
STATUTORY INSTRUMENTS

1997 No. 2931

TELECOMMUNICATIONS

The Telecommunications (Interconnection) Regulations 1997

Made - - - - *9th December 1997*
Laid before Parliament *10th December 1997*
Coming into force - - *31st December 1997*

The Secretary of State, being a Minister designated⁽¹⁾ in pursuance of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to telecommunications, in exercise of the powers conferred on her by that section and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Telecommunications (Interconnection) Regulations 1997 and shall come into force on 31 December 1997.

Interpretation

2.—(1) In these Regulations—

- (a) “the Interconnection Directive” means Directive [97/33/EC](#) of the European Parliament and of the Council on Interconnection in Telecommunications with regard to ensuring Universal Service and Interoperability through Application of the Principles of Open Network Provision (ONP)⁽³⁾; and
- (b) “the ONP Framework Directive” means Council Directive [90/387/EEC](#) on the establishment of the internal market for telecommunications services through the implementation of Open Network Provision⁽⁴⁾;

and words and expressions used in the Regulations shall, unless the context otherwise requires, have the same meaning as in the Interconnection and the ONP Framework Directive.

(2) In these Regulations—

(1) S.I.1996/266.
(2) 1972 c. 68.
(3) OJNo. L 192, 24.7.90, p.1.
(4) OJ No. L 199, 26.7.97, p.32.

“the Act” means the Telecommunications Act 1984⁽⁵⁾;

“an Operator having Significant Market Power” means a Public Operator which the Director has determined to be an organisation having Significant Market Power in accordance with Regulation 4(1)(a) below;

“the Commission” means the Commission of the European Communities;

“ECU” means European Currency Unit, calculated at the central rate set by the EC Commission on the Licensee’s accounting reference date, as defined in section 224 of the Companies Act 1985;

“European Public Operator” means a person authorised in another Member State to provide public telecommunications networks and publicly available telecommunications services and whose name has been notified to the Commission under Article 18 of the Directive as an organisation covered by Annex II of the Directive.

“fixed public telephone network” means the public switched telecommunications network which supports the transfer between network termination points at fixed locations of speech and 3, 1 kHz bandwidth audio information, to support inter alia:

- voice telephony;
- facsimile Group III communications, in accordance with ITU-T Recommendations in the “T-series”,
- voice band data transmission via modems at a rate of at least 2,400 bit/s, in accordance with ITU-T Recommendations in the “V-series”, and

where access to the end-user’s network termination point is via a number or numbers in the national numbering plan;

“fixed public telephone service” means the provision to end-users at fixed locations via a number or numbers in the national numbering plan of a service for the originating and receiving of national and international calls, including access to emergency services, the provision of operator assistance, directory services, provision of public pay phones, provision of service under special terms or provision of special facilities for customers with disabilities or with special social needs or both such provisions.

“interconnection” means the physical and logical linking of telecommunications networks used by the same or a different organisation in order to allow the users of one organisation to communicate with users of the same or another organisation or to access services provided by another organisation. Services may be provided by the parties involved or other parties who have access to the network;

“licence” means a licence granted under section 7 of the Act.

“Public Operator” means a person to whom a licence has been granted authorising the running of publicly available telecommunication systems and the provision of publicly available telecommunication services.

“relevant licence” means a licence granted to a Public Operator falling within the categories set out in Schedule 2.

“special rights” means rights that are granted by a Member State to a limited number of undertakings through any legislative, regulatory or administrative instrument which, within a given geographical area, limits to two or more the number of such undertakings authorised to provide a service or undertake an activity, otherwise than according to objective, proportionate and non-discriminatory criteria, or designates, otherwise than according to such criteria, several competing undertakings as being authorised to provide a service or undertake an

(5) 1984 c. 12 as amended by the Telecommunications (Licensing) Regulations 1997 (S.I. 1997/2930). There are other amendments to 1984 c. 12 which are not relevant to these Regulations.

activity, or confers on any undertaking or undertakings, otherwise than according to such criteria, legal or regulatory advantages which substantially affect the ability of any other undertaking to provide the same service or to undertake the same activity in the same geographical area under substantially the same conditions.

“Universal service” means a defined minimum set of services of specified quality which is available to all users independent of their geographical location and, in the light of specific national conditions, at an affordable price.

“universal service obligations” means those obligations placed upon an operator of a fixed public telephone network by means of a relevant licence which concern the provision of such a network and a fixed public telephone service throughout a geographical area specified in the licence including, where required, averaged prices in that geographical area for the provision of that service;

“users” means individuals, including consumers, or organisations using or requesting publicly available telecommunications services;

The Obligation to Interconnect

3.—(1) A relevant licence shall include a provision imposing an obligation on the Licensee to negotiate interconnection when requested by another such Public Operator, or, where the relevant licence authorises connection to telecommunication systems or telecommunication apparatus outside the United Kingdom, by a European Public Operator.

(2) The relevant licence may include a condition enabling the Director to agree to limit this obligation:

- (a) on a temporary basis where in his opinion there are technically and commercially viable alternatives to the interconnection requested; and
- (b) the requested interconnection is in his opinion inappropriate in relation to the resources available to meet the request; and

any limitation imposed by the Director shall be fully reasoned and shall be published in accordance with regulation 8(3) below.

(3) A licence granted to an Operator having Significant Market Power in a relevant market shall include a condition imposing an obligation to meet all reasonable requests for access to the network including access at points other than the network termination points offered to the majority of end-users.

Significant Market Power

(a) 4. (1) (a) The Director shall determine, on the coming into force of these regulations and from time to time, whether a Public Operator has Significant Market Power.

(b) In making such a determination, it shall be presumed that:

- (i) a Public Operator which has 25% or more of the relevant market, in the geographical area within which it is licensed to operate has Significant Market Power; and
- (ii) a Public Operator which has less than 25% of the relevant market in the geographical area within which it is licensed to operate does not have Significant Market Power; unless having regard to the organisation’s ability to influence market conditions, its turnover relative to the size of the market, its control of the means of access to end-users, its access to financial resources and its experience in providing products and services in the market, the Director determines the contrary.

(2) The Director shall notify the Secretary of State of the determinations which he has made under paragraph (1) above and the Secretary of State shall notify such determinations to the Commission.

