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STATUTORY INSTRUMENTS

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**1997 No. 2932**

**TELECOMMUNICATIONS**

**The Telecommunications (Open Network  
Provision and Leased Lines) Regulations 1997**

<i>Made</i>	- - - -	<i>9th December 1997</i>
<i>Laid before Parliament</i>		<i>10th December 1997</i>
<i>Coming into force</i>	- -	<i>31st December 1997</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in respect of 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 (Open Network Provision and Leased Lines) Regulations 1997 and shall come into force on 31st December 1997.

**Interpretation**

2.—(1) In these Regulations—

“the 1984 Act” means the Telecommunications Act 1984<sup>(3)</sup>;

“BT” means British Telecommunications plc;

“the BT licence” means the licence granted by the Secretary of State under section 7 of the 1984 Act to British Telecommunications on 22nd June 1984 to run the telecommunication systems referred to in Annex A thereof, in relation to which BT became the licensee as the nominated successor company on the transfer date<sup>(4)</sup>;

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

“essential requirements” has the meaning given by Article 2 of the ONP Framework Directive;

“Hull” means Kingston upon Hull City Council and Kingston Communications (Hull) PLC;

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(1) S.I. 1996/266.

(2) 1972 c. 68.

(3) 1984 c. 12 as amended by the Telecommunications (Licensing) Regulations 1997 (S.I. 1997/ ). There are other amendments to 1984 c. 12 which are not relevant to these Regulations.

(4) The transfer date appointed under section 60 of 1984 c. 12 was 6th August 1984, S.I. 1984/876, article 5.

“the Hull licence” means the licences granted by the Secretary of State under section 7 of the 1984 Act to Hull on 30th November 1987 to run the telecommunication systems referred to in Annex A thereof;

“the Leased Lines Directive” means Council Directive [92/44/EEC](#) on the application of open network provision to leased lines<sup>(5)</sup>, as amended by European Parliament and Council Directive [97/51/EC](#) for the purpose of adaptation to a competitive environment in telecommunications<sup>(6)</sup>;

“the Leased Lines Directive Conditions” means the conditions set out in Schedule 1 to these Regulations;

“Mercury” means Mercury Communications Limited;

“the Mercury licence” means the licence granted by the Secretary of State under section 7 of the 1984 Act to Mercury on 5th November 1984 to run the telecommunication systems referred to in Annex A thereof;

“network termination point” means the physical point at which a user is provided with access to a public telecommunications network;

“the ONP Committee” means the committee referred to in Articles 9 and 10 of the ONP Framework Directive;

“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<sup>(7)</sup> as amended by European Parliament and Council Directive [97/51/EC](#) for the purpose of adaptation to a competitive environment in telecommunications;

“the Principal Regulations” means the Telecommunications (Leased Lines) Regulations 1993<sup>(8)</sup>;

“private circuit” means a telecommunications facility which provides for transparent transmission capacity between network termination points where both or all such points are situated within the European Economic Area and which does not include on-demand switching (that is to say, switching functions which the user can control as part of the private circuit provision);

“public telecommunications network” means a telecommunications network used, in whole or in part, for the provision of publicly available telecommunication services;

“Relevant Licences” means licences granted under section 7 of the 1984 Act to which section 8 of that Act applies;

“relevant private circuit market” means any private circuit market which the Director considers, based on the type or types of private circuit offered in a particular geographical area which may cover the whole or part of the territory of the United Kingdom, to be such a market for the purpose of making a determination under regulations 7 or 8 of these Regulations;

“technical specifications”, “standards” and “terminal equipment” have the meaning given by Article 1 of Council Directive [91/263/EEC](#)<sup>(9)</sup>;

“telecommunications network” means transmission systems and, where applicable, switching equipment and other resources which permit the conveyance of signals between defined termination points by wire, radio, optical or other electromagnetic means; and

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(5) OJNo. L165, 19.6.92, p. 27.

(6) OJ No. L295, 29.10.97, p. 23.

(7) OJ No. L192, 24.7.90, p. 1.

(8) S.I. [1993/2330](#), which implemented Council Directive [92/44/EEC](#) on the application of open network provision to leased lines, amended by S.I. [1994/2251](#).

(9) OJ L128, 23.5.91, p. 1, to which there are amendments not relevant to these Regulations.

“users” means, except in regulation 5 of these Regulations, individuals, including consumers, or organisations using or requesting publicly available telecommunication services.

