedying the situation.]

8.2 The Licensee shall record at full cost except where the Director agrees otherwise, any material transfer between it and any other member of the Licensee s Group in its accounting records.



SEPARATE ACCOUNTS FOR CERTAIN ACTIVITIES

[9.1 This Condition applies for the purpose of ensuring that the Licensee establishes accounting and reporting arrangements sufficient to enable the Licensee's finances in relation to the Core Business and the Site Rental Business to be assessed and reported on separately both from each other and from the other activities of the Licensee.

9.2 The Licensee shall:

- (a) maintain accounting records in such a form that the activities of the Core Business, Site Rental Business and other activities of the Licensee are separately identifiable or separately attributable in the books of the Licensee, being records sufficient to show and explain the transactions of each of those Businesses:
- (b) prepare in respect of each complete financial year of the Licensee or of such lesser periods as the Director may specify but not more frequently than quarterly, accounting statements setting out, and, in the case of yearly statements, fairly presenting, the costs (including capital costs), revenue and financial position of each of the Core Business and the Site Rental Business and including a reasonable assessment of the assets employed in and liabilities attributable to each of them and showing separately, in the case of yearly accounting statements, the amount of any material item of revenue, cost, asset or liability which has been either:
  - (i) charged from or to any other business of the Licensee or any Associate of the Licensee together with a description of the basis of the value on which the charge was made: or
  - (ii) determined by appointment or attribution from an activity common to the Business and any other business of the Licensee or any Associate of the Licensee and, if not otherwise disclosed, the basis of the apportionment or attribution;
- (c) procure in respect of each of those accounting statements prepared in respect of a complete financial year of the Licensee a report by the Licensee's Auditor stating whether in his opinion that statement is adequate for the purposes of this Condition; and
- (d) deliver to the Director a copy of the accounting statements and of the reports relating thereto required under sub-paragraphs (b) and (c) above as soon as reasonably practicable and in any event not later than six months after the end of the period to which they relate.]



9.3 Accounting statements prepared under paragraph 9.2(b) in respect of each financial year shall, so far as reasonably practicable, be prepared in the formats and in accordance with the accounting principles and rules which apply to the annual accounts of the Licensee and shall state the accounting policies used.

9.4 In this Condition:

"the Auditor" means the Licensee's auditor for the time being appointed in accordance with the requirements of the [Companies Acts 1948 to 1983;] and

references to the costs of any business do not include profits of that business.

PROHIBITION OF LINKED SALES

10.1 The Licensee shall not make it a condition of:

- (a) providing any telecommunication service by means of or in relation to any of the Applicable Systems;
- (b) the granting of permission to locate telecommunications apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated;
- (c) supplying any telecommunication apparatus for connection to any of the Applicable Systems;
- (d) connecting any other system or apparatus to any of the Applicable Systems; or
- (e) providing Relevant Services.

that any person who requests such services should acquire from the Licensee or from any other person specified or described by the Licensee:

- (i) any telecommunication service other than the telecommunication service requested save where that service cannot be provided without the provision of that other telecommunication service;
- (ii) any Site Rentals other than the Site Rentals requested save where those rentals cannot be provided without the provision of those other Site Rentals;
- (iii) any telecommunication apparatus not incorporated in the Applicable Systems save where the telecommunication service requested cannot otherwise be provided or the telecommunication apparatus requested cannot otherwise be used; or
- (iv) any Relevant Service other than the Relevant Service requested save where that service cannot be provided without the provision of that other Relevant Service.

10.2 Except where the Director has agreed otherwise the Licensee shall not do any one or more of the things described in subparagraphs (a) to (e) of paragraph 10.1 together with any other of those things in a manner or for charges or on terms or conditions more favourable than would be available for doing that thing or those things without that other thing or those other things.



10.3 Notwithstanding paragraphs 10.1 and 10.2 the Licensee may:

- (a) where it supplies as part of the same transaction or interconnected series of transactions two or more items of telecommunication apparatus for connection to any of the Applicable Systems offer quantity discounts or more favourable terms and conditions in respect of quantity in relation to such apparatus which it so supplies whether those items of apparatus are of the same or different descriptions;
- (b) where it provides by means of or in relation to any of the Applicable Systems and as part of the same transaction or an interconnected series of transactions two or more telecommunication services or two or more Relevant Services which are of the same description or which are so related as to permit economies of scale when they are provided together offer, such quantity discounts or such more favourable terms and conditions in respect of quantity for those services as have been published in accordance with Condition 3.3;
- (c) where it provides as part of the same transaction or interconnected series of transactions space for two or more items of telecommunication apparatus offer quantity discounts or such more favourable terms and conditions in respect of the accommodation of such apparatus as have been published in accordance with Condition 3.3.