The Interconnection Requirements

5.—(1) In exercising their functions under sections 7 and 12 to 15 of the Act (granting of licences and modification of licence conditions) the Secretary of State and the Director shall ensure that conditions are imposed on the relevant licensees so that the following requirements are met—

- (a) for interconnection to the telecommunication systems described in Schedule 1 run by Operators having Significant Market Power, the requirements set out in Part I of Schedule 3 (Non Discrimination and Information);
- (b) for Operators having Significant Market Power running the telecommunication systems or providing the telecommunication services described in Parts I and II of Schedule 1,
 - (i) the requirements set out in Part II of Schedule 3 (Interconnection Charges and Cost Accounting Systems); and
 - (ii) the requirements in paragraph 2 of Part III of Schedule 3 (Accounting Separation);
- (c) for Operators having Significant Market Power running the telecommunication systems or providing the telecommunication services described in Part III of Schedule 1 who have been notified to the Commission as having Significant Market Power on the national market for interconnection, the requirement in paragraph 1 of Part II of Schedule 3 (Interconnection Charges);
- (d) for Public Operators which have special or exclusive rights for the provision of services in sectors other than telecommunications in the UK or in any other Member State of the Community, the requirements set out in paragraph 1 of Part III to Schedule 3 (Accounting Separation);
- (e) for all Public Operators, the requirements in Part IV of Schedule 3 (Financial Information).

General Responsibilities of the Secretary of State and of the Director

6.—(1) In exercising their functions conferred by or under the Act, and these Regulations, the Secretary of State and the Director shall encourage and secure adequate interconnection in the interests of all users, exercising their responsibility in a way that provides maximum economic efficiency and gives the maximum benefit to end-users, and in doing so shall have regard to the following—

- (a) the need to ensure satisfactory end-to-end communication for users;
- (b) the need to stimulate a competitive market;
- (c) the need to ensure the fair and proper development of a harmonised European telecommunication market;
- (d) the need to co-operate with the regulatory authorities of other Member States;
- (e) the need to promote the establishment and development of trans-European networks and services, and the interconnection of national networks and interoperability of services, as well as access to such networks and services;
- (f) the principles of non-discrimination (including equal access) and proportionality;
- (g) the need to maintain and develop a universal service.

(2) The Director may specify general conditions which must be included in interconnection agreements. The general conditions must be published in accordance with regulation 8. In particular, the Director in relation to interconnection between Public Operators described in Schedule 2 and between such a Public Operator and a European Public Operator—

- (a) may set ex ante conditions in the areas listed in Part 1 of Schedule 4; and
- (b) shall encourage coverage in an interconnection agreement of the issues listed in Part II of Schedule 4.

(3) In pursuit of the aims stated in paragraph (1) above the Director may intervene at any time, and shall do so on the request of either party, in order to make a direction specifying issues which must be covered in an interconnection agreement, or to make a direction that specific conditions be observed by one or more parties to such an agreement. The Director may in exceptional circumstances make a direction that changes be made to interconnection agreements already concluded where it is justified to ensure effective competition or interoperability of services for users or both.

(4) The Director may on his own initiative at any time or if requested by either party, by direction set time limits within which negotiations on interconnection are to be completed. Any such direction shall also set out the steps to be taken if agreement is not reached within these time limits. If the Director appoints a conciliator, the direction shall include provisions as to the payment of the conciliator's reasonable costs and expenses and the procedures to be adopted by the conciliator. The procedures for the purposes of bringing about agreement shall be open to the public in accordance with regulation 8(3).

(5) Where a Public Operator described in Schedule 2 enters into interconnection agreements with others, the Director may inspect all such interconnection agreements in their entirety.

(6) Where there is a dispute concerning interconnection between organisations the Director shall, at the request of either party, take steps to resolve the dispute within six months of the date of the request. The direction which the Director makes to resolve the dispute shall represent a fair balance between the legitimate interests of both parties. The direction shall be notified to the parties and published in accordance with regulation 8(3). The parties concerned shall be given a full statement of the reasons on which it is based.

(7) Where a complaint concerning interconnection is brought by a European Public Operator against an organisation authorised in the United Kingdom, the Director shall take steps to resolve the dispute within six months of the date of the complaint. The direction which the Director makes to resolve the dispute shall represent a fair balance between the legitimate interests of the European Public Operator and the organisation authorised in the United Kingdom. The direction shall be notified to the parties and published in accordance with regulation 8(3). The parties concerned shall be given a full statement of the reasons on which it is based.

(8) In exercising his duties under paragraphs (6) and (7) above, the Director shall take into account inter alia—

- (a) the interests of users;
- (b) regulatory obligations or constraints imposed on any of the parties;
- (c) the desirability of stimulating innovative market offerings, and of providing users with a wide range of telecommunications services both at national and Community level;
- (d) the availability of technically and commercially viable alternatives to the interconnection requested;
- (e) the desirability of ensuring equal access arrangements;
- (f) the need to maintain the integrity of the public telecommunications network and the interoperability of services;
- (g) the nature of the request in relation to the resources available to meet the request;
- (h) the relative market positions of the parties;
- (i) the public interest;
- (j) the promotion of competition;
- (k) the need to maintain a universal service.

(9) Where there are concurrent disputes between the same two organisations the Director shall, on request of either party to the disputes, make every effort to co-ordinate with the national regulatory authorities in any other Member State concerned in order to bring about a resolution of the disputes

in accordance with the principle set out in paragraph (1)(a) to (g) above, within six months of referral. The resolution of the disputes shall represent a fair balance between the legitimate interests of both parties and be consistent with the interconnection rules in the United Kingdom and in the other Member States, in conformity with the law of the European Community.

(10) Where Public Operators described in Schedule 2 have not interconnected their facilities the Director may, in accordance with the principle of proportionality and in the interests of users, make a direction that the Public Operators concerned shall interconnect their facilities. Any such direction shall be made only as a last resort in order to protect essential public interests. The direction may, where appropriate, set the terms of interconnection.

(11) The Director may publish such financial information provided to him in accordance with regulation 5(f) as would contribute to an open and competitive market, taking into account considerations of commercial confidentiality.

(12) In exercising their functions under section 7 of the Act, the Secretary of State and the Director shall ensure that a description of the cost accounting system used by Operators having Significant Market Power in accordance with paragraph 4 of Part II in Schedule 3 showing the main categories under which costs are grouped and the rules used for the allocation of costs to interconnection, is made available on request to interested parties. The Director, or an independent body approved by the Director, shall verify compliance by organisations with the cost accounting system and the Director shall publish an annual statement concerning compliance.

Essential Requirements

7.—(1) The Director may specify conditions based on essential requirements to be included in any interconnection agreement. These conditions shall be published in accordance with regulation 8.