(2) References in these Regulations to an organisation having significant market power are references to a holder of a Relevant Licence which the Director has determined in accordance with regulation 8 of these Regulations to be an organisation having such power and references in these Regulations to an organisation not having significant market power are references to a holder of a Relevant Licence which the Director has determined in accordance with that regulation to be an organisation not having such power.

(3) References in these Regulations to the Relevant Licences are references to such licences as modified from time to time in accordance with sections 12 and 15 of the 1984 Act and regulations made under section 2(2) of the European Communities Act 1972.

(4) Save as provided in paragraph (1) of this regulation, any word or expression used in these Regulations shall, unless the context otherwise requires, have the same meaning as it has in the 1984 Act.

### **Technical standards and specifications**

3.—(1) The Director shall encourage the use for the provision of technical interfaces and network functions of the standards and specifications to which, in accordance with Article 5(1) of the ONP Framework Directive, reference is made in the Official Journal of the European Communities.

(2) As long as such standards or specifications are not adopted, the Director shall encourage the use of:

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

### **Purpose and effect**

4.—(1) Schedule 2 to these Regulations shall have effect for the purposes of providing for the presentation of the information required to be published in accordance with regulation 9(1) of these Regulations and Condition LLD3 of the Leased Lines Directive Conditions.

(2) For the purposes of the 1984 Act, the modifications made by regulation 5 of these Regulations shall have effect as if they were made under section 12 of that Act by the Director.

### **Modification of the Relevant Licences**

5.—(1) Each of the Relevant Licences is hereby modified upon the coming into force of these Regulations by the insertion of the Leased Lines Directive Conditions as Part 6 of Schedule 1 to that licence.

(2) Each of the BT licence, the Hull licence and the Mercury licence is hereby modified upon the coming into force of these Regulations by the deletion of all conditions or parts of conditions inserted or substituted by the Principal Regulations other than—

- (a) in the BT licence—
  - (i) the definition of “users” inserted in paragraph 1 of Part 1 of Schedule 1; and

- (ii) the insertions made in paragraph 16.1 and paragraph 16.3 of condition 16;
  - (b) in the Hull licence—
    - (i) the definitions of “Telephone” and “users” inserted in paragraph 1 of Part 1 of Schedule 1; and
    - (ii) the insertions made in paragraph 15.1 and paragraph 15.4 of condition 15; and
  - (c) in the Mercury licence the definition of “users” inserted in paragraph 1 of Part 1 of Schedule 1.
- (3) The Hull licence is hereby further modified upon the coming into force of these Regulations by the insertion after the figure “40” in the headpiece of paragraph 54.13 of condition 54 of the words “and 41”.

### **Functions of the Director and the Secretary of State**

6. The Secretary of State and the Director shall exercise their powers and carry out their functions under sections 7 and 12 to 15 inclusive of the 1984 Act, these Regulations and the Leased Lines Directive Conditions so as to ensure—

- (a) that, subject to paragraph (d) of this regulation and to regulation 7 of these Regulations, at every point in the United Kingdom in respect of every relevant private circuit market the Leased Lines Directive Conditions apply to at least one holder of a Relevant Licence;
- (b) that the Leased Lines Directive Conditions are not applied in respect of a relevant private circuit market to an organisation not having significant market power in that market unless there is no organisation having significant market power in that market;
- (c) that the minimum set of private circuits with harmonised technical characteristics specified in Schedule 3 to these Regulations is provided throughout the United Kingdom; and
- (d) that Condition LLD9 of the Leased Lines Directive Conditions (tariffing principles and cost accounting) does not apply where no holder of a Relevant Licence is an organisation having significant market power in respect of a specific private circuit offering in a specific geographical area.

### **Application of licence conditions in respect of tariffing principles and cost accounting**

7. The Director may determine that Condition LLD9 of the Leased Lines Directive Conditions shall not apply in a specific geographical area where the Director is satisfied that there is effective competition in the relevant private circuit market as evidenced by tariffs that already comply with those requirements.

### **Functions of the Director in relation to the determination of significant market power**

8.—(1) For the purposes set out in regulation 6 of these Regulations the Director shall for each relevant private circuit market immediately upon the coming into force of these Regulations and thereafter whenever necessary either determine in respect of at least one holder of a Relevant Licence that it is an organisation having significant market power in that market or determine that no holder of a Relevant Licence is an organisation having significant market power in that market.