PROHIBITION OF CERTAIN EXCLUSIVE DEALING ARRANGEMENTS

11.1 The Licensee shall not, except with the written consent of the Director, make the acquisition from any person in the United Kingdom by the Licensee or the installation or servicing by any person in the United Kingdom for it of any telecommunication apparatus of any description conditional upon agreement:

- (a) to the Licensee or to supply or not to supply to any other person apparatus of a different description;
- (b) to provide to the Licensee or to provide or not to provide to any other person any telecommunication service of a different description; or
- (c) to transfer to the Licensee or to any other person any interest in Industrial or Intellectual Property with a view to restricting unreasonably the freedom of the supplier of the apparatus or the provider of the service in question to exploit his Industrial or Intellectual Property in order to confer on the Licensee or some other person an unfair competitive advantage.

11.2 Notwithstanding paragraph 11.1 the Licensee shall be free:

- (a) to require that other telecommunication apparatus should be supplied or another telecommunication service should be provided with or in connection with any apparatus or service where the supply of that other apparatus or the provision of that other service is reasonably related to that supply or provision;
- (b) to require the transfer to the Licensee of any interest in Industrial or Intellectual Property which the Director agrees is necessary or desirable to facilitate the running of any of the Applicable Systems;
- (c) to dispose of any interest in Industrial or Intellectual Property owned by the Licensee free from all encumbrances and restrictions of whatsoever nature arising out of or under this Licence;
- (d) to require the transfer to the Licensee by any person of any interest in Industrial or Intellectual Property arising out of any work done in pursuance of any agreement made between the Licensee and that person for any research or development to be carried out by him, unless the Director otherwise directs;
- (e) to require the transfer to the Licensee or any other person of any interest in Industrial or Intellectual Property to the extent that that is reasonably necessary



for the purpose of enabling the Licensee to secure alternative sources of supply of telecommunication apparatus; or

- (f) to require any person who supplies telecommunication apparatus or who provides telecommunication services to enter into an agreement of the kind referred to in paragraph 11.1 where the Licensee makes available research, design or development work or where the Licensee agrees to finance such work on terms that an agreement of that kind will be entered into.

11.3 In this Condition "Industrial or Intellectual Property" has the same meaning as in Condition 15.

RADIO INTERFERENCE REQUIREMENTS

12.1 The Licensee shall install and run the Applicable Systems in such a way as to ensure that the Systems comply with the Relevant Interference Requirements.

12.2 The Licensee shall install and run the Applicable Systems in such a way that the apparatus comprised in those Systems and the running of those Systems does not cause any Undue Interference to wireless telegraphy.

12.3 Subject to paragraph 12.5 below, the Licensee shall:

- (a) within three months of the date on which the Licensee first runs any of the Applicable Systems; and
- (b) once a year thereafter;

certify to the Director, in the manner determined by him, that the requirements of paragraph 12.1 are being complied with in relation to any of the Applicable Systems which was run during the period to which the certification relates; and in making any such determination the Director shall ensure that no undue burden is placed on the Licensee.

12.4 Subject to paragraph 12.5 below, the Licensee shall:

- (a) within three months of the date on which the Licensee first runs any of the Applicable Systems; and
- (b) within three months of any material changes to the Applicable Systems or to any apparatus comprised therein being made

furnish to the Director, in the form determined by the Director, such technical information about the Systems as the Director may determine.

12.5 In the event of any malfunction or failure of any apparatus comprised in any of the Applicable Systems the Licensee shall take whatever immediate steps are appropriate in all the circumstances of the case to secure that the running of the Systems is not in breach of the requirements of the Relevant Interference Requirements and that the running of the Systems does not cause any Undue Interference to wireless telegraphy; and Condition 23.3 shall not apply in relation to any such malfunction or failure unless the Director is satisfied that the Licensee took such immediate steps.

12.6 In this Condition:

"Relevant Interference Requirement" means any requirement relating to the measurement and limitation of electromagnetic radiation which is for the time being in force and which is:



- (a) contained in or made under any enactment; or
- (b) published by any requirement relating to the measurement and limitation of electro-magnetic radiation from cabled distribution systems published by the Radiocommunications Division of the Department of Trade and Industry in 1984 subject to any modification recommended by the Secretary of State within the framework of those published requirements and which is the subject of a direction by the Director following agreement with the Licensee.

ONLY APPROVED APPARATUS TO BE COMPRISED IN THE APPLICABLE SYSTEM

14.1 Subject to paragraph 14.3 below, where an Applicable System is connected to any Specified Public Telecommunication System, all the telecommunication apparatus comprised in the Applicable System and all the apparatus connected to it (except apparatus specified in paragraph 14.2 below) shall be apparatus which is approved for the time being under section 22 of the Act:

- (a) for connection to the Applicable System; or
- (b) in the case of apparatus which is also connected to a Specified Public Telecommunication System, for connection to all of those Systems to which it is connected

and in respect of which any conditions specified in the relevant approval are complied with.