(2) In exercising their functions under section 7 of the Act, the Secretary of State and the Director shall take all necessary steps to ensure that insofar as is practicable in all the circumstances the availability of telecommunication systems run by Public Operators is maintained in the event of catastrophic network breakdown or in exceptional cases of force majeure, such as extreme weather, earthquakes, flood, lightning or fire.

(3) In specifying conditions under regulation 7(1) above, the Director shall ensure that any conditions for interconnection related to the availability in the event of accidents, or the integrity, of telecommunication systems run by Public Operators shall be proportionate and non-discriminatory and based on objective criteria identified in advance.

(4) In specifying conditions under regulation 7(1) above, the Director may specify conditions in order to ensure interoperability of services, including conditions designed to ensure satisfactory end-to-end quality. The conditions may impose specific technical standards, specifications, or codes of practice agreed by the parties who, in the Director's opinion, are directly concerned.

(5) In specifying conditions under regulation 7(1) above, the Director may specify conditions in order to ensure the protection of data, to the extent necessary to ensure compliance with relevant regulatory provisions on the protection of data including protection of personal data, the confidentiality of information processed, transmitted or stored, and the protection of privacy.

Publication of information by the Director

8.—(1) The Director shall from time to time publish or ensure that there is published adequate and up-to-date information on interconnection in accordance with paragraph 2 of Part II of Schedule 3, regulation 6(2), regulation 7 and regulation 11(2).

(2) The information referred to in paragraph (1) above shall be published in such a way as to provide easy access for users of that information; and the Director shall publish references to the publication of that information in the London, Edinburgh and Belfast Gazettes.

(3) The Director shall ensure that up-to-date and specific information in accordance with regulation 3(2), regulation 12(1), paragraph 3 of Part I of Schedule 3, regulation 6(4), regulation 6(6), regulation 6(7) and regulation 10(2) is made available on request to interested parties, free of charge, during normal working hours. Reference shall be made by the Director in the London, Edinburgh and Belfast Gazettes to the times and location at which the information is available.

Technical standards

9.—(1) In exercising his functions under the Act the Secretary of State and the Director shall ensure that Public Operators take full account of standards listed in the Official Journal of the European Communities in accordance with Article 5 of the ONP Framework Directive as being suitable for the purpose of interconnection.

(2) In the absence of such standards, the Director shall encourage the provision of technical interfaces for interconnection according to the standards below in order of priority:

- (a) standards adopted by European standardisation bodies such as the European Telecommunications Standards Institute (ETSI), or the European Committee for Standardisation/European Committee for Electrotechnical Standardisation (CEN/Cenelec); or in the absence of such standards,
- (b) international standards or recommendations adopted by the International Telecommunications Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Commission (IEC); or in the absence of such standards,
- (c) any standards or specifications determined by the Director.

Collocation and facility sharing

10.—(1) Where a Public Operator has the right under the Act to install facilities on, over or under public or private land, or may take advantage of a procedure for the expropriation or use of property, the Secretary of State and the Director in exercising their functions under the Act shall encourage the sharing of such facilities or property or both with other organisations providing telecommunication systems, in particular where essential requirements deprive other organisations of access to viable alternatives.

(2) The Director may intervene to resolve a dispute concerning collocation or facility sharing at the request of either party. The Director shall take into account the matters listed in regulation 6(8) above. Where the Director intervenes, he shall take steps to resolve the dispute within six months of the date of the request. The resolution of the dispute shall represent a fair balance between the legitimate interests of both parties. The decision of the Director shall be notified to the parties and published in accordance with regulation 8(3).

(3) The Director may specify facility or property sharing arrangements (including physical collocation) after an appropriate period of public consultation during which all interested parties must be given an opportunity to express their views. Such arrangements may include rules for apportioning the costs of facility or property sharing or both.

(4) Public Operators shall comply with any decision made under sub-paragraph (2) above or any arrangement specified under sub-paragraph (3) above and for the purposes of sections 16 to 18 of the Act any such decision or arrangement shall be deemed to be a condition included in a licence under section 7(5) of the Act.

Numbering

11.—(1) In exercising their functions under the Act the Secretary of State and the Director shall take into account the need to:

- (a) ensure the provision of adequate numbers and numbering ranges for all publicly available telecommunications services;
 - (b) ensure that the procedures for allocating individual numbers or numbering ranges or both are transparent, equitable and timely and that the allocation is carried out in an objective, transparent and non-discriminatory manner. The Secretary of State and the Director may lay down conditions for the use of certain prefixes or certain short codes, in particular where these are used for services of general public interest;
 - (c) encourage the earliest possible introduction of the number portability facility whereby end-users who so request can retain their numbers on the fixed public telephone network at a specific location independent of the organisation providing service. In order to ensure that charges to consumers are reasonable the Director shall ensure that pricing for interconnection related to the provision of this facility is reasonable.
 - (d) ensure that numbering plans and procedures are applied in a manner that gives fair and equal treatment to all providers of public telecommunications services and, in particular, to ensure that an organisation allocated a range of numbers shall avoid undue discrimination in the number sequences used to give access to the services of other Public Operators.
- (2) The Director shall ensure that the main elements of the national numbering plans, and all subsequent additions or amendments to them, are published in accordance with regulation 8(1), subject only to limitations imposed on grounds of national security.

Universal Service contributions

12.—(1) A licence imposing universal service obligations shall include a condition that the Licensee shall, at the request of the Director, calculate the net cost of such obligations in accordance with Schedule 5. The calculation of the net cost of universal service obligations shall be audited by an independent body approved by the Director. The results of the cost calculation and the conclusions of the audit shall be open to the public in accordance with regulation 8(3).

(2) Where justified on the basis of the cost calculation referred to in paragraph (1) above, and taking into account the market benefit if any which accrues to an organisation that offers Universal service, the Director shall determine whether a mechanism for sharing the net cost of universal service obligations may be justified on the grounds that universal service obligations represent an unfair burden on an organisation and shall inform the Secretary of State of his determination.

(3) A licence imposing universal service obligations shall include a condition that any charges payable by an interconnected party which include or serve as a contribution to the cost of those obligations shall be notified, prior to their introduction, to the Director. It shall also be a condition of the licence that, where the Director finds on his own initiative, or after a substantiated request by an interested party, that such charges are excessive, the organisation concerned shall be required to reduce the relevant charges. Such reductions shall be applied retrospectively, from the date of introduction of the charges, but not before 1 January 1998.