(2) The Director shall whenever necessary determine as respects the holder of a Relevant Licence that it is no longer an organisation having significant market power in a relevant private circuit market.

(3) Subject to paragraph (4) of this regulation, in making a determination under paragraphs (1) or (2) of this regulation the Director shall presume that a holder of a Relevant Licence is an organisation

having significant market power in a relevant private circuit market when its share of that market is 25 per cent or more.

(4) The Director may, after taking into account the matters referred to in paragraph (5) of this regulation:

- (a) determine that a holder of a Relevant Licence with a market share of less than 25 per cent of a relevant private circuit market is an organisation having significant market power in that market; or
- (b) determine that a holder of a Relevant Licence with a market share of 25 per cent or more of a relevant private circuit market is an organisation not having significant market power in that market.

(5) In making a determination under paragraph (4) of this regulation, the Director shall take into account:

- (a) the ability of the holder of the Relevant Licence to influence the private circuit market conditions;
- (b) its turnover relative to the size of the market;
- (c) its access to financial resources; and
- (d) its experience in providing products and services in the market.

#### **Publication of information by the Director**

9.—(1) The Director shall from time to time publish or ensure that there is published in an appropriate manner so as to provide easy access thereto for users—

- (a) information on the licensing and declaration requirements for private circuits in accordance with the presentation given in paragraph D of Schedule 2 to these Regulations; and
- (b) information in respect of the conditions for the attachment of terminal equipment to private circuits in accordance with the presentation given in paragraph E of the said Schedule 2.

(2) The Director shall from time to time by notice published in the London, Edinburgh and Belfast Gazettes provide references to the publication of the information in respect of private circuits—

- (a) which holders of a Relevant Licence publish in accordance with Condition LLD3 of the Leased Lines Directive Conditions; and
- (b) which he publishes or ensures is published in accordance with paragraph (1) of this regulation.

#### **Control by the Director of measures in respect of infringement of usage conditions**

10. The Director shall, in relation to any application for consent to the taking of any measure in accordance with Condition LLD8.1 of the Leased Lines Directive Conditions, adopt a procedure providing for a transparent decision-making process in which due respect is given to the rights of the parties and, without prejudice to the generality of the foregoing, the Director shall—

- (a) give both parties the opportunity to state their case; and
- (b) notify to the parties in writing the decision and the reasons for it within one week of its adoption.

### **Provision of additional types of private circuits**

11. The Director shall encourage provision of the additional types of private circuits specified in Schedule 4 to these Regulations, taking into account market demand and progress with standardisation.

### **Provision of information by the Director and the Secretary of State**

12.—(1) The Director shall notify—

- (a) the names of those organisations providing private circuits who are subject to requirements under the Leased Lines Directive Conditions; and
- (b) where appropriate, the types of private circuit that each organisation is required to provide in each geographical area to ensure compliance with regulation 6 of these Regulations and any cases where, under regulation 7 of these Regulations, Condition LLD9 of the Leased Lines Directive Conditions is not applied,

to the Secretary of State, who shall thereupon submit such information to the Commission.

(2) The Director shall—

- (a) where he approves a cost accounting system in accordance with Condition LLD9.3 of the Leased Lines Directive Conditions, inform the Secretary of State, who shall thereupon inform the Commission before the system is applied; and
- (b) keep available, with an adequate level of detail, information on the cost accounting systems applied by the holders of Relevant Licences to whom Condition LLD9 of the Leased Lines Directive Conditions has been applied and, upon receipt by the Secretary of State of a request from the Commission for this information, he shall submit it to the Secretary of State, who shall thereupon submit it to the Commission.

(3) The Director shall—

- (a) at least for each calendar year, make available to the Secretary of State statistical reports showing the performance in relation to the supply conditions, in particular (but without prejudice to the generality of the foregoing) with respect to delivery time and repair time, published in accordance with Condition LLD3 of the Leased Lines Directive Conditions by the holders of Relevant Licences to whom that Condition has been applied and the Secretary of State shall send such reports to the Commission no later than five months after the end of the relevant calendar year; and
- (b) keep the data on all cases where the access to or use of private circuits has been restricted, as well as details of the measures taken, including the reasons for them and upon receipt by the Secretary of State of a request from the Commission for this data, he shall submit it to the Secretary of State, who shall thereupon submit it to the Commission.

### **Location of network termination points**

13. The Director shall define the location of network termination points and for the purposes of these Regulations such points shall represent a boundary of the public telecommunications network.