14.2 Apparatus specified for the purpose of paragraph 14.1 above is:

- (a) any apparatus comprised in a Specified Public Telecommunication System or in a telecommunication system run by the Crown;
- (b) any apparatus comprised in another telecommunication system the licence for which (being a licence granted or having effect as if granted under section 7 of the Act) authorises it to be connected to the Applicable System, being apparatus which is not required to be approved under section 22 of the Act for connection to that other system; or
- (c) any apparatus connected to the Applicable System by virtue only of receiving Messages which have been transmitted by Wireless Telegraphy for general reception.

14.3 Paragraph 14.1 above does not apply to apparatus which is comprised in an Applicable System where

- (i) the Applicable System is connected to a Programme Circuit (that it is to say, a private circuit used to carry sound or vision broadcast signals) and to no other part of any Specified Public Telecommunication System;
- (ii) the Applicable System is run in accordance with a Code of Practice laid down by the Director for the purposes of this condition.

14.4 For the purposes of this Condition:-

- (a) any approval issued under section 16(2) of the British Telecommunications Act 1981; or



- (b) any acknowledgement by the Secretary of State or a person appointed for the purposes of Section 16(1) of that Act;

which was effective on 5 August 1984 under which apparatus is approved for indirect connection to a system run by British Telecommunications by way of connection to any other system shall be treated as approved under section 22 of the Act for connection to such other system.

INTELLECTUAL PROPERTY

15.1 Where it appears to the Director that any Relevant Intellectual Property Right has been, is being or is likely to be exercised (whether by the Licensee or by any other person in pursuance of an agreement, arrangement or concerted practice to which the Licensee is a party) so as to prevent:

- (a) any telecommunication system or telecommunication apparatus, which may lawfully be connected to any of the Applicable Systems, from being so connected either at all or on reasonable charges, terms and conditions; or
- (b) any service, which may lawfully be provided by means of any of the Applicable Systems, from being so provided or obtained either at all or on reasonable charges, terms and conditions

he may direct the Licensee in writing in accordance with paragraph 15.2 or 15.3.

15.2 Where the exercise of the Relevant Intellectual Property Right prevents a product from being made available either at all or on reasonable charges, terms and conditions to the person wishing to make such a connection or to provide or obtain such a service, the Director may direct the Licensee to take such steps as are within the power of the Licensee and are, in the opinion of the Director, reasonable and necessary in all the circumstances to secure that the product is made available to that person on charges, terms and conditions acceptable to that person or which (in default of agreement) are, in the opinion of the Director, reasonable to enable such connection to be made or such service to be provided or obtained.

15.3 Where paragraph 15.1 applies in circumstances other than those described in paragraph 15.2, the Director may direct the Licensee to take such steps as are within the power of the Licensee and are, in the opinion of the Director, reasonable and necessary in all the circumstances to secure that the person wishing to make such a connection or to provide or obtain such a service is enabled to make use of the Relevant Intellectual Property Right, for the purpose of making the connection or of providing or obtaining the service, upon charges, terms and conditions acceptable to that person or which (in default of agreement) are, in the opinion of the Director, reasonable for such purpose.

15.4 In this Condition:

"Relevant Intellectual Property Right" means any right, which is wholly or partly controlled by a member of the Licensee's Group, in Industrial or Intellectual Property or is subject to an agreement, an arrangement or concerted practice to which a member of the Licensee's Group is a party; and



"Industrial or Intellectual Property" includes, without prejudice to its generality, patents, designs, know-how and copyright.

15.5 Nothing in this Condition shall require the Licensee to do anything which would contravene the terms of or would result in revocation of a licence or assignment of a Relevant Intellectual Property Right granted or made to a member of the Licensee's Group on or before the date on which this Licence enters into force or which would result in a member of the Licensee's Group incurring any liability under such a licence or assignment.

PROHIBITION OF NON-STATUTORY TESTING REQUIREMENTS

16.1 Where the Director notifies the Licensee in writing that this Condition applies in circumstances specified or described in the notification, the Licensee shall not in such circumstances (whether in pursuance of any agreement, arrangement, concerted practice or otherwise) make it a condition of any telecommunication system or telecommunication apparatus being connected or kept connected to any of the Applicable Systems or of any telecommunication service being provided by means of any of the Applicable Systems that any such system, apparatus or service shall obtain the approval of, comply with any standard designated by, or pass any test set by, any person other than the Secretary of State or the Director or by a person appointed under section 25 of the Act, except insofar as the Director otherwise agrees.

16.2 Nothing in this Condition shall prevent the Licensee from requiring the passing of any test which the Director agrees is reasonably necessary or desirable for the purpose of determining whether:

- (a) any telecommunication apparatus or telecommunication system which is, or is to be, connected to any of the Applicable Systems is authorised to be so connected; or
- (b) notwithstanding such authorisation, the Licensee is obliged to connect it or permit its connection to the Applicable Systems.