Modification of licences to include the interconnection conditions

13.—(1) Subject to paragraph (2) below, relevant licences are hereby modified upon the coming into force of these Regulations by:

- (a) the deletion from the condition in Part 2 of Schedule 1 under the heading “Requirement to Provide Connection Services” (or its equivalents) of the paragraphs referring to the terms and conditions that might be included in an agreement to provide connection services in accordance with that condition (excluding the obligation itself set out in the first paragraph of that condition) together with any power of the Director under that condition to make any determination in respect of the terms and conditions, or to impose any other requirement in respect of such obligation; and

- (b) the insertion of the standard conditions set out in Schedule 6 as Part A to Schedule 1 to those licences, and the conditions inserted into each of the relevant licences pursuant to this regulation are, in relation to that licence, referred to for the purposes of these Regulations as “the Interconnection Conditions.”
- (2) Paragraph (1)(a) shall not apply to:
 - (a) the licence granted to British Telecommunications dated 22 June 1984; and
 - (b) paragraphs within the condition which refer to Compliant Terminal Equipment or which refer to the reasonableness of the terms and conditions to which an agreement is subject.
- (3) For the purposes of the Act, the modifications of the relevant licences by paragraph (1) above shall have effect as if they were made under section 12 of the Act by the Director.

9th December 1997

Barbara Roche,
Parliamentary Under Secretary of State for Small
Firms, Trade and Industry,
Department of Trade and Industry

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SCHEDULE 1

PART I

- (a) *The fixed public telephone network*
- (b) *The fixed public telephone service according to Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of Open Network Provision (ONP) to voice telephony*⁽⁶⁾

PART II

The leased lines service

The telecommunications facilities which provide for transparent transmission capacity between network termination points, and which do not include on-demand switching (switching functions which the user can control as part of the leased line provision). They may include systems which allow flexible use of the leased line bandwidth, including certain routing and management capabilities.

PART III

Public mobile telephone networks

- (a) Public telephone networks where the network termination points are not at fixed locations.

Public mobile telephone services

- (b) Telephony services whose provision consists, wholly or partly, in the establishment of radiocommunications to one mobile user, and makes use wholly or partly of a public mobile telephone network.

SCHEDULE 2

Public Operators who are authorised to provide switched and unswitched bearer capabilities to users upon which other telecommunications services depend, and who

1. provide (i) fixed or (ii) mobile public switched telecommunications networks or (iii) publicly available telecommunications services or any combination of (i), (ii) or (iii), and in so doing control the means of access to one or more network termination points identified by one or more unique numbers in the national numbering plan;
2. provide leased lines to users' premises;
3. are authorised in a Member State of the Community to provide international telecommunications circuits between the Community and third countries, for which purpose they have special or exclusive rights, or

(6) OJ No. L 321, 30.12.1995, p. 6.

4. provide publicly available fixed or mobile telecommunications services or both and are authorised to connect their systems to other Public Operators as described above and fall within the class of Public Operators to which the Public Operator from which interconnection is sought is required by its relevant licence to provide such interconnection.

SCHEDULE 3

PART I

Non Discrimination and Information

1. The Licensee shall adhere to the principle of non-discrimination with regard to interconnection offered to others. The Licensee shall apply similar conditions in similar circumstances to interconnecting organisations providing similar services. The Licensee shall provide interconnection facilities and information to others under the same conditions and of the same quality as the Licensee provides for its own services, or those of its subsidiaries or partners.

2. The Licensee shall make available on request to organisations considering interconnection all information and specifications which are necessary to facilitate conclusion of an agreement; the information provided should include changes planned for implementation within the next six months, unless agreed otherwise by the Director.

3. The Licensee shall provide to the Director copies of interconnection agreements which it has entered into. The Licensee shall make such copies available for inspection free of charge by interested parties at their request, in accordance with regulation 8(3), with the exception of parts of the agreement which, in the opinion of the Director, deal with the commercial strategy of the parties. In every case the Licensee shall make available to interested parties details of the interconnection charges, terms and conditions and, where relevant, any contributions to universal service obligations.

4. Information received by the Licensee from an organisation seeking interconnection shall be used only for the purpose for which it was supplied. It shall not be passed on to other parts of the same business, subsidiaries or partners for whom such information could provide a competitive advantage.

PART II

Interconnection Charges and Cost Accounting Systems

1. Charges made by the Licensee for interconnection shall follow the principles of transparency and cost orientation and the burden of proof that charges are derived from actual costs including a reasonable rate of return on investment shall lie with the Licensee. The Licensee shall comply with any request made by the Director to provide full justification for its interconnection charges and shall comply with any adjustment required by the Director.

2. The Licensee shall publish in accordance with regulation 8 a reference interconnection offer. The reference interconnection offer shall include a description of the interconnection offerings broken down into components according to market needs and specify the charges and other terms and conditions on which they are offered. The Licensee may set different tariffs, terms and conditions for interconnection for different categories of organisations which are authorised to provide networks and services, where such differences can be objectively justified on the basis of the type of interconnection provided or the relevant national licensing conditions or both but such

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differences may not result in distortion of competition and, in particular, the Licensee shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its subsidiaries or partners in accordance with paragraph 1 of part I of this Schedule. The Licensee shall comply with a requirement by the Director to impose changes in the reference interconnection offer where justified. Where an organisation makes changes to the published reference interconnection offer, adjustments required by the Director may be retrospective in effect, from the date of introduction of the change.

3. The Licensee's charges shall, in accordance with European Community law, be sufficiently unbundled to ensure that the organisation requesting interconnection is not required to pay for anything not strictly related to the service requested. Any charges imposed by the Licensee which are related to the sharing of the cost of universal service obligations, as described in regulation 12(3) shall be unbundled and identified separately.

4. The Licensee shall have a cost accounting system which in the opinion of the Director is suitable to demonstrate that the Licensee has complied with the requirements set out in this Part of Schedule 3 (covering such matters as indicated in Annex V of the Directive).

PART III

Accounting Separation

1. The Licensee shall draw up, submit to independent audit and publish separate accounts as if the telecommunications activities in question were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their telecommunications activities including an itemised breakdown of fixed asset and structural costs, or have structural separation for the telecommunications activities.

This requirement shall apply in any financial year in which the turnover of the Licensee from its telecommunications activities in the Community is more than 50 million ECU.

2. The Licensee shall keep separate accounts, drawn up, submitted to independent audit and published, for, on the one hand, their activities related to interconnection—covering both interconnection services provided internally and interconnection services provided to others—and, on the other hand, other activities, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their interconnection activity, including an itemised breakdown of fixed asset and structural costs.

This requirement shall apply in any financial year in which the turnover of the Licensee from its telecommunications activities in the Community is more than 20 million ECU.

PART IV

Financial Information

The Licensee shall provide financial information to the Director promptly on request and to the level of detail required by the Director.

