

**2002 TELECOMMUNICATIONS S.R.O. 7
(LICENSING AND AUTHORISATION)
REGULATIONS**

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. 7 OF 2002

REGULATIONS

MADE by the Minister under section 74 of the Telecommunications Act, 2000 (Act No 8 of 2000).

(Gazetted April 18, 2002).

PART I

PRELIMINARY

1. These Regulations may be cited as the - Short title.
**TELECOMMUNICATIONS (LICENSING AND
AUTHORISATION) REGULATIONS 2002.**
2. These Regulations shall come into force on the date of Commencement.
publication in the *Gazette*.
3. In these Regulations - Interpretation.
“Act” means the Telecommunications Act, 2000; 8 of 2000.
“Schedule” means a Schedule to these Regulations;

PART II

INDIVIDUAL LICENCE

4. An application for an individual licence shall be submitted Application for
in writing to the Commission and shall - individual licence.
 - (a) be in the prescribed form and contain such Schedule 1.
information and particulars as are set out in Schedule
1; and
 - (b) be accompanied by the prescribed application fee.

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Processing of application.

5. (1) Upon receipt of an application for an individual licence the Commission shall -

(a) review the application and notify the applicant of any apparent further information required to process that application; and

(b) promptly forward a copy of that application with such further information if any to ECTEL.

(2) The Commission shall forward the application to the Minister with its recommendations within 30 days of receipt of ECTEL's recommendation.

Notification of Minister's decision.

6. (1) The Minister shall notify the applicant of his decision within 30 days of receipt of the recommendation from the Commission.

(2) Where ECTEL has recommended that an individual licence be granted, and the Minister so decides, the Minister shall issue the individual licence consistent with the provisions of section 31 of the Act and upon payment of the prescribed Fees.

(3) Where the application is refused the Minister shall in his notification to the applicant state in writing the reasons for his refusal.

PART III

CLASS LICENCE

Application for class licence.

7. (1) An application for a class licence shall be submitted in writing to the Commission and shall -

(a) be in the prescribed form and contain such information and particulars as are set out in Schedule 2; and

Schedule 2.

(b) be accompanied by the prescribed application fee.

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8. The Commission, upon receiving an application for a class licence may consult with members of the public, experts, industry or other persons, or adopt any other reasonable process to aid it in recommending whether or not to grant a licence to a person to operate under a class licence.

Consultation by
commission.

9. (1) Upon completion of the process under regulation 8, the Commission shall forward the application to the Minister together with its recommendations as to whether a class licence could be granted or not.

Recommendation by
commission.

(2) In making its recommendation to the Minister the Commission shall take into account -

- (a) the matters set out in the application;
- (b) any submissions received during the process set out in regulation 8; and
- (c) other relevant matters.

10. (1) The Minister shall decide whether to grant a class licence to the applicant within 75 days of the application being received by the Commission.

Notification of
Minister's decision.

(2) The Minister's decision to grant or not to grant a class licence to a person does not licence that person to own or operate any telecommunications network, or provide any telecommunications service, other than that prescribed in the class licence.

11. Where it is proposed that the number of licences to be granted for the operation of a particular type of telecommunications network or the provision of a particular type of telecommunications service should be limited, the Commission shall on the recommendation of ECTEL -

Limited issue of
individual and class
licences.

- (a) publish a consultative document containing detailed reasons for the proposed limitation;
- (b) consider any representations made to it in respect of the proposed limitation;

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- (c) publish a notice in the *Gazette* and in local newspaper having a wide circulation stating the -
 - (i) grounds and period during which licences will be granted; and
 - (ii) reasons for proposing to limit the number of licences; and
- (d) undertake a periodic review of any limitation imposed on the number of licences granted.

PART IV

FREQUENCY AUTHORISATION

Application for frequency authorisation.

12. (1) An application for a frequency authorisation shall be submitted in writing to the Commission and shall:

Schedule 3.

- (a) be in the prescribed form and contain such information and particulars as are set out in Schedule 3; and
- (b) be accompanied by the prescribed application fee.

Procedure to be followed by Commission.

13. (1) Upon receipt of an application for a frequency authorisation the Commission shall -

- (a) review the application and, notify the applicant of any apparent further information required to process that application; and
- (b) Consult with ECTEL on that application.

Recommendation by Commission.

14. (1) Upon completion of the process under Regulation 13, the Commission shall recommend to the Minister whether the frequency authorisation could be granted.

(2) In deciding whether to recommend to the Minister that the frequency authorisation be granted, the Commission shall take into account:

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- (a) the matters set out in the application;
- (b) any recommendations of ECTEL;
- (c) the Regional Spectrum Management Plan; and
- (d) other relevant matters.

(3) The Commission shall make its recommendation to the Minister in writing no later than 60 days of receipt of the application.

15. (1) The Minister shall notify the applicant in writing of his decision within 30 days of receipt of the recommendation from the Commission.

Notification of minister's decision.

(2) Where the application is approved the Minister shall issue the frequency authorisation on payment of the prescribed fee.

(3) Where the application is refused the Minister shall in his notification to the applicant state in writing the reasons for his refusal.

**PART V
SPECIAL LICENCE**

16. (1) An application for a special licence shall be submitted in writing to the Minister and shall be -

Application for special licence.

- (a) in prescribed form and contain such information and particulars as is set out in Schedule 4; and
- (b) accompanied by the prescribed application fee.

Schedule 4.

**PART VI
GENERAL PROVISIONS**

17. (1) The Minister shall issue an individual licence, class licence authorisation and frequency authorisation on terms that are non-discriminatory.

Terms of licence/authorisation to be non-discriminatory.

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(2) For the purpose of paragraph 1 above, an individual licence, class licence or frequency authorisation is issued on non-discriminatory terms if -

- (a) telecommunications providers of similar types of telecommunications networks are treated similarly;
- (b) the licence or authorisation does not favour any one telecommunications provider or class of telecommunications providers; and
- (c) the issuance of the licence or authorisation does not, and is not likely to, adversely affect competition in any market.

Notification of material changes and mergers.

18. (1) The holder of a licence or authorisation shall notify the Minister in writing if either of the following occurs -

- (a) any of the matters forming part of the application for licence or are within the knowledge of the licensee changes in a material respect;
- (b) the licensee enters into any agreement to merge part or all of its telecommunications activities in Dominica with any person;

Variation, revocation or suspension.

19. (1) Where the Minister proposes to vary or revoke or suspend a licence or authorisation, he shall notify the licensee or authorisation holder -

- (a) of the reasons for the proposed variation, revocation or suspension; and
- (b) specifying a period of not less than two months from the date of the notice within which representation with respect to the proposal may be made.

(2) Where the proposal is the result of a breach of a term, provision or limitation of the licence or authorisation -

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- (a) the notice given to the licensee or authorisation holder shall state that the proposal will be withdrawn or modified if the breach is not remedied within the period of 30 days commencing with the date of the notice; and
- (b) the Minister shall within the period of 30 days following the period referred to in subparagraph (a), confirm, modify or withdraw the proposal.

20. (1) The Commission shall maintain Registers at its principal office containing - Register.

- (a) each individual licence, class licence, frequency authorisation and special licence;
- (b) the names and registered office of each person licensed or authorised to operate;

(2) The Register shall be open to public inspection during normal working hours and may be made available electronically or in any format as the Commission considers appropriate.

(3) The Commission shall make copies of entries in the Register available to members of the public on payment of a prescribed fee.

Made this 26th day of March, 2002.

REGINALD AUSTRIE
*Minister for Communications,
Works & Housing.*

DOMINICA

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