PRENOTIFICATION OF CHANGES IN SHAREHOLDING OR OTHER INTERESTS IN  
THE LICENSEE

17.1 Except as specified in paragraph 17.2, the Licensee shall notify the Secretary of State

- (a) of any change in the proportion of shares or voting power held by any person in the Licensee or in any other body corporate;
- (b) if any person acquires any shares or voting power in the Licensee or in any body corporate who does not already do so, and of the proportion of the shares or voting power to be held by such person;

in either case such notification to be given as soon as practicable after any change, or acquisition, as the case may be, is proposed.

17.2 The Licensee shall not be obliged to notify the Secretary of State of any such change or acquisition where:

- (a) such change or acquisition does not result in a change in control of the Licensee; and
- (b) the proportion of such shares or voting power, the holding of which it is proposed to change, or which it is proposed to acquire, as the case may be, when aggregated to the proportion of such shares or voting power the control of which has been changed at any time after the granting of this Licence (whether or not the change has previously been notified to the Secretary of State in accordance with this paragraph) does not exceed 15% of the total number of shares or voting power in the Licensee to which this Condition applies; or
- (c) where the change or acquisition concerns shares or voting power in any body corporate other than the Licensee and is not known to the Licensee.

17.3 Notwithstanding paragraph 17.2, the Licensee shall be obliged to notify the Secretary of State of any changes or acquisitions where such changes or acquisitions would:

- (a) increase the proportion of voting shares held or controlled by a Public Telecommunications Operator in the Licensee from less than 20% to 20% or more; or
- (b) increase the total proportion of voting shares in the Licensee held or controlled by all Channel 3 or Channel 5 Licensees from less than 20% to 20% or more.

17.4 The Conditions contained in 17.4(a) and 17.4(b) will cease to apply on a date or dates to be specified by the Secretary or State.



17.5 The Licensee shall notify the Secretary of State not later than 30 days before the taking effect of any of the arrangements of the descriptions mentioned in paragraph 17.6.

17.6 Those descriptions of arrangements are:

- (a) any arrangement for obtaining a listing of any shares in the Licensee on any Stock Exchange in the United Kingdom or elsewhere; and
- (b) any arrangement for dealings in any shares in the Licensee on an unlisted or over the counter market in the United Kingdom or elsewhere.

17.7 Any reference in this Condition to a person holding shares or any amount of shares in the Licensee shall be interpreted as meaning holding or being beneficially entitled to such shares.

17.8 Any reference in this Condition to a person:

- (a) holding or being entitled to shares, or any amount of the shares in the Licensee;
- (b) holding voting power, or any amount of the voting power, in the Licensee;
- (c) acquiring such shares or voting power; or
- (d) being the beneficiary of a trust;

is a reference to his doing so, or being entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.

17.9 For the purposes of this Condition, a person is said to have voting power in the Licensee if, and only if, he is entitled to vote on any matters at a general meeting of the Licensee.

17.10 In paragraph 17.2(a) 'control' means the power of a person to secure:

- (a) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or
- (b) by virtue of any powers conferred by articles of association or other document regulating that or any other body corporate,

that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person.



PRENOTIFICATION OF CHANGES TO THE AGREEMENT DOCUMENTS

18.1 The Licensee shall notify the Secretary of State of any change in the terms or effect of the Agreement Documents howsoever arising, which would result in a change in the control of the Licensee, such notification to be given not later than 30 days before the change takes effect.

18.2 The Licensee shall notify the Secretary of State not later than 30 days before any change among the Directors of the Licensee take effect.

18.3 In this condition "Agreement Documents" means any documents the terms of which if changed could result in a change in the control of the Licensee.

18.4 In this condition "control" has the same meaning as in Condition 17.

PRE-NOTIFICATION OF JOINT VENTURES

19.1 Unless the Director otherwise agrees the Licensee shall notify the Director not later than 30 days before the taking effect of any of the agreements or arrangements to which this Condition applies giving particulars of those agreements or arrangements.

19.2 Those agreements and arrangements are:

- (a) an agreement with any person for the establishment or control of any body corporate for the purpose of:
  - (i) the running of a telecommunication system which requires a Licence;
  - (ii) providing telecommunication services in the United Kingdom which necessarily involve the running of such a system; or
  - (iii) the production of telecommunication apparatus for supply in the United Kingdom where that production would lead to a monopoly situation which would not otherwise exist in relation to the supply of telecommunication apparatus of any description in the United Kingdom;
- (b) an agreement for the establishment of a partnership for any of those purposes and in those circumstances;
- (c) any other agreement or arrangement in the nature of a joint venture for the purpose of running a telecommunication system which requires a Licence or for the purpose of providing telecommunication services in the United Kingdom which necessarily involve the running of such a system.