### **Conciliation procedure**

14.—(1) Where any user complains that he has been or may be injured by the infringement of the provisions of the Leased Lines Directive, particularly, but without prejudice to the generality of the foregoing, with regard to intra-Community private circuits and agreement cannot be reached at a national level, the aggrieved party may invoke the procedure provided for in Articles 12(3) and (4) of the Leased Lines Directive by way of a written notification to the Director and the Commission.

(2) Where following such a notification the Director finds that there is a case for further examination, he can refer the matter to the Chairman of the ONP Committee.

### **Revocation**

**15.**—(1) The Principal Regulations and the Telecommunications (Leased Lines) (Amendment) Regulations 1994(**10**) are hereby revoked.

(2) Any application for consent made under regulation 7(3) of the Principal Regulations in relation to which the Director has not taken a decision before the coming into force of these Regulations shall have effect as if made under regulation 10 of these Regulations and anything done before the coming into force of these Regulations in relation to the application shall have effect as if done under regulation 10 of these Regulations.

Signed by authority of the Secretary of State

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

9th December 1997

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SCHEDULE 1

Regulation 5(1)

**Conditions inserted in Schedule 1 to the Relevant Licences**

“SCHEDULE 1

**PART 6:**

**THE LEASED LINES DIRECTIVE CONDITIONS**

**Interpretation**

**LLD1** In this Part

- (a) “the Leased Lines Regulations” means the Telecommunications (Open Network Provision and Leased Lines) Regulations 1997; and “Relevant Private Circuit” means a Private Circuit where—
  - (i) at least one network termination point is located within the United Kingdom and all the network termination points of that circuit, and of any half-circuit to which it is connected, are located within the European Economic Area; and
  - (ii) the agreement between the Licensee and the user to provide the Private Circuit does not provide for messages to be conveyed thereby to be routed via a satellite link (notwithstanding that they may be so conveyed) where the Licensee is not authorised so to convey messages consisting in live speech;
- (b) the expressions “Leased Lines Directive”, “network termination point”, “public telecommunications network”, “relevant private circuit market” and “user” shall have the same meaning as in the Leased Lines Regulations;
- (c) the Leased Lines Directive Conditions being conditions which are inserted for the purposes of the application of the Leased Lines Directive shall accordingly be construed in accordance with that Directive; and
- (d) in the event of any conflict between any provision of the Leased Lines Directive 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.

*Application of the Leased Lines Directive Conditions*

**LLD2.1** The Conditions in this Part shall only apply in the circumstances and to the extent set out in Condition LLD2.2.

**LLD2.2** Where—

- (a) the Director has determined in accordance with regulation 8 of the Leased Lines Regulations that the Licensee is an organisation having significant market power in respect of a relevant private circuit market or that no holder of a Relevant Licence is an organisation having significant market power in respect of that market; and
- (b) the Director directs the Licensee to comply with all or some of the following Conditions in this Part in respect of any relevant private circuit market specified by the Director to the extent specified by the Director,

those Conditions shall apply in accordance with that direction.

*Availability of information*

**LLD3** The Licensee shall publish by notice in accordance with the presentation given in paragraphs A to C of Schedule 2 to the Leased Lines Regulations information on offerings on technical characteristics, tariffs and supply and usage conditions in respect of Relevant Private Circuits. The information shall be published in the manner provided in these Conditions for the publication of the charges and other terms and conditions on which the Licensee offers inter alia to provide telecommunication services other than Relevant Private Circuits by means of any of the Applicable Systems. Changes in existing offerings and information on new offerings shall be published as soon as possible and, unless the Director agrees otherwise, no later than twenty eight days before the implementation.

*Information on supply conditions*

**LLD4** The supply conditions published in accordance with Condition LLD3 shall include at least the elements defined in paragraph C of Schedule 2 to the Leased Lines Regulations.

*Conditions for the termination of offerings*

**LLD5** The Licensee shall not terminate an existing offering of a Relevant Private Circuit unless—

- (a) the offering has continued for a reasonable period of time; and
- (b) the Licensee has consulted with the users affected.

Without prejudice to any other remedy or right of appeal which the user may have in law or in accordance with contract or these Conditions, where the user does not agree with the termination date as envisaged by the Licensee, he may bring the case before the Director.

*Access and usage conditions*

**LLD6.1** The Licensee shall not restrict access to and usage of Relevant Private Circuits save as permitted by the Director.

