

## SCHEDULES

### SCHEDULE 12

#### TRANSITIONAL PROVISIONS RELATING TO EXISTING CABLE SERVICES

##### PART II

##### LICENSING OF EXISTING CABLE SERVICES

*Other diffusion services: certain unlicensed services to be licensed as cableservices or local delivery services*

- 8 (1) This paragraph has effect in relation to any diffusion service—
- (a) which immediately before the transfer date is, by virtue of paragraph 1 of the Schedule to the Cable Programme Services (Exceptions) Order 1988, not required to be licensed under Part I of the 1984 Act; and
  - (b) which is for the time being provided by means of a telecommunication system which has not previously been used for the purpose of providing a service licensed under that Part of that Act; but
  - (c) which on that date either—
    - (i) constitutes a local delivery service for the purposes of Part II of this Act, or
    - (ii) is specified in an order made by the Secretary of State.
- (2) Where immediately before that date any such service (“the relevant service”) is provided in an area which is comprised in the area in which a prescribed diffusion service is for the time being authorised to be provided under a licence to which paragraph 1(1) above applies, the Commission shall, if the person providing the relevant service so requests before that date, grant that person as from that date a licence to provide a diffusion service in the area in which the relevant service was being provided immediately before that date.
- (3) A licence granted under sub-paragraph (2) shall be in writing and (subject to the provisions of this Schedule) shall continue in force for the period of five years beginning with the transfer date.
- (4) Sub-paragraphs (3) and (4) of paragraph 3 above shall apply to a licence granted under sub-paragraph (2) as they apply to a licence granted under that paragraph.
- (5) Where—
- (a) a licence granted under sub-paragraph (2) (“the relevant licence”) is due to expire on a particular date in accordance with sub-paragraph (3), and
  - (b) it appears to the Commission that on that date there would be in force either—
    - (i) any such licence to provide a prescribed diffusion service as is referred to in sub-paragraph (2), or

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- (ii) a local delivery licence authorising the provision of a local delivery service for an area consisting of or including the area in which a diffusion service is for the time being provided under the relevant licence (“the relevant service”), but
  - (c) it also appears to them that on that date the holder of any such licence would not be in a position to provide his licensed service for all of the dwelling-houses for which the relevant service is for the time being provided,
- the Commission shall so vary the relevant licence as to secure that (subject to sub-paragraph (6)) the licence continues in force until such time subsequent to that date as they may specify in a notice given to the holder of the licence; and the Commission shall not specify a time for the purposes of this sub-paragraph unless they have reasonable grounds for believing that, at that time, the holder of any such licence as is mentioned in paragraph (b)(i) or (ii) above would be in a position to provide his licensed service for all of the dwelling-houses referred to in paragraph (c) above.
- (6) A licence granted under sub-paragraph (2) shall not continue in force in accordance with sub-paragraph (5) beyond the end of the period of eight years beginning with the transfer date.
  - (7) If on the date when such a licence ceases to be in force (“the expiry date”) either of the conditions specified in sub-paragraph (8) is satisfied, the holder of that licence (“the relevant licence”) shall be granted by the Commission, as from the expiry date, a licence under Part II of this Act to provide a local delivery service for the area in which a diffusion service was being provided under the relevant licence immediately before that date.
  - (8) The conditions referred to in sub-paragraph (7) are—
    - (a) that neither of the following is in force, namely—
      - (i) any such licence to provide a prescribed diffusion service as is referred to in sub-paragraph (2), or
      - (ii) a local delivery licence authorising the provision of a local delivery service for an area consisting of or including the area in which a diffusion service was being provided under the relevant licence immediately before the expiry date;
    - (b) that any such licence as is mentioned in paragraph (a)(i) or (ii) above is in force but it appears to the Commission that the holder of the licence is not in a position to provide his licensed service for all of the dwelling-houses for which a diffusion service was being provided under the relevant licence immediately before the expiry date.
  - (9) Where immediately before the transfer date any such diffusion service as is mentioned in sub-paragraph (1) above is not being provided in any such area as is mentioned in sub-paragraph (2), the Commission shall, if the person providing the service so requests before that date, grant that person as from that date a licence under Part II of this Act to provide a local delivery service for the area in which the diffusion service was being provided immediately before that date.
  - (10) Subject to sub-paragraph (11), the following provisions, namely—
    - (a) sub-paragraphs (7) to (9) of paragraph 2 above, and
    - (b) sub-paragraphs (2) to (5) of paragraph 6 above,
 shall have effect in relation to a local delivery licence granted in pursuance of sub-paragraph (7) or (9) above as they have effect in relation to such a licence granted in pursuance of paragraph 2 or (as the case may be) paragraph 6 above.

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- (11) In its application in relation to a licence granted in pursuance of sub-paragraph (7) above, paragraph 6(4)(a) shall have effect with the substitution of a reference to the date as from which the licence is granted for the reference to the transfer date.
- (12) In the case of a local delivery licence granted in pursuance of sub-paragraph (9) above, nothing in paragraph 1(1) in Part II of Schedule 2 to this Act shall have the effect of rendering—
- (a) a local authority, or
  - (b) a body which is controlled by such an authority,
- a disqualified person in relation to the licence during the period of five years beginning with the date of its coming into force; and in this sub-paragraph “local authority” has the same meaning as in that Schedule.