

THE BROADCASTING AND RADIO RE-DIFFUSION ACT

The Television and Sound Broadcasting
(Amendment) Regulations, 2007

In exercise of the powers conferred upon the Broadcasting Commission by section 23(1) of the Broadcasting and Radio Re-Diffusion Act, the following Regulations are made after consultation with the Minister:-

1. These Regulations may be cited as the Television and Sound Broadcasting (Amendment) Regulations, 2007, and shall be read and construed as one with the Television and Sound Broadcasting Regulations, 1996 (hereinafter referred to as the principal Regulations) and all amendments thereto.

2. Regulation 2 of the principal Regulations is amended by -

(a) deleting the full stop; and

(b) inserting immediately after the definition of "licensee"

the following definition -

"zone" means a zone established pursuant to regulation 27."

3. Regulation 3(2) of the principal Regulations is amended by deleting the words "sixty-five thousand dollars" and substituting therefor the words "one hundred and ten thousand dollars".

4. Regulation 4(1) of the principal Regulations is amended by inserting next after the words "non-commercial broadcasting" the words ", to offer subscriber television service".

5. Regulation 5 of the principal Regulations is amended by -

(a) renumbering paragraphs (2), (3), (4), (5), (6) and (7) as paragraphs (3), (4), (5), (6), (7) and (8); and

(b) deleting paragraph (1) and substituting therefor the following as paragraphs (1) and (2) -

" (1) An applicant who is notified that his licence application is successful, shall pay to the Commission the respective fee specified hereunder or in paragraph

(2) in respect of the category of licence to be granted -

Type of Licence	Fee
(a) Licence to engage in commercial broadcasting	\$50,000.00
(b) Licence to establish, maintain or operate a radio re-diffusion system	\$50,000.00
(c) Licence to engage in non-commercial broadcasting	\$ 3,500.00 in the currency of the United States of America or its equivalent in Jamaican dollars, calculated at the current rate of exchange the date of payment.

(2) The fee payable in respect of a licence to operate a subscriber television service shall be computed as follows -

$$Fee = EconValue \times \sum \left[\left(1 + \frac{PZHI - PNHI}{PNHI} \right) \right] \times Geography \times \left(1 - \frac{HHI}{10,000} \right) \times (1+i)^n$$

Where -

"Economic Value" means in relation to a service covering -

- (a) 1-60 zones, \$199,050.00 per zone;
- (b) 61-120 zones, \$140,500.00 per zone;
- (c) 121 zones or more, \$99,600.00 per zone;

"HHI" means Herfindahl Hirshman Index;

"PNHI" means per-capita National Household Income;

"PZHI" means the per-capita Zone Household Income.

NOTES:

1. The above formula takes into account factors such as geography and competition within the zones and offers a solution for adjusting the value of a zone dependent on the duration of the licence (where the licence is for the minimum period of 6 years that factor will be represented by $(1 + \text{inflation rate})^0$ and adjusted upwards by one year or more as the case may be).

2. The weight for geography shall be determined based on terrain and housing density or spread.

3. - (1) The Commission shall, on a case-by-case basis, classify the zones into three types, namely easy, moderate and difficult, based on the propagation plans and other data that are available on the zones.

(2) Accordingly, where an application is for operation is -

(a) not more than 120 zones, an easy zone shall be given geography weighting of 1, a moderate zone, 0.75 and a difficult zone, 0.50;

(b) more than 120 zones, the geography weighing shall be 1 per zone.

6. The principal Regulations are amended by inserting next after regulation 6, the following as regulations 6A, 6B, 6C, 6D, 6E and 6F -

"Application for variation of subscriber television licence. First Schedule.	6A. - (1) Subject to regulation 6B, a subscriber television licensee that intends to have zones added to or removed from its licence shall make an application to the Minister to vary the terms of the licence in the form set out as Form B3 in the First Schedule.
--	---

(2) An application under paragraph (1) shall be accompanied by a non-refundable fee of fifty thousand dollars.

Requirements for addition of zones to subscriber television licence.	6B. Where a subscriber television licensee makes an application to vary its licence so as to provide for additional zones of operation, it shall in addition to meeting the requirements of regulation 4(1)(b)(i), (v) and (vi) in relation to its operations as extended, satisfy the Commission at the time the application is made that it is in good standing with respect to -
---	---

(a) copyright compliance;

(b) programming standards;

- (c) customer service;
- (d) licence fees;
- (e) technical service;
- (f) provision of financial surety; and
- (g) any other regulatory obligations.

Restrictions
for addition
of zones
under a sub-
scriber tele-
vision
licence.

6C. - (1) A subscriber television licensee may not in a single application seek to vary its licence by the addition of more than sixty zones of operation.

(2) A subscriber television licensee that intends to add more than sixty zones to its licence shall make an application under regulation 3, for a new licence in respect of its operations.

Requirements
for removal
of zones
from sub-
scriber
television
licence.

6D. The application of a subscriber television licensee to vary its licence by the removal of zones therefrom shall -

- (a) include reasons for the applications;
- (b) provide an exit strategy and timetable for the removal of service from zones to be excised from the licence; and
- (c) include evidence of good standing with respect to licence fees.

Recommendation
for approval
or refusal of
variation.

6E. - (1) The Commission shall process applications for variation of a subscriber television licence, and shall make such recommendation to the Minister in relation thereto as it thinks fit.

