

SCHEDULES

SCHEDULE 12

TRANSITIONAL PROVISIONS RELATING TO EXISTING CABLE SERVICES

PART II

LICENSING OF EXISTING CABLE SERVICES

Other diffusion services: continuation in force of existing licences

- 5 (1) Subject to paragraph 7(1) below, where immediately before the transfer date there is in force under Part I of the 1984 Act a licence to provide a diffusion service which—
- (a) is not a prescribed diffusion service, but
 - (b) is provided in an area which is comprised in the area in which such a service is for the time being authorised to be provided under a licence to which paragraph 1(1) above applies,
- the licence shall, notwithstanding any repeals made by this Act, continue in force (subject to and in accordance with the provisions of this Schedule) for the remainder of the period specified in the licence.
- (2) Where any licence continues in force by virtue of sub-paragraph (1), any conditions which—
- (a) were included in it in pursuance of any provision of the 1984 Act, and
 - (b) were in force immediately before the transfer date,
- shall similarly continue in force (subject to the provisions of this Schedule), but any reference in the licence to the Cable Authority shall be construed, in relation to any time falling on or after that date, as a reference to the Commission.
- (3) Without prejudice to the generality of paragraph 2(4) in Part III of this Schedule, the Commission may, in accordance with that provision, make such variations of a licence which continues in force by virtue of sub-paragraph (1) above as appear to them to be appropriate in consequence of any of the provisions of this Schedule.
- (4) Where—
- (a) a licence to which sub-paragraph (1) applies (“the relevant licence”) is due to expire on a particular date in accordance with that sub-paragraph (being a date falling within the period specified in sub-paragraph (5)), 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 (1)(b), 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

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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 (5)) 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.

- (5) A licence to which sub-paragraph (1) applies shall not continue in force in accordance with that sub-paragraph or sub-paragraph (4) beyond the end of the period of eight years beginning with the transfer date.
- (6) If on the date when such a licence ceases to be in force (“the expiry date”) either of the conditions specified in sub-paragraph (7) 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.
- (7) The conditions referred to in sub-paragraph (6) 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 (1)(b), 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.
- (8) Subject to sub-paragraph (9), the following provisions, namely—
- (a) sub-paragraphs (7) to (9) of paragraph 2 above, and
- (b) sub-paragraphs (2) to (5) of paragraph 6 below,
- shall have effect in relation to a local delivery licence granted in pursuance of sub-paragraph (6) above as they have effect in relation to such a licence granted in pursuance of paragraph 2 above or (as the case may be) paragraph 6 below.
- (9) In its application in relation to a licence granted in pursuance of sub-paragraph (6), 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.