**LLD6.2** No technical restrictions shall be introduced or maintained for the interconnection of Relevant Private Circuits to each other or to public telecommunications networks.

**LLD6.3** In relation to Relevant Private Circuits, the Licensee shall not be held to have failed to comply with these Conditions if the Licensee takes the following measures in order to safeguard the security of network operations during the period when an emergency situation prevails—

- (a) the interruption of the service;
- (b) the limitation of service features; or
- (c) the denial of access to the service,

provided that the following conditions are satisfied—

- (i) the Licensee makes every reasonable endeavour to ensure that service is maintained to all users; and
- (ii) the Licensee takes as soon as reasonably possible all reasonable steps to notify the users and the Director of the beginning and the end of the emergency as well as the nature and extent of temporary service restrictions,

and in this paragraph, an emergency situation means an exceptional case of force majeure, which, without prejudice to the generality thereof, includes extreme weather, earthquake, flood, lightning or fire.

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**LLD6.4** Where a user's terminal equipment no longer complies with the approval conditions laid down in accordance with Council Directive 91/263/EEC(11) or Council Directive 93/97/EEC(12) for its connection to the network termination point of the type of Relevant Private Circuit concerned, the Licensee may, notwithstanding any obligation under this Licence to provide to users access to and usage of Relevant Private Circuits, interrupt the provision of the Relevant Private Circuit concerned until the terminal equipment is disconnected from the network termination point provided that the Licensee—

- (a) immediately informs the user about the interruption giving reasons for it; and
- (b) restores the provision of the Relevant Private Circuit concerned as soon as the user has ensured that the terminal equipment is disconnected from the network termination point.

*Provision of a minimum set of Relevant Private Circuits*

**LLD7** The Licensee shall provide such of the minimum set of Relevant Private Circuits with harmonised technical characteristics specified in Schedule 3 to the Leased Lines Regulations as may be specified by the Director in any direction referred to in Condition LLD2.2(b). The Licensee shall ensure, if it provides other Relevant Private Circuits beyond the minimum set, that such provision does not impede the provision of the minimum set.

*Control by Director*

**LLD8.1** The Licensee shall not take for reasons of the alleged failure of the user of a Relevant Private Circuit to comply with the usage conditions any measure (including, without prejudice to the generality of the foregoing, the refusal to provide a Relevant Private Circuit, the interruption of the provision of Relevant Private Circuits or the reduction of the availability of Relevant Private Circuit features) unless—

- (a) the measure is a specified measure authorised by the Director in the case of a defined infringement of usage conditions; or
- (b) the Licensee has been notified in accordance with regulation 10 of the Leased Lines Regulations that the Director consents to the taking of the measure.

**LLD8.2** Nothing in these Conditions shall prevent the Licensee, where it considers it unreasonable to provide a Relevant Private Circuit in response to a particular request under its tariffs and supply conditions published in accordance with Condition LLD3, from varying those conditions in that case with the consent of the Director.

**Tariffing principles and cost accounting**

**LLD9.1** The Licensee shall ensure that tariffs for Relevant Private Circuits follow the basic principles of cost orientation and transparency in accordance with the following rules—

- (a) tariffs for Relevant Private Circuits shall be independent of the type of application which the users of the Relevant Private Circuits implement, without prejudice to the principle of non-discrimination set out in these Conditions;
- (b) tariffs for Relevant Private Circuits shall normally contain the following elements:
  - (i) an initial connection charge; and
  - (ii) a periodic rental charge, that is to say, a flat-rate element,
 and when other tariff elements are applied, these shall be transparent and based on objective criteria;

(11) OJ L128, 23.5.91, p. 1, to which there are amendments not relevant to these Regulations.

(12) OJ L290, 24.11.93, p. 1.

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- (c) tariffs for Relevant Private Circuits apply to the facilities provided between network termination points at which the user has access to the Relevant Private Circuits. For Relevant Private Circuits provided by more than one organisation notified in accordance with regulation 12(1) of the Leased Lines Regulations, half-circuit tariffs, that is to say, from one network termination point to a hypothetical mid-circuit point, can be applied.