19.3 Paragraphs 19.2(a) and (b) apply in relation to an agreement or arrangement for the establishment or control of any body corporate or partnership where the Licensee has or is to have not less than 20% of the voting power in any organisation controlling that body.

19.4 For the purposes of this Condition a monopoly situation shall be taken to exist where such a situation would be taken to exist for the purpose of any of the provisions of section 6 of the Fair Trading Act 1973 but with the substitution of the words "one fifth" for the words "one quarter" whenever they appear in that section.



19.5 In any case where circumstances beyond the Licensee's control require him to enter into an agreement or arrangement, if he is to enter into it at all, without having made a notification in accordance with paragraph 19.1 he shall notify the Director as soon as reasonably practicable but otherwise in accordance with the provisions of this Condition.

PAYMENT OF FEES

20.1 The Licensee shall pay the following amounts to the Secretary of State at the times stated:

- (a) on the grant of this Licence the sum of [.....] and
- (b) on 1 April [ ] and annually thereafter a renewal fee which shall represent a fair proportion, to be determined each year by the Director according to a method that has been disclosed to the Licensee, of the estimated costs to be incurred in that fiscal year by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his other functions under the Act; and
- (c) where the Director so determines, on 1 January [ ] and annually thereafter a special fee which shall represent a fair proportion, to be determined each year by the Director according to a method that has been disclosed to the Licensee, of the amount, if any, by which the aggregate of:
  - (i) the costs estimated to have been already incurred in that fiscal year by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his other functions under the Act; and
  - (ii) the costs estimated to have been already incurred in that fiscal year by the Monopolies and Mergers Commission following licence modification references under section 13 of the Act; and
  - (iii) the estimated costs to be incurred in the remainder of that fiscal year:
    - (A) by the Director in the regulation and enforcement of telecommunication licences and in the exercise of his other functions under the Act; and
    - (B) by the Monopolies and Mergers Commission following licence modification references under Section 13 of the Act

exceeds the renewal fee for that year,

save always that the aggregate of the renewal fee and the special fee for any fiscal year shall not exceed [ ] of the annual turnover of the Licensee's Core Business and Site Rental Business in the financial year before the last complete financial year of the Licensee before the fee is payable, or [.....] whichever is the greater ("the normal aggregate fee"),



unless the Director determines that the costs incurred in any fiscal year by him and the Monopolies and Mergers Commission in respect of the Licensee's activities exceeds the normal aggregate fee, in which case the aggregate of the renewal fee and the special fee for the following year shall be such amount (not exceeding [     ] of the annual turnover of the Licensee's Core Business and Site Rental Business in the financial year before the last complete financial year of the Licensee before the renewal fee is paid) as the Director determines is sufficient to take account of that excess as well as the other costs to be incurred as mentioned in this paragraph.

ASSOCIATES

21.1 Without prejudice to the Licensee's obligations under these Conditions in respect, in particular, of anything done on its behalf, where:

- (a) any Associate of the Licensee does anything which the Licensee is prohibited from doing under these Conditions or fails to do anything which the Licensee is in the circumstances required to do; and
- (b) the Director is of the opinion:
  - (i) that in consequence the Licensee is seeking to avoid or is in a material and substantial way avoiding obligations which would apply under these Conditions if the thing had been done or not done by the Licensee; and
  - (ii) that, having regard to the duties imposed on him by section 3 of the Act he ought to make a direction under this Condition,

then the Licensee shall take such reasonable steps to ensure that the Associate does or ceases to do that thing or otherwise to remedy the matter as the Director directs him to take.

21.2 Where these Conditions apply in respect of the Applicable Systems they do not apply in respect of any other telecommunication system, whether run by the Licensee or another.

21.3 Where any person becomes an Associate of the Licensee, then the Licensee shall not be subject to paragraph 21.1 before that is reasonably practicable but shall be so not later than one year after that person becomes such an Associate or such later date as the Director may determine.

21.4 This Condition shall not apply:

- (a) in relation to the requirements of Conditions 21.1; or
- (b) to any particular Associate,

if and to the extent that the Director so determines.



REQUIREMENT TO FURNISH INFORMATION TO THE DIRECTOR

22.1 The Licensee shall furnish to the Director, in such manner and at such times as the Director may request, such documents, accounts, estimates, returns or other information and procure and furnish to him such reports as he may reasonably require for the purpose of exercising the functions assigned or transferred to him by or under Parts II and III of the Act.

22.2 In making any such request the Director shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and, in particular, that the Licensee is not required to procure or furnish a report which would not normally be available to it unless the Director considers the particular report essential to enable him to exercise his functions.

22.3 The Licensee shall permit the Director and any person authorised by him in writing to inspect the Applicable Systems at any reasonable time for the purpose of verifying whether the Licensee is running the Systems in accordance with this Licence.

