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Doing Business in Ireland

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CHAPTER 15 Competition Policy

2-15 Doing Business in Ireland § 15.05

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§ 15.05 Granting of Licenses and Certificates

[1] Licences

As already briefly mentioned,ⁿ¹ there are two types of licences that can be granted by the Authority: individual licences and category licences.

[a]-- Category Licences and Individual Licences Compared The category licence corresponds to the block exemptions granted by the European Commission under Regulation 17/92. An undertaking can be granted a category licence/block exemption (and thus obtain immunity from a Section 4 action) if the undertaking can conform to its terms without the need for a formal application to the Authority. This not only benefits individual undertakings, but also relieves the Authority from the obligation of adjudicating a host of similar applications. As of October 1991, the Authority has yet to grant any category licences, although it can be expected that it will soon do so. It should be noted that an individual licence can be granted only on application by the Authority itself.

[b]-- Term of Licence Both a category licence and an individual licence are granted only for a limited period, subject to such conditions as may be imposed. An individual licence may be extended upon application where the Authority is of the opinion "that the requirements of section 4(2) continue to be fulfilled."

[c]-- Revocation of Licence The Authority is entitled to revoke or amend a licence. Section 8(3) provides that:

Where the Authority is of opinion that, having regard to the requirements of section 4(2) and to the basis upon which a licence under that sub-section was granted-

- (a) there has been a material change in any of the circumstances on which the decision was based,
- (b) any party commits a breach of any obligation attached to the decision,
- (c) the licence was based on materially incorrect or misleading information, or
- (d) any party abuses the permission granted to it by the licence,

the Authority may revoke or amend the licence and, without regard to the generality of this subsection, may in particular insert in a licence conditions the effect of which is to prohibit specific acts by any party there to which would otherwise be authorised pursuant to such a licence.

The only other manner in which a licence may be revoked or amended is in consequence of an appeal to the High Court under Section 9.n2

[2] Revocation of Certificate

Section 8(6) also provides that the Authority may revoke a certificate granted under Section 4(4) where it finds that:

- (a) there has been a material change in any of the circumstances on which the certificate was based,
or
- (b) the certificate was based on materially incorrect or misleading information.n3

[3] Opportunity to Be Heard

When the revocation of a licence or certificate is proposed, in the interest of fairness, the parties will be given an opportunity to be heard and to defend themselves. In a situation where an undertaking has allegedly abused its licence or certificate, the Authority might invoke its powers under Article 7 of the Schedule to the Act, and summon witnesses.

FOOTNOTES:

(n1)Footnote 1. *See* § 15.03 *supra*.

(n2)Footnote 2. *See* § 15.06 *infra*.

(n3)Footnote 3. The Authority is required to publish a notice to this effect in *Iris Oifigiuil* where there has been such amendment or revocation of a licence or a certificate. *see* Competition Act § 8(4) and 8(7) (1991).