

# CAYMAN ISLANDS GAZETTE



Extraordinary No. 40/2011

Wednesday, 18<sup>th</sup> May 2011

## GOVERNMENT Regulatory Notice

### THE INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY

#### TYPES OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) NETWORKS AND SERVICES WHICH REQUIRE TO BE LICENSED BY THE AUTHORITY

13<sup>th</sup> May 2011

#### Licensing provisions

1. This Notice is issued by the Information and Communications Technology Authority (“the Authority”) in accordance with section 23(2) of the Information and Communications Technology Authority Law, (2010 Revision) (“the Law”) that requires the Authority to publish in the Gazette a notice specifying which types of Information and Communications Technology (ICT) Networks and Services are required to be licensed.
2. This Notice comes into force immediately and supersedes all previously published versions.

#### Types of ICT Networks and ICT Services which are required to be licensed

3. The Authority has determined that all ICT Networks are required to be licensed by the Authority with the exception of :
  - a. Fixed (Wireline) Communication Systems used solely for a Person’s own use.
  - b. Free Space (Wireless) Communication Systems which are:
    - (i) used solely for a Person’s own use;
    - (ii) operated within the 902 to 928 MHz or 2.4 GHz spectrum bands;
    - (iii) fully qualify as certified equipment; and
    - (iv) are utilized in accordance with the operating parameters and specifications for which they have been specified.
4. For clarity, the types of ICT Networks that require a Licence include, but are not limited to :
  - a. public switched telephone networks, whether fixed, wireless or cellular, using either packet or circuit based switching or routing techniques;
  - b. Communication Systems used for Interconnection;
  - c. cable networks, cables and cable landing points, whether undersea or on land, which originate on, or terminate on, or traverse the territory of the Cayman Islands;

- d. Communication Systems incorporating orbiting or geo-stationary satellites, including Very Small Aperture Transmission (VSAT) satellites, which are used for the transmission of Messages;
  - e. dark fibre or other unlit fibre; and
  - f. all Free Space Communication Systems other than those defined at paragraph 3b above.
5. The Authority has also determined that all ICT Services that use an ICT Network to provide services to the public, whether or not for a fee or for commercial profit, are required to be licensed, except for-
- (a) computer back-up and disaster recovery services located in Grand Cayman;
  - (b) Information Security Services specified in Note (b) of Table 6 in this Notice; and
  - (c) the provision of ICT Infrastructure and dark fibre (ICT Service Types 11 and 11a of Table 6 in this Notice) by DataLink Limited to the Cayman Islands Government in support of the Government's CCTV project, until such time as the Authority makes a determination on DataLink Limited's current ICT Licence application.
6. For clarity, the types of ICT Services that require a licence include, but are not limited to :
- a. Telephony -
    - i. All forms of wholesale telephony or any other form of supply of Communication System capacity, whether as interconnection services or as airtime, by one ICT Licensee to one or more other ICT Licensees or by an ICT Licensee to Subscribers;
    - ii. All forms of retail telephony involving the transmission to and from Subscribers of signals over Communication Systems, including the domestic and international transmission of voice, data, facsimile, moving image or still image messages, regardless of the method of transmission;
    - iii. All forms of providing (including selling, leasing, renting, gifting etc.) dark or unlit fibre to any Person;
  - b. Television services -
    - i. All forms of terrestrial television programming broadcast from a station in the Cayman Islands;
    - ii. All forms of television programming distributed by cable, satellite, or other ICT Network (including the Internet) from a distribution point located in the Cayman Islands;
  - c. Video on demand services –
 

The streaming of video material in the Cayman Islands in response to a request from a subscriber, or for subsequent resale to a subscriber, except where the video stream is delivered over the public Internet, or the video material is television programming.
  - d. Sound broadcasting services -
 

All forms of sound broadcasting transmitted from a station in the Cayman Islands;
  - e. Internet services -
    - i. Internet Service Providers, regardless of the scope or type of services provided;
    - ii. Application Service Providers;
  - f. Other services -
    - i. Computer back-up and disaster recovery services, located in Cayman Brac or Little Cayman, which use any form of Communication System except if used solely for a Person's own use; and
    - ii. The supply of directory listings in any medium, format or sequence information whereby the identity of Subscribers may be made public.

**Licence applications**

7. The Authority will currently consider applications for ICT Network and ICT Service Licences of the types listed in the following Tables 1 to 8:

**Table 1: Major Public ICT Networks**

(Licensees of these networks are subject to a royalty fee based upon a percentage of annual gross revenue.)

