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STATUTORY INSTRUMENTS

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**1991 No. 1176**

**BROADCASTING**

**The Broadcasting (Restrictions on  
the Holding of Licences) Order 1991**

*Made* - - - - - *9th May 1991*  
*Coming into force* - - - - - *10th May 1991*

Whereas a draft of this Order has been approved by resolution of each House of Parliament;  
Now, therefore, in exercise of the powers conferred upon me by the provisions of the Broadcasting Act 1990<sup>(1)</sup> set out in article 1(3), I hereby make the following Order:

**PART I**  
**PRELIMINARY**

**1.—**(1) This Order may be cited as the Broadcasting (Restrictions on the Holding of Licences) Order 1991 and shall come into force on the day after the day on which it is made.

(2) In this Order—

- (a) “the Act” means the Broadcasting Act 1990; and
- (b) unless the context otherwise requires, any reference to an article or Part is to an article or Part of this Order, and any reference in an article to a paragraph is to a paragraph of that article.

(3) This Order is made in exercise of the powers conferred by section 200(2) of, and the following provisions of Schedule 2 to, the Act:

- (a) in Part III—
  - (i) paragraph 2(3)(b) and (4),
  - (ii) paragraph 4,
  - (iii) paragraph 5(3)(b),
  - (iv) paragraph 9, and
  - (v) paragraph 10;

- (b) in Part IV—
  - (i) paragraph 2(5)(c) and (e),
  - (ii) paragraph 3(5)(c) and (e), and
  - (iii) paragraph 5;
- (c) Part V.

(4) Without prejudice to its earlier revocation, article 4 shall cease to have effect in relation to a licence for an area specified in any of sub-paragraphs (a), (b), (c) or (d) of paragraph (2) when licences for all the areas specified in that sub-paragraph have been granted.

2.—(1) For the purposes of articles 3, 4, 5, 12 and 13, a person shall be treated as holding a licence if the licence is held by a person connected with him.

(2) Any restrictions on participation imposed on the holder of a licence by articles 5 and 13 shall apply to him as if he and every person connected with him were one person.

## PART II

### TELEVISION

#### **Regional Channel 3**

3.—(1) In addition to the limits on the holding of licences to provide regional Channel 3 services specified in paragraph 2(1) of Part III of Schedule 2 to the Act (no person to hold more than two licences for regional Channel 3) and article 4 a person shall not at any time hold two licences to provide regional Channel 3 services if each of them is provided for one of the areas specified in paragraph (3).

(2) The areas specified in paragraph (3) and article 4(2) are areas of the United Kingdom in respect of which the Independent Television Commission have determined that a regional Channel 3 service is to be provided.

- (3) The areas referred to in paragraph (1) are—
  - (a) Central Scotland;
  - (b) East, West and South Midlands;
  - (c) East of England;
  - (d) London;
  - (e) North-West England;
  - (f) South and South-East England;
  - (g) Wales and West of England; and
  - (h) Yorkshire.

4.—(1) In addition to the limits on the holding of licences to provide regional Channel 3 services specified in paragraph 2(1) of Part III of Schedule 2 to the Act and article 3 a person shall not at any time hold two licences to provide regional Channel 3 services if they are for any of the combinations of areas specified in paragraph (2).

- (2) The combinations referred to in paragraph (1) are—
  - (a) Borders and Isle of Man and—
    - (i) Central Scotland,

- (ii) North East England, or
- (iii) North West England;
- (b) North Scotland and Central Scotland;
- (c) North-East England and Yorkshire;
- (d) South-West England and—
  - (i) South and South-East England, or
  - (ii) Wales and West of England.

5.—(1) A person who is the holder of licences to provide two regional Channel 3 services (in accordance with paragraph 2(1) of Part III of Schedule 2 to the Act and articles 3 and 4) shall not be a participant with more than a 20% interest in a body corporate which is the holder of another licence to provide a regional Channel 3 service.

(2) Where such a person as is mentioned in paragraph (1) is a participant with more than a 5% interest in a body corporate which is the holder of another licence to provide a regional Channel 3 service (but, in accordance with that paragraph, is not a participant with more than a 20% interest in it), he shall not be a participant with more than a 5% interest in any other such body corporate.