SCHEDULE 4

Framework for Negotiation of Interconnection Agreements

PART I

Areas where ex ante conditions may be set—

- (a) dispute resolution procedure;
- (b) requirements for publication/access to interconnection agreements and other periodic publication duties;
- (c) requirements for the provision of equal access and number portability;
- (d) requirements to provide facility sharing, including collocation;
- (e) requirements to ensure the maintenance of essential requirements;
- (f) requirements for allocation and use of numbering resources (including access to directory services, emergency services and pan-European numbers);
- (g) requirements concerning the maintenance of end-to-end quality of service;
- (h) where applicable, determination of the unbundled part of the interconnection charge which represents a contribution to the net cost of universal service obligations.

PART II

Other issues the coverage of which is to be encouraged in interconnection agreements—

- (a) description of interconnection services to be provided;
- (b) terms of payment, including billing procedures;
- (c) locations of the points of interconnection;
- (d) technical standards for interconnection;
- (e) interoperability tests;
- (f) measures to comply with essential requirements;
- (g) intellectual property rights;
- (h) definition and limitation of liability and indemnity;
- (i) definition of interconnection charges and their evolution over time;
- (j) dispute resolution procedure between parties before requesting national regulatory authority intervention;
- (k) duration and renegotiation of agreements;
- (l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;
- (m) achievement of equal access;
- (n) provision of facility sharing;
- (o) access to ancillary, supplementary and advanced services;
- (p) traffic/network management;
- (q) maintenance and quality of interconnection services;
- (r) confidentiality of non-public parts of the agreement;

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- (s) training of staff.

SCHEDULE 5

The cost of universal service obligations shall be calculated as the difference between the net cost for an organisation of operating with the universal service obligations and operating without the universal service obligations. The calculation shall be based upon the costs attributable to—

- (i) elements of the service which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards; and
- (ii) end-users or groups of end-users who, taking into account the cost of providing the network and service, the revenue generated and any geographical averaging of prices imposed by the licence, can only be served at a loss or under cost conditions falling outside normal commercial standards.

Revenues shall be taken into account in calculating the net costs. Costs and revenues should be forward-looking.

SCHEDULE 6

Conditions Inserted in Schedule 1 to the Relevant Licence

“SCHEDULE 1

PART A:

THE INTERCONNECTION CONDITIONS

Interpretation

ICD1 In this Part:

- (a) “**Interconnection Regulations**” means the Telecommunications (Interconnection) Regulations 1997, and the word “Regulation” shall be construed accordingly;

“**Interconnection Directive**” means Directive [97/33/EC](#) on interconnection in Telecommunications with regard to ensuring universal service and interoperability through the application of the principles of Open Network Provision (ONP);

“**Licensee**” except where stated otherwise, means a Schedule 2 Public Operator;

“**European Public Operator**” means a person authorised in another Member State to provide public telecommunications networks and publicly available telecommunications services and whose name has been notified by that Member State to the Commission under Article 18 of the Directive as a person covered by Annex II of the Directive;

“**Schedule 2 Public Operator**” means a Public Operator described in Schedule 2 to the Regulations;

“**Operator**” means a Schedule 2 Public Operator and, insofar as the Licensee is authorised to connect the Applicable Systems or the Applicable Cabled Systems

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to telecommunication systems or telecommunication apparatus outside the United Kingdom, but no further, a European Public Operator;

“**Public Operator**” means any person who is authorised or permitted to run publicly available telecommunication systems or provide publicly available telecommunication services or both.

“**Operator having Significant Market Power**” means a Public Operator which the Director has determined under Regulation 4 for the time being to be an Operator having Significant Market Power.

- (b) words and expressions used shall unless the context otherwise requires have the same meaning as in the Interconnection Regulations;
- (c) the Interconnection Conditions are inserted for the purposes of the application of the Interconnection Directive to the Licensee and shall accordingly be construed in accordance with that Directive;
- (d) in the event of any conflict between any provision of the Interconnection Conditions and any provision of any other Condition of this Licence, the latter provision shall, to the extent of such conflict, be taken to be disapplied;
- (e) subject to paragraph (d) above, the Licensee is not required to give effect to any obligation in any Interconnection Condition in so far as the Licensee is required to give effect to such obligation under any other Condition of the Licence.

Interconnection

ICD2.1 Subject to ICD2.6 and ICD2.7 and any exercise by the Director of his functions under regulations 6(3) or 6(4), the Licensee shall offer to enter into an agreement with a Schedule 2 Public Operator or a European Public Operator or offer to amend such an agreement, as the case may be, within a reasonable period, if such Operator requires it to:

- (a) connect, and keep connected, to any of the Applicable Systems, or to permit to be so connected and kept connected, the Operator’s telecommunication system and accordingly to 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 to be conveyed or 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 between the Operator’s system and 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 which, to the extent the parties do not agree (or the Licensee is not in any event so required under or by virtue of another Condition), the Director may determine 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 it provides or proposes to provide.

ICD2.2 The Licensee or the Operator may at any time request the Director to make a direction in order

- (a) to specify issues which must be covered in an interconnection agreement; or
- (b) to lay down specific conditions to be observed by one or more parties to the agreement; or
- (c) if he thinks fit, to set time limits within which negotiations are to be completed;

and a direction under this paragraph operates as an exercise by the Director of the power of direction conferred by regulation 6(3) or 6(4) as the case may be.

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ICD2.3 The Licensee shall secure that the agreement to be entered into, or an amendment under paragraph 2.1 above is offered on terms and conditions which are reasonable. To the extent that the terms and conditions of an agreement made under paragraph 2.1 (whether on or after the coming into force of this paragraph) cease to be reasonable, the Licensee shall, within a reasonable period, offer to the Operator, or agree with the Operator, as the case may be, to amend the agreement so that the terms and conditions of the agreement are reasonable.

ICD2.4 The Licensee shall comply with:

- (a) the requirements of any direction given to the Licensee under ICD2.2 or under regulations 6(3) and 6(4) in relation to any negotiations or agreement to which it is or is intended to be a party; and
- (b) the requirements of any direction given to the Licensee under regulation 6(6) or regulation 6(7) in relation to any dispute over the terms of an agreement under paragraph 2.1 above.

ICD2.5 An agreement made pursuant to this Condition shall not contain any restrictive provision, unless, before the agreement is made, the Director has consented to the inclusion of such a provision. For the purposes of this paragraph, a provision in an agreement is a restrictive provision if by virtue of the existence of such a provision (taken alone or with other provisions) the agreement is one to which the Restrictive Trade Practices Act 1976 would apply but for paragraph 1(1) of Schedule 3 to that Act.