PLANNING AND IMPLEMENTATION OF SPECIAL ARRANGEMENTS FOR EMERGENCIES

23.1 The Licensee shall, if requested by the authorities responsible for Emergency Organisations and such departments of central and local government as the Director may from time to time determine and whose names are notified to the Licensee by him for the purpose, make plans or other arrangements for the provision or, as the case may be, the rapid restoration of such telecommunication services as are practicable and may reasonably be required in an Emergency.

23.2 The Licensee shall, on request by any such person as is designated for the purpose in the relevant plans or arrangements, implement those plans or arrangements insofar as it is reasonable and practicable to do so.

23.3 Nothing in this Condition precludes the Licensee from:

- (a) recovering the costs which it incurs in making or implementing any such plans or arrangements from those on behalf of or in consultation with whom the plans or arrangements are made; or
- (b) making the implementation of any plan or arrangement conditional upon the person or persons for whom or on whose behalf that plan or arrangement is to be implemented indemnifying the Licensee for all costs incurred as a consequence of the implementation.

23.4 For the purposes of this Condition:

- (a) "Emergency Organisations" means in respect of any locality
  - (i) the relevant public, police, fire and ambulance services for that locality; and
  - (ii) such other similar organisations providing assistance to the public in Emergencies as may be specified from time to time by the Director for the purpose of this Licence and described in a list kept for that purpose by the Director and made available by him for inspection by the general public.



EXCEPTIONS AND LIMITATIONS ON OBLIGATIONS IN SCHEDULE 1

25.1 Unless the context otherwise requires and subject to paragraph 25.10, the Licensee's obligations under these Conditions have effect subject to the following exceptions and limitations.

25.2 The Licensee is not obliged to do anything which is not practicable.

25.3 The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under these Conditions if and to the extent that the Licensee is prevented from complying with that obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any apparatus or equipment, by the act of any national authority, Local Authority or international organisation or as the result of fire, flood, explosion, accident, Emergency, riot or war.

25.4 The obligation to provide any telecommunication service shall not apply:

- (a) where provision of the service requested would expose any person engaged in its provision to undue risk to health or safety;
- (b) where the Licensee is unable to obtain (either because it has not been developed or for some other reason beyond the Licensee's control) anything necessary to provide a service of the quality or standard required by the person who requests the provision of the service and, in the event of dispute, the Director's decision as to whether anything is necessary shall be final;
- (c) where the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a place in which the apparatus necessary to provide that service in that area has not been installed (or in which the installation of such apparatus has not been completed) or as the case may be such apparatus has not been adapted or modified to make it capable of providing the service of the kind requested or the trained manpower necessary to provide the service is not available in that area, provided that in every case where the Licensee declines to provide a service to which this sub-paragraph relates it shall have published, or furnished to the Director, or within 28 days (or such longer period as the Director considers reasonable) following receipt by it of the request that service be provided shall have furnished to the Director, proposals for:
  - (i) progressively installing or completing the installation or for the adaptation or the modification of the apparatus; or



(ii) the allocation of the trained manpower

necessary for the provision of that service in that area and the Director has not determined that those proposals are unreasonable or are not being effectively carried out;

(d) where in the opinion of the Director it is not reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded.

25.5 The Licensee shall not be obliged to supply, connect, or to keep connected to any of the Applicable Systems, or to permit to be so connected or kept connected any telecommunication system or telecommunication apparatus; to provide telecommunication services or to grant permission to locate telecommunication apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated if the person to or for whom that is or is to be done:

(a) has not entered or will not enter into a contract for the purpose with the Licensee for reasons other than the unreasonable refusal of the Licensee to agree terms for the purpose but this paragraph does not apply in a case where the Director is satisfied that:

(i) the Licensee has not published standard terms and conditions which it proposes to apply for the purpose in question, or the transaction is not fit to be governed by such terms and conditions; and

(ii) the Licensee has unreasonably refused to agree terms and conditions for the purpose;

(b) is, or in the Director's opinion has given reasonable cause to believe that he may become:

(i) in breach of a contract with the Licensee for the provision of telecommunication services or a telecommunication system supplied by the Licensee or permission to locate telecommunication apparatus on particular premises granted by the Licensee; or

(ii) in default in regard to any debt or liability owed to the Licensee in respect of any such contract;

(c) has obtained, or attempted to obtain, any telecommunication apparatus or telecommunication service from the Licensee by corrupt, dishonest or illegal means at any time; or

(d) has at anytime located or attempted to locate by corrupt, dishonest or illegal means, telecommunication apparatus on any part of any premises on which apparatus comprised in an Applicable System is situated and where the permission of the Licensee is needed without having obtained that permission.