6.—(1) A person who is—

- (a) the holder of a licence to provide a regional Channel 3 service; and
- (b) a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide another such service,

shall not be a participant with more than a 20% interest in any other body corporate which is the holder of a licence to provide a regional Channel 3 service.

(2) Where such a person as is mentioned in paragraph (1) is a participant with more than a 5% interest in a body corporate which is the holder of a licence to provide a regional Channel 3 service (but, in accordance with that paragraph, is not a participant with more than a 20% interest in it), he shall not be a participant with more than a 5% interest in any other such body corporate.

### **National Channel 3**

7.—(1) A person who is the holder of a licence to provide a national Channel 3 service shall not be a participant with more than a 20% interest in a body corporate which is the holder of another licence to provide a national Channel 3 service.

(2) Where such a person as is mentioned in paragraph (1) is a participant with more than a 5% interest in a body corporate which is the holder of another licence to provide a national Channel 3 service (but, in accordance with that paragraph, is not a participant with more than a 20% interest in it), he shall not be a participant with more than a 5% interest in any other such body corporate.

### **Channel 5**

8.—(1) A person who is the holder of a licence to provide Channel 5 shall not be a participant with more than a 20% interest in a body corporate which is the holder of another licence to provide Channel 5.

(2) Where such a person as is mentioned in paragraph (1) is a participant with more than a 5% interest in a body corporate which is the holder of another licence to provide Channel 5 (but, in accordance with that paragraph, is not a participant with more than a 20% interest in it), he shall not be a participant with more than a 5% interest in any other such body corporate.

### Regional and national Channel 3 and Channel 5

9. Where a person, who is the holder of a licence to provide one of the services mentioned in paragraph 5(1) of Part III of Schedule 2 to the Act, is a participant with more than a 5% interest in a body corporate which is the holder of a licence to provide a service falling within either of the other two categories mentioned there (but, in accordance with paragraph 5(2) of the said Part III, is not a participant with more than a 20% interest in such a body corporate), he shall not be a participant with more than a 5% interest in any other such body corporate.

### Outside participation in Channel 3 and Channel 5

10.—(1) A person to whom this article applies shall not—

- (a) if he is a participant with more than a 20% interest in two bodies corporate which are the holders of licences to provide regional Channel 3 services, be a participant with more than a 20% interest in a third such body corporate; nor
- (b) if he is a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide any of the services mentioned in paragraph 1(2)(a) of Part III of Schedule 2 to the Act, be a participant with more than a 20% interest in a second such body corporate where either of the bodies is the holder of a licence to provide a national Channel 3 service or Channel 5.

(2) Where such a person as is mentioned in paragraph (1) is a participant in the maximum number of bodies corporate permitted by that paragraph, he shall not be a participant with more than a 5% interest in any other body corporate which is the holder of a licence to provide a Channel 3 service or Channel 5.

(3) A person to whom this article applies shall not, if he is a participant with more than a 5% interest in three bodies corporate which are the holders of licences to provide Channel 3 services or Channel 5, be a participant with more than a 5% interest in any other such body corporate.

(4) This article applies to a person who does not hold a licence to provide a Channel 3 service or Channel 5 and has effect as if he and every person connected with him were one person.

## PART III

### RADIO

#### Introductory

11.—(1) In addition to the limits on the holding of licences to provide national, local and restricted radio services set out in paragraph 2(1) of Part III of Schedule 2 to the Act (no person to hold more than one licence for national radio, 20 licences for local radio or six licences for restricted radio services) there shall be the limits set out in this Part; and for this purpose particular categories of radio services shall be ascribed points according to the table set out below.

TABLE III

Category of service	Points
National radio	25
Category A local radio	15
Category B local radio	8
Category C local radio	3

Category of service	Points
Category D local radio	1
Restricted radio service provided otherwise than for a particular event	1

- (2) For the purpose of the table a local radio service falls—
- (a) into category A if the number of persons over the age of 15 resident in the area for which the service is provided exceeds 4.5 million;
  - (b) into category B if the number of such persons exceeds 1 million but does not exceed 4.5 million;
  - (c) into category C if the number of such persons exceeds 400,000 but does not exceed 1 million; and
  - (d) into category D if the number of such persons does not exceed 400,000.