<b>Type</b>	<b>Description</b>	<b>Comments or explanatory notes</b>
A	Fixed wireline	A wireline network providing access to ICT Service(s) to residential and/or business Subscribers.
B	Fixed wireless	A wireless network (other than Mobile) providing access to ICT Service(s) to residential and/or business Subscribers.
C	Mobile (cellular)	Mobile networks normally operating in the 800, 900,1800 ,1900 or 1800 to 2200 MHz frequency bands.
D1	Fibre optic cable - Domestic	Whether "lit" or "unlit".
D2	Fibre optic cable - International	Whether "lit" or "unlit".
E1	Satellite (incl VSAT) - Domestic	
E2	Satellite (incl VSAT) - International	
F	Broadcast network	As used for "over-the-air" radio and TV broadcasters

**Table 2: Radio Stations**

(Licensees of these networks are subject to a fixed licence fee, usually annually.)

<b>Type</b>	<b>Description</b>	<b>Comments or explanatory notes</b>
J	Amateur radio station	Radio transmitting and receiving equipment which; (a) is used solely for a Person's own use; (b) operates on radio frequencies to be specified by the Authority following consultation; and (c) is limited in output power to a level to be specified by the Authority following consultation.
K	Aircraft radio station	For aircraft registered in the Cayman Islands.
L1	Ship radio station	For vessels of less than 300 gross tons with no MMSI number.
L2	Ship radio station	For vessels of less than 300 gross tons requiring an MMSI number.
L3	Ship radio station	For vessels of more than 300 gross tons but less than 1600 gross tons.
L4	Ship radio station	For vessels of greater than 1,600 gross tons.
L5	Ship radio station	Coastal vessel
M	Spacecraft radio station	For spacecraft registered in the Cayman Islands.

**Table 3: Transmitters**

(Licensees of these networks are subject to a fixed license fee per transmitter, usually annually.)

<b>Type</b>	<b>Description</b>	<b>Comments or explanatory notes</b>
N	Ground to air radio	Radio transmitting equipment used to communicate from the ground to aircraft on the ground and in the air using aviation frequencies.
O	Marine (Coastal) radio	Base station operating on designated maritime frequencies in the coastal waters of the Cayman Islands.
P	Land (Mobile) two-way radio	Base station and mobile radio transmitters (including hand-held) operating on designated frequencies in the Cayman Islands.
Q	Wireless Utilities Metering	Base station and wireless metering equipment at the end-users' premises.

**Table 4: Spectrum**

(Fixed spectrum license fees are to be paid annually.)

Type	Description	Comments or explanatory notes
S	All transmitters/ transponders other than those licensed under Tables 2 or 3, or those otherwise exempted by the Authority.	Each transmission frequency or channel is required to be licensed. This requirement extends to most uses of spectrum whether that use is in connection with a public or private network. For the avoidance of doubt, Licensees of Table 1 are required to obtain the appropriate Type S licences. Only Licensees of Tables 2 or 3 are exempt from the requirement to obtain a Type S licence.  In addition, certain types of low power radio equipment may be exempted from any licensing requirement, or may be covered by a Class Licence, if operated in the 902 to 928 MHz or 2.4 GHz spectrum bands (see para 3 above). The Authority is currently considering whether Class Licences should be issued for additional spectrum bands. The results of these considerations will be published in a further Notice in the Gazette.

**Table 5: Miscellaneous**

(Licensees are subject to a fixed license fee, usually annually.)

Type	Description	Comments or explanatory notes
U	Radio dealer	A licensed dealer in radio transmitters is exempted from obtaining in advance an import licence for each radio that they import for subsequent resale.
V	Radio Operator	
W	Radio Importation	

**Table 6: ICT Services**

(Licensees of these services are subject to a royalty fee based upon a percentage of annual gross revenue.)

Type	Description	Comments or explanatory notes
1	Fixed Telephony	Whether utilising fixed wireline or fixed wireless networks. Refer also to paragraph 7a of this Notice for a description of Telephony.
2	Fall-back International Voice and Data Communications	An applicant for a Type 2 Licence must already hold, or must apply simultaneously for, a Type E2 (International Satellite) Network Licence. For further information, see Note (a).
3	Mobile Telephony	
4	Resale of Telephony	Also includes those services sometimes referred to as calling card services.
5	Internet Telephony	Voice over the Public Internet (not the use of Voice over Internet Protocol, which falls under Type 1).
6	Public Service Television Broadcasting	Refer to paragraph 7b of this Notice.
7	Subscription Television Broadcasting	Sometimes referred to as “cable broadcasting” or “wireless cable broadcasting”. Applicants should note that a Type 7

