

GUERNSEY STATUTORY INSTRUMENT

2004 No. 17

The Telecommunications (Determination of Turnover for Penalties) Regulations, 2004

Made

28th April 2004

Coming into operation

1st May 2004

THE STATES ADVISORY AND FINANCE COMMITTEE, in exercise of the powers conferred upon it by section 31 of the Telecommunications (Bailiwick of Guernsey) Law, 2001^a ("the Telecoms Law"), hereby makes the following regulations:-

Imposition of financial penalties.

1. Section 28 of the Telecoms Law refers to the revocation and suspension of licences and imposition of financial penalties and allows the Director General of Utility Regulation to impose a financial penalty, not exceeding 10% of the turnover of the licensee upon whom the penalty is imposed, as the Director General may determine.

2. Section 31 of the Telecoms Law provides for turnover to be defined by regulations of the States Advisory and Finance Committee.

Determination of turnover.

3. The applicable turnover of a licensee for the purposes of section 28 of the Telecoms Law is the amount derived by the licensee from the sale of products and

^a

Order in Council No. XIV of 2001.

the provision of services falling within the licensee's ordinary activities to customers in the Bailiwick.

4. Where a licensee consists of two or more undertakings which each prepare accounts then the applicable turnover shall be calculated by adding together the respective applicable turnover of each, but no account shall be taken of any turnover resulting from the sale of products or the provision of services between them.

5. The turnover of a licensee for the purposes of section 28 is -

- (a) the applicable turnover of the business year preceding the date when the infringement ended,
- (b) in addition, where the length of the infringement is more than 12 months, the amount of the applicable turnover of the business year preceding that identified in paragraph (a) which bears the same proportion to the applicable turnover of that business year as the period by which the length of infringement exceeds 12 months bears to 12 months, and
- (c) in addition, where the length of the infringement is more than 24 months, the amount of the applicable turnover of the business year preceding that identified in paragraph (b) which bears the same proportion to the applicable turnover of that business year as the period by which the length of infringement exceeds 24 months bears to 12 months,

but the amount added under paragraph (b) or (c) shall not exceed the amount of the

applicable turnover for the preceding business year in question.

6. Where in the application of regulation 5 there is any period in respect of which there is no preceding business year then the applicable turnover shall be the turnover for that period.

Interpretation.

7. (1) In these Regulations, unless the context requires otherwise -
- (a) "Telecoms Law" means the Telecommunications (Bailiwick of Guernsey) Law, 2001,
 - (b) "applicable turnover" shall be construed in accordance with regulations 3 and 4 and means the turnover of a licensee for a business year, and where a business year does not equal 12 months the applicable turnover shall be the amount which bears the same proportion to the applicable turnover during that business year as 12 months does to that period,
 - (c) "business year" means a period of more than six months in respect of which a licensee publishes accounts or, if no such accounts have been published for the period, prepares accounts,
 - (d) "length of infringement" means the period over which the Director General is satisfied that a licensee is or has been in contravention of any condition of a licence or any provision of, or any provision of a direction under, the Telecoms Law or the Regulation of Utilities

(Bailiwick of Guernsey) Law, 2001^b,

- (e) other expressions have the same meanings as in the Telecoms Law, and
- (f) any reference to an enactment is a reference thereto as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

Citation.

8. These Regulations may be cited as the Telecommunications (Determination of Turnover for Penalties) Regulations, 2004.

Extent.

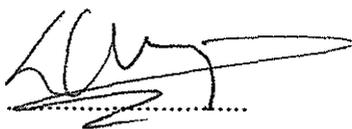
9. These Regulations have effect throughout the Bailiwick of Guernsey.

Commencement.

10. These Regulations shall come into force on the 1st day of May, 2004.

Dated this 28th day of April, 2004.

^b Order in Council No. XI of 2001.

A handwritten signature in black ink, appearing to be 'L. C. Morgan', written over a horizontal dotted line. The signature is stylized and extends to the right.

L. C. MORGAN

President of the States Advisory and Finance Committee

For and on behalf of the Committee.

EXPLANATORY NOTE.

(This note is not part of the Order)

These Regulations specify how the turnover of a licensee is to be determined for the purposes of section 28 of the Telecommunications (Bailiwick of Guernsey) Law, 2001. Where a licensee contravenes a condition of a licence, or any provision of, or any provision of a direction under, either the Telecommunications (Bailiwick of Guernsey) Law, 2001 or the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General of Utility Regulation may impose on the licensee a financial penalty of up to 10% of its turnover as so defined.