(3) In the case of a service provided on an amplitude modulated (AM) frequency the relevant number of points applicable to the service by virtue of the table shall be reduced by one third.

(4) A service which, on the day on which the licence to provide it is granted, falls into a particular category for the purposes of the table shall continue to be regarded as falling into that category as long as any increase or decrease in the relevant number of persons over the age of 15 (which would otherwise take the service outside that category) does not exceed 10%.

(5) A person who is a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide a service falling within any of the categories set out in the table, but who does not control that body, shall, for the purposes of the limits set out in article 12, be treated as the holder of a licence to provide a service to which one half of the points (which would otherwise be applicable to such a service) are ascribed.

(6) In this Part references to the area for which a particular service is provided are references to the measured coverage area determined by the Radio Authority for that service.

## Limits

**12.**—(1) Subject to the following paragraphs, a person shall not at any time hold licences to provide national, local or restricted radio services such that the total number of points applicable to such services, calculated in accordance with article 11, exceeds 15% of the total number of points so calculated applicable to all such services in respect of which licences have been granted and have not ceased to have effect.

(2) Such a person as is described in paragraph (1) may hold licences such that the total number of points applicable to the services to which they relate exceeds 15% of the total number of points applicable to all such services if the excess is solely attributable to a reduction in the number of points applicable to all such services.

(3) A person shall not at any time hold more than two licences to provide local radio services falling into category A.

(4) Subject to paragraph (3), a person shall not at any time hold more than six licences to provide local radio services falling into category A or B.

(5) Subject to paragraph (3), a person who holds a licence to provide a national radio service shall not at any time hold more than four licences to provide local radio services falling into category A or B.

### **Overlapping areas**

**13.**—(1) Subject to paragraph (5), a person who holds a licence to provide a local radio service shall not at any time hold a licence to provide a local radio service to which this article applies; and, subject to paragraphs (3) and (4), such a person shall not be a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide a local radio service to which this article applies.

(2) This article applies to a local radio service which is—

- (a) provided for an area which is substantially the same as that for which the service provided by the person mentioned in paragraph (1) is provided; and
- (b) provided on the same frequency band as that service.

(3) A person who holds a licence to provide a local radio service may be a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide such a local radio service as is described in paragraph (2) if the number of persons over the age of 15 resident in the smaller area does not exceed 10% of the number of such persons resident in the larger area.

(4) Where such a person as is described in paragraph (3) is a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide such a local radio service as is described in that paragraph he may not be a participant with more than a 20% interest in any other such body corporate.

(5) Nothing in this article shall prevent a person from holding a licence to provide local radio services if—

- (a) that person was, immediately before the grant of the licences, a local radio contractor for an area which was substantially the same as the area in respect of which those licensed services are provided; and
- (b) he provided two or more different programme services on different frequencies pursuant to his contract.

(6) For the purposes of this article two areas are to be regarded as substantially the same if at least 50% of the persons over the age of 15 resident in the smaller area are also resident in the larger area.

## **PART IV**

### **NEWSPAPERS**

#### **National newspapers and local radio**

**14.** A person who is the proprietor of a national newspaper shall not be a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide a local radio service; and a person who is the holder of a licence to provide such a service shall not be a participant with more than a 20% interest in a body corporate which runs a national newspaper.

#### **Newspapers and domestic satellite services**

**15.**—(1) A person who is the proprietor of a national or local newspaper shall not be a participant with more than a 20% interest in a body corporate which is the holder of a licence to provide a domestic satellite service.

(2) Where such a person as is mentioned in paragraph (1) is a participant with a more than 5% interest in a body corporate which is the holder of a licence to provide a domestic satellite service (but, in accordance with that paragraph, is not a participant with more than a 20% interest in it), he shall not be a participant with more than a 5% interest in any other such body corporate.

(3) A person who is the holder of a licence to provide a domestic satellite service shall not be a participant with more than a 20% interest in a body corporate which runs a national or local newspaper.

(4) Where such a person as is mentioned in paragraph (3) is a participant with more than a 5% interest in a body corporate which runs a national or local newspaper (but, in accordance with that paragraph, is not a participant with more than a 20% interest in such a body), he shall not be a participant with more than a 5% interest in any other such body corporate.