**LLD9.2** The Licensee shall formulate and put in practice a cost accounting system suitable for the implementation of Condition LLD9.1. Without prejudice to the generality of the foregoing, the system shall include the following elements:

- (a) the costs of Relevant Private Circuits shall in particular include the direct costs incurred by the Licensee for setting up, operating and maintaining Relevant Private Circuits, and for marketing and billing them; and
- (b) common costs, that is to say, costs which can neither be directly assigned to Relevant Private Circuits nor to other activities, shall be allocated as follows:
  - (i) whenever possible, common cost categories shall be allocated based upon direct analysis of the origin of the costs themselves;
  - (ii) when direct analysis is not possible, common cost categories shall be allocated based upon an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible and such indirect linkage shall be based on comparable cost structures;
  - (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to Relevant Private Circuits and, on the other hand, to other services.

**LLD9.3** Other cost accounting systems may be applied only if they are suitable for the implementation of Condition LLD9.1 and have as such been approved by the Director for application by the Licensee.”

## SCHEDULE 2

Regulations 4(1) and 9(1)

### **Presentation of the information to be provided in respect of private circuits**

The information in respect of private circuits shall follow the presentation given below:

#### **A** *Technical characteristics*

The technical characteristics include the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point. Clear reference shall be made to the standards implemented.

#### **B** *Tariffs*

The tariffs include the initial connection charges, the periodic rental charges, and other charges. Where tariffs are differentiated, for example, for reasons of different levels of quality of service or the number of private circuits provided to a user (bulk provision), this shall be indicated.

#### **C** *Supply conditions*

The supply conditions include at least the elements defined below—

- (a) information concerning the ordering procedure;

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- (b) the typical delivery period, which is the period, counted from the date when the user has made a firm request for a private circuit, in which 95 per cent of all private circuits of the same type have been put through to the customers. This period shall be established on the basis of the actual delivery periods of private circuits during a recent time interval of reasonable duration. The calculation shall not include cases where late delivery periods were requested by users. For new types of private circuits a target delivery period shall be published instead of the typical delivery period;
- (c) the contractual period, which includes the period which is in general foreseen for the contract and the minimum contractual period which the user is obliged to accept;
- (d) the typical repair time which is the period, counted from the time when a failure message has been given to the Licensee's responsible unit up to the moment in which 80 per cent of all private circuits of the same type have been re-established and in appropriate cases notified back in operation to the users. For new types of private circuits a target repair time period shall be published instead of the typical repair time. Where different classes of quality of repair are offered for the same type of private circuit, the different typical repair times shall be published; and
- (e) any refund procedure.

#### **D** *Licensing requirements*

The information on licensing requirements, licensing procedures and licensing conditions provides a complete overview of all factors which have an impact on the usage conditions set out for private circuits. It shall include the following information, where applicable—

- (a) the conditions resulting from the application of the essential requirements in conformity with Article 6 of the Leased Lines Directive; and
- (b) a list referring to all documents containing licensing conditions imposed on the users of private circuits when they are using private circuits for the provision of services to others.

#### **E** *Conditions for the attachment of terminal equipment*

The information on the attachment conditions shall include a complete overview of the requirements with which terminal equipment to be attached to the relevant private circuit shall comply in accordance with Council Directive [91/263/EEC](#) of 29th April 1991 on the approximation of the laws of the Member States concerning telecommunications terminal equipment<sup>(11)</sup> or Council Directive [93/97/EEC](#) of 29th October 1993<sup>(12)</sup>.

### SCHEDULE 3

Regulation 6(c)

#### **Minimum set of private circuits with harmonised technical characteristics**

The minimum set of private circuits to be provided throughout the United Kingdom in accordance with Article 7 of the Leased Lines Directive shall be as follows:

<sup>(11)</sup> OJ L128, 23.5.91, p. 1, to which there are amendments not relevant to these Regulations.

<sup>(12)</sup> OJ L290, 24.11.93, p. 1.

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<i>Private Circuit type</i>	<i>Technical characteristics Interface presentation specifications</i>	<i>Connection characteristics and performance specifications</i>
Ordinary quality voice bandwidth analogue	2 wire <b>(13)</b> —ETS 300 448	2 wire—ETS 300 448
	or	4 wire—ETS 300 451
	4 wire <b>(14)</b> —ETS 300 451	
Special quality voice bandwidth analogue	2 wire <b>(13)</b> —ETS 300 449	2 wire—ETS 300 449
	or	4 wire—ETS 300 452
	4 wire <b>(14)</b> —ETS 300 452	
64 kbit/s digital <b>(15)</b>	ETS 300 288	ETS 300 289
	ETS 300 288/A1 <b>(16)</b>	
2048 kbit/s digital unstructured <b>(17)</b>	ETS 300 418	ETS 300 247
		ETS 300 247/A1
2048 kbit/s digital structured <b>(18)</b>	ETS 300 418	ETS 300 419

For the types of private circuits listed above, the specifications referred to also define the network termination points (NTPs), in accordance with the definition given in Article 2 of the ONP Framework Directive.