25.6 Nothing in these Conditions shall prevent the Licensee from withdrawing from, or declining to provide to, any person any telecommunication service which the Licensee has notified the Director that it is providing in a limited area, or to a limited class of customers, for the purpose of evaluating the technical feasibility of, or the commercial prospects for, that service.

25.7 Nothing in these Conditions shall require the Licensee to provide any telecommunication service or any telecommunication service of any particular class or description, if he provides instead a service, or a service of a class or description, which satisfies the purposes of that requirement at least to the same extent.

25.8 This Condition shall apply without prejudice to any limitation or qualification of the requirements imposed by or under any other Condition.

25.9 The Licensee shall be relieved of any obligation under these Conditions by virtue of a combination of any of the events and circumstances set out in the preceding paragraphs of this Condition, insofar as those paragraphs apply to the obligation in question; or a combination of any such events and circumstances and any limitation or exception contained in the Condition in question.

25.10 This Condition does not apply to Conditions [4, 5, 10, 11, 15, 16, 17, 18 and 19 and;

(i) only paragraphs 25.1, 25.2, 25.3, 25.8 and 25.9 apply to Conditions 1, 3, 8, 9, 12, 20, 21 and 22;

(ii) only paragraphs 25.1, 25.8 and 25.10 apply to Condition 23.2;

but paragraphs 25.5 and 25.7 do not apply to Condition 23.1].

25.11 In this Condition Local Authority has the same meaning as in section 97 of the Act.



SCHEDULE 2: REVOCATION

1 Notwithstanding paragraph 2 of the Licence the Secretary of State may at any time revoke this Licence by not less than 30 days' notice in writing given to the Licensee at its registered office in any of the following circumstances:

- (a) if the Licensee agrees in writing with the Secretary of State that this Licence should be revoked;
- (b) if any amount payable under Condition 43 of Schedule 1 is unpaid 30 days after it becomes due and remains unpaid for a period of 14 days after the Secretary of State notifies the Licensee that the payment is overdue, such notification not to be given earlier than the sixteenth day after the day on which the payment became due;
- (c) if the Licensee fails to comply with a final order (within the meaning of section 16 of the Act) or a provisional order (within the meaning of that section) which has been confirmed under that section and that order is not subject to proceedings for review and such failure is not rectified within 3 months after the Secretary of State has given notice in writing of such failure to the Licensee such notice being given after the conclusion of any such proceedings, provided that this sub-paragraph shall not apply in relation to any failure to comply where the Secretary of State is satisfied that the Licensee would be able to establish the defence set out in section 18(7) of the Act in any proceedings which could be brought against it in pursuance of subsection 6(a) of that section in relation to that failure to comply;
- (d) if the Licensee:
  - (i) is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), convenes any meeting with its creditors generally with a view to the general readjustment or re-scheduling of its indebtedness or makes a general assignment for the benefit of its creditors generally; or
  - (ii) enters into receivership or liquidation;
  - (iii) ceases to carry on its business; or
  - (iv) takes any action for voluntary winding-up or dissolution of the Licensee or such action is taken by another person or if the Licensee enters into any scheme of arrangement (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Secretary of State) or if a receiver, trustee or similar officer of the Licensee or of all or any material part of



the revenues and assets of it is appointed or if any order is made for the compulsory winding-up or dissolution of it.

2 For the purposes of sub-paragraph 1 (d)(i) of this Schedule, in construing the terms of sub-section (1)(a) of section 123 of the Insolvency Act 1986 the figure of "£750" therein or such other figure as shall from time to time be in force shall be deemed to be replaced by "£250,000" or such higher figure as the Director may determine and the said sub-section 1(a) shall not apply if the demand therein referred to is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures, whether legal or otherwise, or if the demand is satisfied prior to the expiry of the notice from the Secretary of State.

3 The Secretary of State may at any time revoke this Licence:

- (a) if the Licensee has given a notification to the Secretary of State under Conditions 17, 18 or 19 of Schedule 1 and the Secretary of State has notified the Licensee in writing within 21 days of receiving such notification that he is minded to revoke this Licence on the grounds that the proposed change or arrangement would in his opinion be against the interests of national security or relations with the Government of a country or territory outside the UK; or
- (c) the Licensee commits any breach of Condition 17, 18 or 19 of Schedule 1; and
- (d) the proposed change or arrangement takes effect.

4 The Interpretation Act 1978 shall apply for the purpose of interpreting this Schedule as if it were an Act of Parliament.

5 Any word or expression used in this Schedule shall unless the context otherwise requires have the same meaning as it has in the Act.



SCHEDULE 3: AUTHORISATION TO CONNECT OTHER SYSTEMS AND APPARATUS TO THE APPLICABLE SYSTEMS AND TO PROVIDE TELECOMMUNICATION SERVICES BY MEANS OF THE APPLICABLE SYSTEMS.