ICD2.6 If the Director is considering whether a determination or consent under this Condition is appropriate, he shall notify the Licensee and Interested Parties of his proposed decision or the options which he is considering, and his reasons, and give them a reasonable opportunity to make representations. On making or refusing a determination or direction or giving or refusing consent, he shall notify the Licensee and Interested Parties of the determination, consent or refusal, as the case may be, and his reasons.

ICD2.7 Paragraph ICD2.1 above does not apply to the extent that the Director has consented to limiting such obligation on a temporary basis and on the grounds that there are technically and commercially viable alternatives to the interconnection requested, and that the requested interconnection is inappropriate in relation to the resources available to meet the request.

ICD2.8 For the avoidance of doubt:

- (i) any question as to whether any term or condition (including a charge) is reasonable shall be decided by the Director having regard to any guidelines on the application of this Condition issued from time to time by the Director; and
- (ii) in considering whether a term or condition (including a charge) is reasonable, the Director may take into account, inter alia, the effective date of the term or condition and the period during which such term or condition may already have been in effect; the Director may conclude that a reasonable charge is one which is offered or agreed, as the case may be, on terms that it take effect in agreements made under paragraph 2.1 above from the date of a complaint or the date on which the term was first offered or accepted by the Licensee or an Operator or from any other date which is considered by the Director to be appropriate in the circumstances.

ICD2.9 The Licensee shall provide financial information to the Director promptly on request and to the level of detail required by the Director under Part IV of Schedule 3 to the Regulations.

ICD2.10 The Licensee shall comply with any request by the Director under regulation 6(5) to inspect any interconnection agreement entered into by the Licensee in its entirety.

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ICD2.11 The Licensee shall comply with any requirement made by the Director as a last resort under regulation 6(10) to interconnect in order to protect essential public interests, and shall comply with any terms set by the Director for such purpose.

ICD2.12 In this Condition:

“Connection Service” means a telecommunication service consisting in the conveyance of any Message which has been, or is to be, conveyed by means of the Applicable Systems;

“Interested Parties” means those persons (if any), other than the Licensee, with whom, in any particular case, the Director considers it appropriate to consult.

Essential Requirements

ICD3 Where the Director specifies conditions based on essential requirements pursuant to Regulation 7(1) for inclusion in any interconnection agreement to which the Licensee is a party, the Licensee shall forthwith secure the incorporation of those terms and conditions in such an agreement.

Technical Standards

ICD4.1 The Licensee shall take full account of such standards, if any, as are listed in the Official Journal of the European Communities as being suitable for the purposes of interconnection.

ICD4.2 Where the Licence includes the condition “Essential Interfaces”—

(a) The definition of “Relevant Standard” for the purposes of the condition shall be replaced by the following:

““Relevant Standard” means:

- (i) standards listed in the Official Journal of the European Communities, if any, as being suitable for the purposes of interconnection, or in the absence of such standards,
- (ii) standards adopted by European standardisation bodies such as the European Telecommunications Standards Institute (ETSI) or the European Committee for Standardisation/European Committee for Electrotechnical Standardisation (CEN/CENELEC), or in the absence of such standards,
- (iii) international standards or recommendations adopted by the International Telecommunications Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC), or in the absence of such standards,
- (iv) any other standard specified by the Director after notifying the Licensee of his proposal and allowing the Licensee adequate time, being not less than 28 days, in which to make representations, provided that the Director shall not specify a standard if an appropriate European or other international standard is expected to be promulgated within a reasonable time, including, by way of example, if the European Telecommunications Standards Institute have published a work programme for the development of such a standard.

to the extent that such a standard is necessary to ensure interoperability.”

(b) The definition of “technical specification” for the purposes of that condition shall be replaced by the following new definition:

“Where possible, “technical specification” shall be a specification defined by reference to:

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- (i) standards listed in the Official Journal of the European Communities, if any, as being suitable for the purposes of interconnection, or in the absence of such standards,
- (ii) standards adopted by European standardisation bodies such as the European Telecommunications Standards Institute (ETSI) or the European Committee for Standardisation/European Committee for Electrotechnical Standardisation (CEN/CENELEC), or in the absence of such standards,
- (iii) international standards or recommendations adopted by the International Telecommunications (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC).”

Collocation and Facility Sharing

ICD5.1 The Licensee shall comply with any decision by the Director under regulation 10(2).

ICD5.2 The Licensee shall comply with any facility or property sharing arrangement, or both, specified by the Director in accordance with regulation 10(3).

Special or Exclusive rights

ICD6 Where the Licensee has special or exclusive rights for the provision of services in sectors other than telecommunications, within the meaning of Article 8(1) of the Directive, and the Licensee’s annual turnover from its telecommunication activities in the Community exceeds 50 million ECU, the Licensee shall keep, draw up, submit to independent audit and publish separate accounts for telecommunications activities, to the extent that would be required if the telecommunications activities in question were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their telecommunications activities including an itemised breakdown of fixed assets or have structural separation for the telecommunications activities.

Universal Service

ICD7.1 This condition applies where the Licensee is an operator of a fixed public telephone network and where the licence confers a condition imposing universal service obligations on that Licensee.

ICD7.2 The Licensee shall, at the request of the Director and within such period as may be determined by him, calculate the net costs incurred by the Licensee in carrying out universal service obligations as defined in regulation 2(2). Such calculations shall be carried out in accordance with the requirements of Schedule 5 to the Regulations.

Significant Market Power

ICD8.1 Except as otherwise specified, paragraphs ICD8.2 to ICD8.22 apply to Operators having Significant Market Power and in respect of the relevant market or markets in which the Operator has such power.

ICD8.2 The Licensee shall meet all reasonable requests for access to its Applicable Systems including access at points other than the network termination points offered to the majority of end users.

- (a) This paragraph applies where the Licensee is an Operator having Significant Market Power running the systems or providing the services described in Parts I and II of Schedule 1 to the Regulations, or, as described in Part III of Schedule 1 which has been notified as having Significant Market Power on the national market for interconnection.

- (b) The Licensee shall secure, and shall demonstrate to the satisfaction of the Director at his request, that the charges offered, payable or proposed to be offered or payable by an Operator to the Licensee for each Standard Service are reasonably derived from the costs of providing the Service based on a forward looking incremental cost approach (except to the extent the Director considers it appropriate that for a transitional period, or in any particular case, the Licensee apply another cost standard). The Licensee shall comply with any adjustment required by the Director.