## SCHEDULE 4

Regulation 11

**Private circuits the provision of which is to be encouraged in accordance with regulation 11**

<i>Private circuit type</i>	<i>Technical characteristics Interface presentation specifications</i>	<i>Connection characteristics and performance specifications</i>
34 368 kbit/s digital structured	ETS 300 686	ETS 300 687

**(13)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 15(CTR 15).

**(14)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 17 (CTR 17).

**(13)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 15(CTR 15).

**(14)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 17 (CTR 17).

**(15)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 14 (CTR 14).

**(16)** For an interim period extending beyond 31 December 1996, these private circuits may be provided using other interfaces, based on X.21 or X 21 *bis*, instead of ETS 300 288.

**(17)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 12 (CTR 12).

**(18)** The attachment requirements for terminal equipment to be connected to these private circuits are described in Common Technical Regulation 13 (CTR 13).

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<i>Private circuit type</i>	<i>Technical characteristics</i>	
	<i>Interface presentation specifications</i>	<i>Connection characteristics and performance specifications</i>
34 368 kbit/s digital unstructured	ETS 300 686	ETS 300 687
139 264 kbit/s digital structured	ETS 300 686	ETS 300 688
139 264 kbit/s digital unstructured	ETS 300 686	ETS 300 688
155 Mbit/s digital (STM-1)(19)	Based on ITU-T G.708	Based on ITU-T G.708

## EXPLANATORY NOTE

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

These Regulations implement Council Directives [90/387/EEC](#) (on the establishment of the internal market for telecommunication services through the implementation of open network provision) and [92/44/EEC](#) (on the application of open network provision to leased lines) as amended in each case by Directive [97/51/EC](#) of the European Parliament and of the Council for the purpose of adaptation to a competitive environment in telecommunications (“the Amending Directive”).

Regulation 3 of these Regulations implements Article 5(2) of Council Directive [90/387/EEC](#) as substituted by the Amending Directive which provides for the encouragement of the use of certain standards and specifications for the provision of technical interfaces and network functions.

Regulation 5(1) of these Regulations modifies the licences granted under section 7 of the Telecommunications Act 1984 to which section 8 of that Act applies (including the licences referred to in regulation 5(2)) to insert appropriate new conditions implementing Council Directive [92/44/EEC](#) as amended by the Amending Directive. These Conditions are referred to as the “Leased Lines Directive Conditions” and are set out in Schedule 1 to the Regulations. Regulation 5(2) modifies the licences granted under section 7 of the Telecommunications Act 1984 to British Telecommunications plc (“BT”), Kingston-upon-Hull City Council and Kingston Communications (Hull) PLC and Mercury Communications Limited by the deletion (with appropriate savings and a consequential modification) of the conditions inserted or substituted by the Telecommunications (Leased Lines) Regulations 1993 (S.I. [1993/2330](#)) (“the Principal Regulations”) which implemented Council Directive [92/44/EEC](#).

Regulations 6 and 7 give duties and powers to the Secretary of State and the Director General of Telecommunications (“the Director”) in relation to the application of the Leased Lines Directive Conditions and in particular specify that those Conditions shall only apply to organisations having significant market power in specified markets unless there are no such organisations in those markets.

(19) The European Telecommunications Standards Institute has been requested to carry out further work on standards for SDH VC-based leased digital bandwidth.

Regulation 8 give duties and powers to the Director in relation to the determination by him of significant market power for this purpose.

Regulations 9 to 13 give further appropriate powers and duties to the Secretary of State and the Director as the national regulatory authorities for the purposes of Council Directive [92/44/EEC](#) as amended by the Amending Directive.

The Principal Regulations and the Telecommunications (Leased Lines) (Amendment) Regulations 1994 (S.I. [1994/2251](#)) are revoked.

The licences modified by regulation 5 may be inspected at, and copies of the modifications to the BT licence and of the other licences obtained from, the Library of the Office of Telecommunications (OFTEL), 50 Ludgate Hill, London EC4M 7JJ. The BT licence (fourth edition November 1995) is published by HMSO price £19.95.