## PART V

### NATIONAL PUBLIC TELECOMMUNICATIONS OPERATORS

16.—(1) Subject to paragraph (2), the categories of licences granted by the Commission and the Authority which may not be held by any of the persons mentioned in Part V of Schedule 2 to the Act are—

- (a) in the case of the Commission, licences to provide a Channel 3 service, Channel 5 and a domestic satellite service; and
- (b) in the case of the Authority, a licence to provide a national radio service.

(2) Paragraph (1) applies to a national public telecommunications operator who has an annual turnover, attributable to his business as such an operator, which exceeds £2 billion.

(3) Subject to paragraphs (4) and (5), a national public telecommunications operator shall not hold a licence to provide a local delivery service.

(4) Paragraph (3) does not prevent a national public telecommunications operator from holding a licence to provide a local delivery service by virtue of paragraph 6 of Part II of Schedule 12 to the Act.

(5) Paragraph (3) does not prevent a national public telecommunications operator from holding a licence to provide a local delivery service where—

- (a) the closing date for applications for the licence fell after 31st March 1994; and
- (b) immediately before the invitation for applications for the licence was published, no part of the area for which the service is authorised to be provided lay within an area in respect of which there was a local delivery licence or a licence which continued in force by virtue of paragraph 1 of Part II of Schedule 12 to the Act.

Home Office

9th May 1991

*Kenneth Baker*  
One of Her Majesty's Principal Secretaries of  
State

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Schedule 2 to the Broadcasting Act 1990 contains restrictions on the holding of licences which may be awarded by the Independent Television Commission and the Radio Authority. Various provisions of that Schedule provide for those restrictions to be supplemented by Order. This Order contains supplementary restrictions. It is divided into five parts; Part I is concerned with general matters.

Part II relates to television. The limit contained in Schedule 2 to the Act that no person may hold more than two licences for regional Channel 3 services is supplemented so that a person may not hold licences for two specified large areas or, until such licences have been granted, for two specified contiguous areas. In addition the holder of a regional Channel 3 licence who has a non-controlling interest in a second Channel 3 licensee company may not have more than a 20% interest in a third such company, nor more than a 5% interest in a fourth.

The holder of a national Channel 3 licence may not have more than a 20% interest in a second national Channel 3 licensee company, nor more than a 5% interest in a third. Similar limits are applied to Channel 5. The holder of a licence for national or regional Channel 3 or Channel 5 may not have more than a 20% interest in a company which holds a licence to provide a service falling into another of those categories, nor more than a 5% interest in a third such company. Those who invest in, but do not control, Channel 3 and Channel 5 licensee companies are limited to a 20% interest in a third regional Channel 3 company and a 20% interest in a second Channel 3 or Channel 5 company if one company provides a national Channel 3 service or Channel 5. Further investment in Channel 3 and Channel 5 is limited to 5%; and those with more than a 5% interest in three Channel 3 or Channel 5 companies are limited to a 5% investment in any other such companies.

Part III concerns radio. It provides for a points scheme by virtue of which various categories of radio licence are allocated points according to the size of the population in the areas for which they are provided. Subject to minor exceptions, no person may hold radio licences such that the number of points attributable to them exceeds 15% of the points allocated to the radio system as a whole. In addition one person is limited to two licences for the largest type of local radio services and six licences for the next size down (four if a national radio licence is also held). Subject to limited exceptions, a local radio licensee may not hold, nor have more than a 20% interest in a company which holds, a licence to provide a local radio service which overlaps substantially with his service.

Part IV contains supplementary limits for newspapers. The proprietor of a national newspaper may not have more than a 20% interest in a company which holds a licence to provide a local radio service and vice versa. The proprietor of a national or local newspaper may not have more than a 20% interest in a company licensed to provide a domestic satellite service, nor more than a 5% interest in a second such company and vice versa.

Part V concerns national public telecommunications operators. It provides that a national public telecommunications operator with an annual turnover of more than £2 billion, his associate, a person who controls either of them or a body controlled by such an operator or his associate may not hold a licence to provide a Channel 3 or 5 service, a domestic satellite service or a national radio service. Subject to a limited exception, a national public telecommunications operator may not hold a licence to provide a local delivery service. But after 1st April 1994 such an operator may bid for such a licence if it is for an area not at that time covered by a licence authorising the provision of a local delivery service or a prescribed diffusion service.

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