(2) For the purposes of making a recommendation under subsection (1) the Commission -

- (a) shall determine whether or not the applicant satisfies the requirements of regulation 6B or 6D, as the case may be; and

(b) may, if it thinks necessary, hear oral submissions from the applicant.

Approval or refusal of variation.

6F. The Minister, may -

(a) on the recommendation of the Commission -

(i) approve the application for variation on such terms and conditions as he thinks fit;

(ii) refuse the application for variation; or

(b) refer the application back to the Commission for further consideration."

7. Regulation 27 of the principal Regulations is amended by deleting the word "wired".

8. The First Schedule to the principal Regulations is amended by inserting next after Form B2 the following as Form B3 -

FORM B 3

THE BROADCASTING AND RADIO RE-DIFFUSION ACT

**APPLICATION FOR VARIATION OF A SUBSCRIBER
TELEVISION LICENCE**

*(Made pursuant to Regulation 6A of the Television
and Sound Broadcasting Regulations, 1996)*

PART I - General

1. NAME OF LICENSED SUBSCRIBER TELEVISION (STV) PROVIDER:

_____ *(Insert name of company)*

2. CONTACT PERSON REPRESENTING THE LICENSEE

NAME: _____ *(Please write in block capitals)*

TITLE: _____

TELEPHONE NO.: _____

MOBILE NO.: _____

E-MAIL: _____

MAILING ADDRESS:

3. LICENCE NO: _____

*(Provide the number written on the licence to which the application
for amendment relates)*

4. DATE OF ISSUE OF THE LICENCE AND DURATION

_____ *(State the day, month and year appearing on the licence as well as the period
for which the licence is valid)*

Date of Application ___/___/2___
DD / MM/ YYYY

Applicant's Initials _____

PART 2 - ADDITION OF ZONES

**THIS PART APPLIES ONLY TO LICENSEES SEEKING VARIATION
OF THEIR SUBSCRIBER TELEVISION LICENCES BY THE
ADDITION OF ZONES**

5. ZONE(S) TO BE ADDED:

Zone number	Zone name

6. IF THE APPLICATION FOR ADDITION OF ZONES IS APPROVED, HOW SOON AFTER APPROVAL WILL SERVICE BEGIN IN EACH ZONE IN THE ADDITIONAL SERVICE AREA?

Zone Number	Date of Start of Service

7. ARE THESE ZONES TO BE SERVED BY EXISTING HEAD-END FACILITIES ALREADY IN OPERATION?

Yes _____

No _____

8. THE FOLLOWING INFORMATION SHALL BE SUPPLIED IN DETAIL IN SEPARATE LABELLED ATTACHMENTS TO THIS APPLICATION FORM:

- A. *CORPORATE LEADERSHIP - IF THERE HAS BEEN ANY CHANGE IN DIRECTORS OF THE COMPANY SINCE THE LICENCE WAS FIRST ISSUED OR RENEWED IDENTIFY ALL NEW DIRECTORS, BY NAME, NATIONALITY, AND ADDRESS*
- B. *SHAREHOLDING - IF THERE HAS BEEN ANY CHANGE IN SHAREHOLDING OF THE COMPANY SINCE THE LICENCE WAS FIRST ISSUED OR RENEWED IDENTIFY ALL NEW SHAREHOLDERS (PERSONS OR COMPANIES), THEIR NATIONALITIES AND THE PROPORTION OF SHARES EACH HOLDS*
- C. *DISTRIBUTION CAPACITY - DETAILS OF HOW THE SIGNAL IS TO BE DISTRIBUTED IN THE ADDITIONAL AREA AND ALL RELEVANT SUPPORTING INFORMATION*
- D. *IMPLEMENTATION PLAN FOR THE PROVISION OF SERVICE TO THE PROPOSED ADDITIONAL SERVICE AREA*
- E. *ZONE LAYOUT MAPS FOR THE PROPOSED ADDITIONAL ZONES*

Date of Application ____/____/2____
DD /MM / YYYY

Applicant's Initials _____

9. IF ANY ADDITIONAL HEAD-END(S) ARE TO BE ESTABLISHED PROVIDE THE FOLLOWING INFORMATION:
- A. A DIAGRAM SHOWING PRECISE BOUNDARIES AND A DISTRIBUTION PLAN FOR THE PROPOSED ADDITIONAL SERVICE AREA INDICATING THE LOCATION OF THE HEAD-END FACILITY AND RE-TRANSMITTING SITES
 - B. A BLOCK AND SIGNAL LEVEL DIAGRAM OF THE ENTIRE SYSTEM TO BE ESTABLISHED IN THE PROPOSED ADDITIONAL SERVICE AREA
 - C. A DIAGRAM OF THE SCHEMATIC SITE LAYOUT OF ANY HEAD-END FACILITY TO BE ESTABLISHED IN THE PROPOSED ADDITIONAL SERVICE AREA INDICATING ADJACENT BUILDINGS, BOUNDARIES AND RIGHTS OF WAY
 - D. ADDITIONAL EQUIPMENT INCLUDING THAT LISTED BELOW IS TO BE ACQUIRED IDENTIFY THE TYPE, QUANTITY AND MANUFACTURERS OF THE EQUIPMENT:
 - (i) CENTRAL RECEIVING EQUIPMENT
 - (ii) DISTRIBUTION EQUIPMENT
 - (iii) SUBSCRIBER-RECEIVING EQUIPMENT
 - (iv) STANDBY POWER EQUIPMENT

Date of Application ____/____/2____
DD /MM / YYYY

Applicants Initial's _____