Type	Description	Comments or explanatory notes
		Licence will not be issued without a Type 6 Licence. In other words, applicants wishing to provide Subscription Television Broadcasting service must also apply to provide Public Service Television Broadcasting service.
8	Sound Broadcasting	Refer to paragraph 7d of this Notice.
9	Internet Service Provider	
10	Information Security Services	Licensing by the Authority is optional at the discretion of the applicant. See Note (b) below.
11	The provision, by lease or otherwise, of ICT infrastructure other than dark fibre to a Licensee.	
11a	The provision, by lease or otherwise, of dark fibre to a Licensee.	
12	Retail sale of ICT equipment	A Type 12 Licence is available only to Types 1, 3 or 5 Licensees. All others must obtain an appropriate licence from the Cayman Islands Trade and Business Licensing Board. For consistency with the procedures adopted by the Cayman Islands Trade and Business Licensing Board, a separate Type 12 Licence is required for each retail outlet.
13	The publication of directories derived from ICT subscriber records	Refer to paragraph 7f ii of this Notice.
14	Application Service Provider	
15	Video on Demand	Whether viewable real-time or near real-time.

### Notes

(a) This licence permits a Licensee to offer international voice and data communications to the Licensee's business clients solely for use in emergency situations. An emergency is defined as instances where the client's normal communications service provider(s) is unable to provide its services for a period of such duration that there is a material impact upon the transaction of the client's normal business (e.g. as the result of damage following a hurricane) and the Authority has acknowledged in writing the existence of such conditions.

(b) Information Security Services may be licensed by the Authority on application from Persons who wish to be so licensed, but such licensing is not mandatory. Where a Person wishing to provide Information Security Services makes application to the Authority for an ICT Service Licence, the Authority will process that application in the same manner and to the same standards as it would process applications for any other type of ICT Service Licence, and the Authority may decline to award such Licence.

**Table 7: Service Licences issued by the Governor in Cabinet under Section 23(3) of the Law, for the development of the Sister Islands**

Type	Description	Notes
100	The provision of off-site ICT disaster recovery and	Applicable only to Licensees operating within and from Cayman Brac or Little Cayman, and as further defined in their Licences.

	associated services.	
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**Table 8: Class Licence issued by the Information and Communications Technology Authority under Section 23(2) of the Law, for Fall-back International Voice and Data Communications**

<b>Type</b>	<b>Description</b>	<b>Notes</b>
200	permits a Class Licensee to put in place an international satellite Network and associated Services, for the Licensee's exclusive use in emergency situations, so as to provide itself with fall-back international voice and data communications.	An emergency is defined as instances where the Class Licensee's normal communications service provider(s) is unable to provide its services for a period of such duration that there is a material impact upon the transaction of the client's normal business (e.g. as the result of damage following a hurricane) and the Authority has acknowledged in writing the existence of such conditions. Testing restrictions are noted in the actual licence. The rights and obligations normally associated with Licences for Public ICT Networks (Table 2) or Services (Table 6), such as infrastructure sharing and wholesale rates, are not applicable to Type 200 Class Licenses, unless otherwise determined by the Authority.

DAVID A ARCHBOLD  
Managing Director  
Information & Communications Technology Authority

## APPENDIX TO NOTICE

### Definitions

1. The following terms have the same definition as those provided in the Law:

Authority

ICT

ICT Network

ICT Service

Interconnection

Internet Access

Licence

Licensee

Message

Person

Subscriber

2. In this Notice:

“Certification Bodies” means certification bodies so designated by the European Commission and/or certification bodies accredited by the National Institute of Standards and Technology in accordance with the rules of the United States Federal Communications Commission.

“Certified Equipment” means either apparatus or an assembly of various apparatus designed for interoperability as a system, which has been approved by certification bodies either individually or as a system.

“Communication System” means facilities, equipment or components which are used for the emission, transmission or reception of Messages by any wire, cable, radio, wireless, microwave, laser, satellite, optical (including all free space optical techniques) or other electromagnetic system, or by any similar technical system, provided the facilities, equipment or components are located in the Cayman Islands, or operated from ships, aircraft or spacecraft registered or operating in the Cayman Islands. For the purposes of this Notice, the term “Communication System” includes a whole Communication System, equipment or facilities forming part of a Communication System, or an individual component of a Communication System.

“Free Space Radiation” means the transmission of a Message without the use of a conductor, and includes transmission through the use of: any part of the electromagnetic spectrum; radiation or other free space optic techniques; radio; microwave; wireless techniques; infra-red techniques; laser; or satellite.

“Free Space Communication System” means a Communication System that uses Free Space Radiation.

“Fixed Communication System” means any Communication System that does not use Free Space Radiation.

“Information Security Services” has the meaning given in the Electronic Transactions Law, 2000.

“Infrastructure” has the meaning prescribed by the Governor in Cabinet under the provisions of section 48 of the Law.

“Internet Service Provider” means a Person who provides Internet Access to Subscribers.

“Notice” means this notice issued under Section 23(2) of the ICTA Law.