1 Nothing in this Licence removes any need to obtain any other licence that may be required under any other enactment but, subject to that limitation, this Licence authorises:

(a) the connection to any Applicable System of:

- (i) any other Applicable System situated on the same set of premises as the first mentioned Applicable System;
- (ii) any other Applicable System situated on another set of premises provided that any Messages conveyed over such a connection are Messages which can be conveyed by virtue of paragraph 1(b)(i) or 1(b)(ii) of this Schedule;
- (iii) any Private Circuit forming part of a Specified Public Telecommunication System;
- (iv) any telecommunication system in the United Kingdom the Licence for which authorises it to be connected to the Applicable System;
- (v) any telecommunication system (situated in the UK or elsewhere) which is designed or adapted for the reception of Messages which have been transmitted by Wireless Telegraphy;
- (vi) any telecommunication system run under the Branch Systems Licence which is situated in the same set of premises as the Applicable System;
- (vii) any telecommunication system run by the Crown;
- (viii) any telecommunication system run under a Licence which is specified by the Secretary of State for the purpose of this Licence and described in a list kept for that purpose by the Director and made available by him for inspection by the general public;
- (ix) apparatus of every description which is comprised in any Applicable System;
- (x) any Transmission System;
- (xi) apparatus comprised in the telecommunication system mentioned in sub-paragraphs (i) to (ix) above; and
- (xii) any hearing aid.

(b) the provision by means of the Applicable System of:



- (i) telecommunication services provided by means of a Station for Wireless Telegraphy where every Message that is received by that station is broadcast by the Applicable System for general reception apart from Messages to or from a person who is engaged in the running of the Applicable System or apparatus comprised in the Applicable system where such conveyance is incidental to the conveyance of Messages broadcast for general reception;
- (ii) any other telecommunication service which is specified for the purpose of this Licence by the Secretary of State after consultation with The Director and described in a list kept for that purpose by the Director and made available by him for inspection by the general public; and
- (iii) telecommunication services consisting in the conveyance of Messages to a Transmission System.

3 In this Schedule:

"Branch Systems Licence" means the Licence entitled 'Class Licence for the Running of Branch Telecommunication Systems' granted on 8 November 1989 or any licence which replaces that licence with or without modification;

"Message" means anything falling within paragraph (a) to (d) of section 4(1) of the Act;

"Private Circuit" means a communication facility which is:

- (i) provided by means of one or more Specified Public Telecommunication Systems;
- (ii) for the conveyance of Messages between points, all of which are points of connection between a Specified Public Telecommunication System and a telecommunication system which is not a Specified Public Telecommunication System;
- (iii) made available to a particular person or particular persons (including the operator of a Specified Public Telecommunication System in some other capacity);
- (iv) such that, subject to paragraph (b) below, all of the Messages transmitted at any of the points mentioned in (ii) above are received at every other such point; and
- (v) such that, subject to (b) below, the points mentioned in (ii) above are fixed by the way in which the facility is installed and cannot otherwise



be selected by persons or apparatus sending Messages by means of that facility;

and for the purposes of this definition:

- (a) such a communication facility shall be regarded as one Private Circuit and not more, notwithstanding that more than one unidirectional or bidirectional channels may be derived from it by means of apparatus comprised within a telecommunication system which is not a Specified Public Telecommunication System; and
- (b) where, by means of a multiplexing facility comprised within that Specified Public Telecommunication System, Messages transmitted at a point mentioned in (ii) above can be discriminated so that different Messages are conveyed to different points or sets of such points, the facility of communication between that first mentioned point and each separate point of such set of points shall be regarded as a separate Private Circuit;

"Specified Public Telecommunication System" means any public telecommunication system run by British Telecommunications plc, Mercury Communications Limited, Kingston Communications Limited or any other public telecommunication system which is specified by the Secretary of State for the purpose of this licence and described in a list kept for that purpose by the Director and made available by him for inspection by the general public.

"Station for Wireless Telegraphy" has the same meaning as in the Wireless Telegraphy Act 1949.

"Transmission System" means a telecommunication system other than an Applicable System, run by a person who has been granted a Licence to transmit over that system Messages for, or intended for, general reception.



## ANNEX A

### THE APPLICABLE SYSTEMS

1 The Applicable Systems are telecommunication systems of every description within the United Kingdom by means of which telecommunication services are provided as authorised by Schedule 3 provided that a system is an Applicable System only if and to the extent that:

- (a) the system is a Station for Wireless Telegraphy and all the apparatus comprised in the system is situated within a single set of premises; or
- (b) the system is situated on the same set of premises as a Station for Wireless Telegraphy and is connected to such a Station.

2 For the purpose of this Annex, premises whose boundaries touch and of both or all of which the Licensee is an occupant shall be deemed to be a single set of premises.

3 In this Annex "Station for Wireless Telegraphy" has the same meaning as in the Wireless Telegraphy Act 1949.