ICD8.4 Subject to paragraphs ICD2.2 and ICD2.3, the Licensee shall, subject to the ability of an Operator to whom an offer is made pursuant to paragraph ICD8.5 to decline that offer, secure that:

- (a) Standard Services are offered to Operators at the same charges and associated terms and conditions referred to in paragraph ICD8.13(b), and
 - (b) where the Licensee uses a service or provides it to itself, or it is used by or provided to any body corporate controlled by it, which service is the same as a Standard Service, the amount applied and incorporated in the Transfer Charge in respect of that use or provision is equal to the amount and applied to that service in that charge payable by an Operator to the Licensee for that Standard Service.
- (a) This paragraph applies only to Operators having Significant Market Power running the systems or providing the services described in Parts I and II of Schedule 1 to the Regulations.
 - (b) An offer between the Licensee and an operator under paragraph ICD2.1 to provide a Standard Service shall not be conditional on the acceptance by the Operator or the inclusion in the agreement of any other terms and conditions except for terms and conditions which are necessarily incidental to the provision of the Standard Service in question.
- (a) This paragraph applies only to Operators having Significant Market Power running the systems or providing the services described in Parts I and II of Schedule 1 to the Regulations.
 - (b) The Licensee may set different tariffs, terms and conditions for interconnection for different categories of organisations which are authorised to provide telecommunication systems or telecommunication services, where such differences can be objectively justified on the basis of the type of interconnection provided or on the basis of relevant conditions of the licence.

Publication and Notification requirements

ICD8.7 On entering into an agreement or amendment under Condition ICD2.1 the Licensee shall send to the Director and the Operator a copy of the agreement or amendment.

- (a) Subject to sub-paragraph (b), the Licensee or the Operator may within 14 days from entering into the agreement or amendment make a representation to the Director that any part of the agreement or amendment deals with its commercial strategy and require the Director to make a determination to that effect.
- (b) Details of interconnection charges, terms and conditions and any contributions to universal service obligations cannot be excluded from the agreement or amendment.

ICD8.9 A determination made in response to a requirement under ICD8.8 shall specify any exclusions to be made from the agreement or modification before it is published under Condition ICD8.10

ICD8.10 The Licensee not earlier than 14 days after entering into the agreement or, if a request has been made under ICD8.8(a), receipt of a determination made under ICD8.9, whichever is the later, shall publish the agreement or amendment as soon as reasonably practicable. Publication shall

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be effected by the Licensee, except to the extent that the Director may consent to an alternative location or to an alternative method of publication, making available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the public a list of all such agreements and amendments together with a notice of the address and telephone number of the person to whom any request for a copy of any or all of such list, agreements or amendments or any part of them may be made.

ICD8.11 The Licensee shall send a copy of such list or (following publication) any agreement or amendment or part of them to any person who may request it within 7 working days of receiving the request.

- (a) The Licensee shall, within a reasonable period following its request, send to any Operator which informs the Licensee it is considering requiring the Licensee to offer to enter into an agreement or to amend such an agreement under paragraph ICD2.1, all necessary information and specifications, in order to facilitate the conclusion of an agreement, including, except to the extent that the Director may otherwise consent, information on changes planned for implementation within the next six months.
- (b) Information received by the Licensee from an Operator shall be used only for the purpose for which it was supplied. The Licensee shall not pass such information on to other departments, subsidiaries or partners for which such information could provide a competitive advantage.
- (a) This paragraph and paragraphs 14 to 16 apply where the Licensee is an Operator having Significant Market Power running the systems or providing the services described in Parts I and II of Schedule 1 to the Regulations.
- (b) Except to the extent that the Director may otherwise consent, on 1 January 1998 (if a list has not previously been published), or within three months of being determined by the Director as having Significant Market Power (whichever is the later), and every six months from the date of the previous publication, the Licensee shall, in accordance with sub-paragraphs (c),(d) and (e) publish a reference interconnection offer comprising a full list of Standard Services (“the Standard List”) specifying:
 - (i) the charge offered to Operators requiring the Licensee to offer to enter into an agreement under Condition ICD2.1 for each Standard Service and the amounts applied to each component within that service; and
 - (ii) the location in the Licensee’s current standard interconnection agreement of the terms and conditions associated with the provision of each Standard Service.
- (c) Except to the extent that the Director may otherwise consent, within 10 working days from the date on which a proposal to change a charge or to offer a new Standard Service comes into effect, the Licensee shall amend the Standard List to take account of the change and shall publish the amendment by sending it to the Director and to all Operators with which it has entered into (or offered to enter into) an agreement under paragraph ICD2.1.
- (d) The Licensee shall send a copy of the current Standard List, any amendments not incorporated into the List or the current standard interconnection agreement offered to Operators requiring the Licensee to offer to enter into an agreement under Condition ICD2.1 to any person who may request it on payment of a reasonable charge. The Licensee shall send the copy within 7 working days after receiving payment of that charge.
- (e) Except to the extent that the Director may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the public, a notice of the address and telephone number of the person to whom any request for a copy of the current Standard List, any amendments or the standard interconnection agreement may be made.

- (a) Subject to sub-paragraph (c), and except to the extent that enforcement action is taken by the Director:
- (i) in the case of a Competitive Standard Service, not less than 28 days, and
 - (ii) in the case of all other Standard Services, not less than 90 days;
- before any change to a charge for a Standard Service, or any offer of a new Standard Service, is to come into effect, the Licensee shall send to the Director and all Operators with which it has entered into (or offered to enter into) an agreement under Condition ICD2.1 written notice of a proposal (a “Network Charge Change Notice”) which identifies:
- (iii) the Standard Service, the current charge offered for, and the location in the Licensee’s current standard interconnection agreement of the terms and conditions associated with, the provision of the Service and the proposed charge, or the proposed new Standard Service, new charge and associated terms and conditions, as the case may be; and
 - (iv) the proposed effective date or period;
- and the Licensee shall not offer or apply any such proposed charge or new Standard Service to any Operator before the expiry of the relevant notice period or the proposed effective date, whichever is later.
- (b) Except to the extent that the Director may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in such manner and in such place that it is readily available for inspection free of charge by members of the public, a notice of the address and telephone number of the person to whom any request for a copy of a Network Charge Change Notice may be made, and for a period of one year after it has been sent to the Director, the Licensee shall send a copy of a Notice to any person who may request it, within 7 working days of receipt of the request.
- (c) If, before it comes into effect, the Licensee withdraws a Network Charge Change Notice, or extends or changes the effective date or period, then the Licensee shall send to the Director, to all Operators with which it has entered into (or offered to enter into) an agreement under Condition ICD2.1 and to every person who on or before that date requested a copy of the Network Charge Change Notice which has been withdrawn or extended, written notice of the withdrawal, extension or change forthwith. Except to the extent that the Director may consent to an alternative location or to an alternative method of publication, the Licensee shall make available in a publicly accessible part of every Major Office, in the manner and place specified in sub-paragraph (b), a notice of the address and telephone number of the person to whom any request for a copy of a notice may be made, and for a period of one year after it has been sent to the Director, the Licensee shall send a copy of a notice to any person who may request it (or the Network Charge Change Notice to which it relates), within 7 working days of receipt of the request.
- (a) The Director shall, following a representation by the Licensee or an Operator that the market for a Standard Service is competitive, determine whether or not that market is competitive.
- (b) If the Director determines that the market is competitive, then that Standard Service shall be a Competitive Standard Service.
- (c) The Director may, following a representation by the Licensee or an Operator that the market for a Competitive Standard Service is not or has ceased to be competitive, determine that the market is not competitive. When the Director determines that the market for a Competitive Standard Service is not competitive, that Standard Service shall cease to be a Competitive Standard Service.

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ICD8.16 If the Director is considering whether a determination, direction or consent under this condition is appropriate, he shall notify the Licensee and Interested Parties of his proposed decision or the options which he is considering, and his reasons, and give them a reasonable opportunity to make representations. On making or refusing a determination or direction or giving or refusing consent, he shall notify the Licensee and Interested Parties of the determination, direction or consent or refusal, as the case may be, and his reasons.

Cost Accounting Systems and Accounting Separation

ICD8.17 Paragraphs ICD8.18 to 8.21 apply where the Licensee is an Operator having Significant Market Power running the systems or providing the services described in Parts I and II of Schedule 1 to the Regulations.

- (a) Subject to sub-paragraph (b), the Licensee shall maintain a cost accounting system which—
 - (i) in the opinion of the Director is suitable to demonstrate that its charges have been fairly and properly calculated; and
 - (ii) provides the information for the time being required to be provided by virtue of Article 7.5 of, and Annex V to, the Interconnection Directive.
- (b) The Licensee shall be deemed to be complying with the requirements of sub-paragraph (a) at any time within the period of two years from the designation of the Licensee as an Operator having Significant Market Power if it is at that time complying with directions then in force which have been given to it by the Director for the purpose of ensuring that its cost accounting system enables it to demonstrate that its charges have been fairly and properly calculated.

ICD8.19 The Licensee shall make available to any person on request a description of its cost accounting system showing the main categories under which costs are grouped and the rules used for the allocation of costs to interconnection.

ICD8.20 Where the annual turnover of the Licensee in telecommunications activities in the UK is more than 20 million ECU the Licensee shall keep separate accounts for, on the one hand, activities related to interconnection—covering both interconnection services provided to or used by itself or any body corporate controlled by it and interconnection services provided to others—and, on the other hand, other activities, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to its interconnection activity, including an itemised breakdown of fixed assets.

- (a) For each financial year ending on or after 1 January 1998, the Licensee shall procure in respect of the separate accounts described in paragraph ICD8.20 an audit report by the Licensee's auditor for the time being appointed in accordance with the Companies Act 1985 which shall conform to Auditing Standards and in which the Auditor shall state whether in its opinion the accounts fairly present in accordance with the cost accounting systems the results of the relevant activities and the costs incurred for the relevant financial year.
- (b) For each financial year ending on or after 1 January 1998, the Licensee shall publish the separate accounts and the report of the auditor within two months after the date on which the Licensee's annual statutory financial statements are published and, in any event, within four months after the end of the period to which they relate.

Interpretation

ICD8.22 In this Condition:

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- (a) “Auditing Standards” means United Kingdom auditing standards and guidelines issued from time to time by the Auditing Practices Board or its predecessor body;
- “Competitive Standard Service” means a Standard Service, the market for which has been determined by the Director to be competitive and a new Standard Service offered in accordance with paragraph ICD8.15 and which in either case has not ceased to be a Competitive Standard Service pursuant to paragraph ICD8.15(c).
- “Connection Service” means a telecommunication service consisting in the conveyance of any message which has been, or is to be, conveyed by means of any of the applicable systems;
- “Network Charge Change Notice” has the meaning given to it in paragraph ICD8.14(a);
- “Standard Service” means a service including a Competitive Standard Service which an Operator has required from the Licensee and which the Licensee is obliged to provide, or to offer to enter into an agreement to provide, under Condition ICD2.1; and
- “Transfer Charge” means the charge which is applied by the Licensee to itself or to any body corporate controlled by it for the use or provision of a service which is the same as a Standard Service;
- (b) references to a charge for a Standard Service shall include the means of calculating that charge;
- (c) references to a charge being payable are references to a charge being payable in accordance with an agreement made in pursuance of this Condition;
- (d) for the avoidance of doubt any question as to whether any charge is reasonably derived from costs shall be decided by the Director having regard to any guidelines on the application of this Condition issued from time to time by the Director;
- (e) any reference to “service” (or “Standard Service”) shall be taken to include a reference to goods or information.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [97/33/EC](#) of the European Parliament and of the Council on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP) (“The Interconnection Directive”).

The Regulations implement the Directive by providing that licences granted under section 7 of the Telecommunications Act [1984 \(c. 12\)](#) shall include an obligation on Public Operators in Schedule 2 to the Regulations to negotiate interconnection when requested to do so by other Public Operators in Schedule 2 or by organisations authorised in other Member States of the European Community to provide public telecommunications networks and publicly available telecommunications services and which have been notified to the European Commission as organisations covered by Annex II to the Directive. The Regulations provide for further obligations in relation to interconnection

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to be placed on organisations which are determined by the Director General of the Office of Telecommunications (the Director) as having Significant Market Power. The Regulations also set out the duties of the Secretary of State and the Director to encourage and secure adequate interconnection.

The Regulations apply the Directive to licences granted to Public Operators under section 7 of the Act. These licences are modified (regulation 13) by the deletion from the condition in Part II of Schedule 1 under the heading “Requirement to Provide Connection Services” of the paragraphs referring to the terms and conditions that might be included in an agreement to provide connection services in accordance with that condition, together with any power of the Director under that condition to make any determination, or to impose any other requirement, in respect of the terms and conditions, and by the insertion of Licence Conditions transposing provisions of the Interconnection Directive. These conditions are referred to as the “Interconnection Conditions” and are set out in Schedule 6 to the Regulations.

A compliance cost assessment is available and can be obtained from Communications and Information Industries Directorate, Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS.