



BERMUDA

CABLE TELEVISION SERVICE REGULATIONS 1987

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[made under section 59 of the Telecommunication Act 1986 and brought into operation on 1 July 1987]

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SCHEDULE

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Citation

- 1 These Regulations may be cited as the “Cable Television Service Regulations 1987”.

Interpretation

- 2 In these Regulations, unless the context otherwise requires—

“the Act” means the Telecommunications Act 1986 [*title 24 item 10*];

“cablecasting” means the conveyance of programmes to subscribers by means of a cable television system for their instruction, information and amusement by means of visual images and sounds and cognate expressions shall be construed accordingly;

“cable television system” or “System” means a non-broadcast facility consisting of a set of wire transmission paths and associated signal generation, reception and control equipment, under common ownership and control, designed and intended for cablecasting;

“channel” means a discrete circuit in a System linking the licensee with a subscriber for the purpose of passing intelligence;

“licensee” means a person licensed to construct, establish, maintain and operate a System;

“non-origination cablecasting channel” means a channel provided in a System to relay to subscribers television programmes transmitted outside Bermuda and received by the licensee directly over the air or captured and relayed to the licensee from a point in Bermuda and programmes broadcast by a television station in Bermuda;

“origination cablecasting” means the carriage of programmes (exclusive of those passing over a non-origination cablecasting channel) on a System over one or more channels and subject to the exclusive control of the licensee and cognate expressions shall have the same meaning;

“subscriber” means a person who receives a cablecasting service distributed by a System upon payment of a fee and does not further distribute it.

Purpose

- 3 These Regulations state the conditions under which Systems may be constructed, established, maintained and operated.

Prohibition

- 4 (1) No person shall construct, establish, maintain or operate a System in Bermuda without being in possession of a valid licence granted by the Minister to operate a public telecommunication service (hereinafter referred to as “the CTV licence”).

- (2) No CTV licence shall be granted to any person other than a body corporate and no such licence shall be granted or renewed unless the Minister is satisfied that the control

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of such body corporate is vested in persons who possess Bermudian status in accordance with the provisions of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*].

Copyright

5 (1) The CTV licence does not authorize the licensee to do any act which is an infringement of any copyright which may exist in the matter transmitted over the System.

(2) Nothing herein shall be construed to render a licensee liable for the failure of any user of the channels mentioned in regulation 11 or of a licensee of a broadcasting station licensed in Bermuda, to secure the right to the copyright in any material transmitted over the System.

Privacy

6 (1) During the operation of the System the licensee shall strictly observe the privacy and property rights of subscribers.

(2) The licensee may disclose to the public both the number and the percentage of subscribers purchasing any cablecasting service but shall not reveal the identity of any individual subscriber except to the Minister at his request.

(3) The licensee may maintain such records as are necessary to bill subscribers for the purchase of any cablecasting service. No information about an individual subscriber maintained by the licensee for purposes of billing or locating malfunctions in the System shall be published, utilized, disseminated or disclosed in any manner to any person without the affected subscriber's prior knowledge and written consent. To the extent that the System has the capability to monitor individual subscriber reception and response, any information acquired through the use of such capability about an individual subscriber shall not be published, utilized, disseminated or disclosed in any manner to any person without the affected subscriber's written consent.

(4) The licensee shall not initiate in any form the discovery of any information on or about a subscriber's premises without prior written authorization from the subscriber potentially affected.

(5) Valid "authorization" means voluntary written approval and consent obtained from a subscriber to use information mentioned in paragraph (4) for a period of time not to exceed one year from the date of such authorization, and which approval and consent shall not have been obtained as a condition of the supply of cable television service or continuation thereof.

(6) Without the authorization described in paragraph (5) neither the licensee nor any other person shall in any manner activate, utilize or otherwise operate any channel or other electronic signal from a subscriber's location.

(7) Every subscriber shall have the absolute right to deactivate any return path from the subscriber's receiver at the licensee's sole cost. To the extent that such a return path or signal is mandatory for the providing of a particular service to a subscriber, deactivation of the return path shall permit that service, and none other, to be discontinued for that subscriber.

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Sub-letting

7 (1) A licensee shall not lease a channel on the System without the express authorization in writing of the Minister who may impose such terms and conditions for a lease as he may deem necessary for the proper carrying out of the Act and these Regulations.

(2) Any agreement to let entered into between a licensee and a sub-lessor shall provide that—

- (a) the operation of the leased channel shall not cause objectionable interference with any other channel of the System;
- (b) in the event that such interference occurs the sub-lessor shall forthwith cease to operate the leased channel until such interference is eliminated;
- (c) failure of the sub-lessor to comply shall result in the immediate termination of the lease.

Two-way communications

8 A licensee shall not use, a permit the use of, a return path on any channel in the System from a subscriber's receiver for the conveyance of any intelligence without first obtaining the grant of a licence by the Minister who may impose such terms and conditions as he may deem necessary for the proper carrying out of the provisions of the Act and of these Regulations:

Provided that such return path may be used to the extent that it or a signal conveyed by it is mandatory for the control of the reception of a particular service by such subscriber.

Other telecommunications legislation

9 A CTV licence shall not exempt the licensee from compliance with the provisions of the Act or from any other relevant telecommunications legislation.

Installation in Government buildings

10 A licensee shall connect the System to all Government buildings including Government schools and hospitals in the area in which the System is authorized to operate under the CTV licence:

Provided that the Minister may designate in writing to the licensee any Government building to which the licensee is not obliged to connect the System.

Channels for Government use

11 (1) The Minister may require a licensee to provide, free of charge, two channels on the System for use by Government in such manner as the Minister shall by writing direct, one of which shall be capable of being used without a frequency converter.

(2) The System shall include an emergency alert capability which shall permit the Minister or his designated representative in time of emergency or natural disaster to override the audio signal on all channels simultaneously for the purpose of announcements or messages.

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Local television programmes

12 (1) A licensee may carry on the System television programmes broadcast by a broadcasting radio station licensed in Bermuda.

(2) A broadcasting radio station shall elect for every period of three years commencing 1 November 2008 (in these Regulations referred to as the “election period”) whether they wish their television programmes to be carried on a “must carry” or a “retransmission consent” basis.

(3) A broadcasting radio station must make its election for the first election period before 1 November 2008, and must make its election for each subsequent election period at least four months prior to the end of the then current election period.

(4) If “must carry” is elected, a licensee shall carry on the System, free of charge, all television programmes broadcast by a broadcasting radio station.

(5) If “retransmission consent” is elected, a licensee must, within 30 days, confirm whether or not they intend to carry the television programmes of a broadcasting radio station.

(6) Where “retransmission consent” is elected under paragraph (5) and a licensee chooses not to carry the television programmes they must within fourteen days inform the public via the public printed media and by direct notice to their customers and must also within that fourteen day period file revised tariff rates with the Commission for the programme tier in which the television programmes will no longer be available.

(7) Where “retransmission consent” is elected under paragraph (5) and a licensee chooses to carry the television programmes on a “retransmission consent” basis and the parties are not able to reach a commercial agreement within sixty days, then either party may refer the matter to the Commission for determination.

(8) The Commission shall, in not more than sixty days or such longer period as the Minister may allow, conclude its deliberations and forward a decision to the parties.

(9) The date of implementation of any new agreement shall be the day following the expiration of the previous election period.

(10) If either party is aggrieved by the decision of the Commission, they may appeal to the Minister in accordance with the procedures outlined under section 25 of the Act.

(11) During an election period in which a licensee has elected “must carry” or “retransmission consent”—

- (a) neither party shall cause the television programmes of the broadcasting radio station to be unavailable on a licensee’s System without the express permission of the Minister;
- (b) television programmes shall be carried without material degradation in quality (within the limitations imposed by the technical state of the art); and
- (c) television programmes shall, at the request of a licensee of a broadcasting radio station licensed in Bermuda, be carried by the System on the channel

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number on which the broadcasting radio station is transmitting, except where technically not feasible.

(12) Where television programmes are carried by a System pursuant to this regulation, the programmes broadcast shall be carried in full, without deletion or alteration of any portion.

[Regulation 12 revoked and substituted by BR43/2008 r.2 effective 11 July 2007]

Child-lock

13 At the request of any subscriber a licensee shall supply at cost a device (hereinafter called "a child-lock") enabling the subscriber to prevent the reception on the subscriber's receiver of any signal on a particular channel or channels by any person not in possession of the child-lock or the code necessary to activate it. A statement of the amount of such item cost during the previous year shall be submitted not later than the 1st February in each year to the Minister.

Number of channels in System

14 The Minister shall specify in the licence—

- (a) how many channels shall be included in the System, which number shall not be changed without the consent in writing of the Minister; and
- (b) whether the System shall have the capacity to provide two-way return communication, from subscribers, and if so of what nature, on how many channels and from which subscribers.

Application for licence

15 An application for a licence to construct, establish, maintain and operate a System shall be made in writing to the Minister and shall contain the following—

- (a) the legal name of the applicant corporation and its registered address;
- (b) proof to the satisfaction of the Minister that the control of the corporate body is vested in persons who possess Bermudian status in accordance with the provisions of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*] together with a list of shareholders, shares held by each, and nationality of each and such other information relating to the corporation as the Minister may require;
- (c) proof to the satisfaction of the Minister showing conclusively that the applicant is in a financial position to construct, establish, maintain and operate the System for which a licence is being requested;
- (d) proof to the satisfaction of the Minister that firm arrangements have been made for the supply of entertainment and information material for not less than ten channels and that the necessary copyright licences have been obtained;

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- (e) a description of the proposed System together with such technical information, plans and maps as the Minister may require;
- (f) a list of the proposed charges to be paid by subscribers;
- (g) any other information that the Minister may require.

Terms and conditions of licence

16 (1) The terms and conditions of a licence requested under regulation 15 and granted by the Minister may include the following—

- (a) a provision that a construction bond in such amount as the Minister may decide be furnished;
- (b) provision regarding standards for the installation of the System and for carriage of television broadcast signals that the Minister may deem appropriate;
- (c) a provision that the licence shall be only for the dissemination of programmes for entertainment purposes unless otherwise authorized in writing by the Ministry;
- (d) a provision that the licence shall be for an island-wide cable television service or that the System shall be confined to such areas or locations as he may designate;
- (e) a provision that the System shall be capable of serving such homes and other premises in Bermuda in such areas or locations as the Minister may designate within such period or periods as he may designate;
- (f) a provision that the construction of the System shall be commenced and terminated in whole or in part within such period as the Minister may decide.

(2) Any initial licence fee and an annual licence fee shall be paid as prescribed.

(3) The Minister may declare that the offer of the licence shall be valid for such period as he may decide.

Duration and renewal of licence

17 A CTV licence for a System shall continue in force for such period of not less than ten years as the Minister may decide and may be renewed.

Transfer of licence

18 A CTV licence shall not be transferred without the consent in writing of the Minister.

Annual returns

19 The secretary of every body corporate licensed to operate a System shall submit annually to the Minister not later than six months after the closing of its financial year—

- (a) a copy of its annual financial statement and auditor's report; and

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- (b) a list of shareholders specifying their nationality and the number of shares held by each and whether or not control is vested in persons possessing Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*].

Transfer of licensee's shares

20 (1) In any case where shares in a body corporate operating a System are transferred (including any transfer by operation of law), the secretary of the body corporate concerned shall forthwith notify the Minister—

- (i) of the transfer, specifying the number of shares concerned in the transaction;
- (ii) of the name, address and nationality of the transferor and the transferee;
- (iii) whether the transferor or the transferee possesses Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*];
- (iv) where the transferee is a body corporate, whether or not the control of that body corporate is vested in persons possessing Bermudian status as aforesaid, together with such other information relating to the control thereof as the Minister may require; and
- (v) of the sale price if any, of the shares transferred.

(2) For the purpose of this regulation and of regulation 21 reference to a transfer of shares shall include an issue of shares and, in any such event, "transferor" and "transferee" shall include respectively, the company affecting the issue and the person to receive shares so issued.

Registration of transfer of licensee's shares

21 (1) No registration of the transfer (including any transfer by operation of law) of any shares in any body corporate operating a System or any change in the beneficial ownership of such shares shall be effected without the previous consent of the Minister and, in according assent, the Minister may sanction the registration of part only of the shares comprised in any transaction for the transfer of such shares.

(2) Any registration of shares effected in contravention of this regulation shall be null and void and shall confer no voting rights or other benefits on the transferee in respect of the shares so registered.

Revocation of licence

22 In any case concerning a System where the Minister is satisfied that—

- (a) there may be grounds for revoking the CTV licence; or
- (b) the control of a body corporate granted a CTV licence is vested in persons who do not possess Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*]; or

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- (c) a body corporate granted a CTV licence has failed to comply with any term, condition or limitation imposed upon it by the licence,

he may request the Telecommunications Commission to enquire into the facts in accordance with its procedure and to report thereon to him and if after consideration of the report the Minister is satisfied that the licences should be revoked, he may revoke the licence.

System engineer

23 (1) The licensee shall appoint a System engineer to be responsible for the maintenance and technical operation of the System who shall be either—

- (a) a person whose technical qualifications and experience satisfy the Minister that he is capable of satisfactorily discharging such duties; or
- (b) a contractor with like technical qualifications and experience.

(2) In the case that the System engineer referred to in paragraph (1)(a) is unavailable or unable to discharge his duties the licensee shall designate a person similarly qualified to act in the engineer's place on a temporary basis until he is available or able to discharge his duties. A contractor shall ensure that a properly qualified employee is readily available at all times during which the System is operating.

(3) The designation of the engineer or his temporary replacement or of the employee of the contractor who is to be available shall be in writing with a copy to the Telecommunications Inspector and a copy posted in a conspicuous place at the principal control point of the System indicating an address and telephone number where the System engineer or his replacement or the contractor's employee, as the case may be, can be contacted.

(4) The System engineer or the contractor is responsible for completion of inter alia the following duties and when the duties are delegated to other persons, for maintaining supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner—

- (a) the placement, attachment, disconnection, relocation, removal and maintenance of all lines, posts, pipes, conduits, supports and other apparatus of outside plant;
- (b) any installations within subscribers' premises or Government buildings that are the responsibility of the licensee;
- (c) the maintenance of the technical standards, the completion of the performance tests and the making of measurements required by these Regulations;
- (d) ensuring that test data is recorded and that the relevant logs are maintained as required by these Regulations;
- (e) ensuring that the necessary notifications are made to the Minister pursuant to regulation 42;

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- (f) ensuring that the System does not cause harmful interference.

Power of licensee to execute and maintain works in streets

24 A licensee on receiving the permission in writing of the Minister responsible for Works and Engineering or of the Corporation of the City of Hamilton or of the town of St. George, as the case may be, may enter upon any public place or in road now existing or which may hereafter exist or be made in Bermuda, and may place thereunder or erect thereon in such places and positions and in such manner as the Minister responsible for Works and Engineering, or the Corporation of the City of Hamilton or the town of St. George, as the case may be, shall sanction, any line or lines or apparatus for the transmission of signals together with the necessary posts, pipes, conduits and supports, and with the like permission may at all times alter the position or arrangement of such posts, pipes, conduits or supports and other apparatus, and alter, diminish or add to the wires or other apparatus of the System.

Making good damages

25 A licensee shall, at its own cost and expense, restore and replace any property disturbed, damaged or in any way injured by or on account of its activities in a manner approved by the Minister responsible for Works and Engineering, the Corporation of the City of Hamilton or of the town of St. George or the owner, as the case may be, to its condition immediately prior to the disturbance or shall pay the Minister, the Corporation of the City of Hamilton or of the town of St. George or the owner, as the case may be, the amount of damage sustained plus costs and reasonable attorney's fees. In the event that the licensee fails to perform the restoration or replacement the Minister responsible for Works and Engineering, the Corporation of the City of Hamilton or of the town of St. George or the owner, as the case may be, shall have the right to do so at the sole cost of the licensee.

Disconnection and relocation

26 A licensee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from said street or other public place, any of its property when required to do so by the Minister responsible for Works and Engineering, the Corporation of the City of Hamilton or of the town of St. George, as the case may be, because of street or other public excavation, construction, repair, regrading; traffic conditions; installation of sewers, drains, water pipes, power or telecommunication lines, tracks; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any other type of improvement necessary for the public health, safety or welfare.

Maintenance

27 The licensee shall maintain all wires, conduits, cables, and other real and personal property and facilities comprising the System in good condition, order and repair to the satisfaction of the Telecommunications Inspector.

Placement of equipment

28 The licensee shall not place, or cause to be placed, poles or other equipment in such a manner as to interfere with the safety, rights or reasonable convenience of adjoining

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property owners, or with any gas, electric or telephone utilities' fixtures or property. In the event that the System creates a hazardous or unsafe condition or an unreasonable interference with property, the licensee, at its own expense and at no additional cost to an affected property owner or the Minister responsible for Works and Engineering or the Corporation of the City of Hamilton or of the town of St. George, as the case may be, and upon request by the said Minister or of the said Corporation, or town, or of the owner, as the case may be, shall remove the System or any part thereof from the property in question. In the event that the licensee fails to remove the System or any part thereof the Minister responsible for Works and Engineering, the Corporation of the City of Hamilton or of the town of St. George or the owner, as the case may be, shall have the right to do so and recover the cost from the licensee in a court of law.

Maps and records

29 A licensee shall keep accurate, complete and current maps and records of the System and shall furnish annually a complete set of such maps, records and their updates to the Minister.

Construction compliance reporting

30 During the construction and installation of a System or any, part thereof a licensee shall furnish the Minister with monthly progress reports in a form approved by the Minister detailing construction progress, indicating whether it is complying with the construction schedule and specifying the reasons for any delay thereto.

Emergency removal of plant

31 If, at any time, in case of fire, disaster, or emergency in Bermuda it shall become necessary in the judgment of the Minister or of the Government board concerned or of the police or the Bermuda Fire and Rescue Service to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the licensee, the Minister responsible for Works and Engineering, the Corporation of the City of Hamilton or of the town of St. George, or the Government board concerned or the police or Bermuda Fire and Rescue Service, as the case may be, shall not be liable for such cutting or moving.

[Regulation 31 amended by 2007:23 s.17 effective 2 July 2007; Regulation 31 amended by 2014 : 33 s. 55 effective 1 January 2018]

Provision of cable television service

32 Cablecasting service, as provided by a licensee through the System, shall be made available to all individual dwellings, residences, including apartments, condominiums, institutions, organizations, businesses and all other entities including any other System, within the area in which it is authorized by its licence to install and operate a System.

Service to multi-unit building and condominiums

33 (1) Installation of a System, and subscriber use of cablecasting service which involves the retransmission of signals to multiple reception points within a multi-unit structure shall be subject to the rights of the owner of the structure.

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(2) Service to condominium units shall be on such conditions as the owner of the common elements may require.

(3) A licensee shall not be responsible or liable for any failure to provide cablecasting service to a lessee or condominium owner whose lessor or corporation refuses the installation of the cables necessary for such service.

Time of installation

34 (1) Residential installations, including multiple drops, shall be first offered at the time a feeder line passes a dwelling unit.

(2) All installations other than residential shall be initially confined to a single drop at a port requested by subscribers and shall first be, offered at the time when a feeder line passes a subscriber's structure.

Attachment and removal of equipment

35 (1) All a licensee's cablecasting equipment shall be removed from a subscriber's property within a reasonable time, not exceeding one month from the time of the subscriber's request for such removal.

(2) Where such removal makes it impossible to provide cable casting service to another subscriber, it shall be the obligation of the subscriber so affected to secure the legal rights or easement that will enable a licensee to provide to the subscriber the cablecasting service that the subscriber desires. A licensee shall not be liable to provide such service where such legal agreement is not secured.

(3) Where attachment to or use of another's property is necessary for the provision of cablecasting service to a person, it shall be the obligation of such person to secure an easement or other legal right that will allow a licensee to provide the cablecasting service desired. A licensee shall not be responsible for its inability to provide such service where the easement or other legal right is not secured.

Construction and installation standards

36 A System shall be constructed and installed by qualified persons in accordance with the best engineering standards prevailing in Bermuda and to the satisfaction of the Minister.

Standby power

37 The licensee shall maintain in constant readiness equipment cable of providing a standby power supply for headend, distribution and trunk amplifiers for a minimum number of hours as determined by the Minister and in any event for at least one hour. Such equipment shall be constructed so as to revert automatically to a standby mode when primary power returns.

Test equipment

38 The licensee shall ensure that a sufficient stock of measuring and test equipment of the appropriate kind is kept available in good order and working condition at the control

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point of the System so that the technical standards and performance of the System can be tested and measured and maintained as required by these Regulations.

Performance tests

39 (1) The licensee of each System shall be responsible for ensuring that it is designed, installed, and operated in a manner that fully complies with the provisions of these Regulations. A licensee shall be prepared to demonstrate, on request by the Telecommunications Inspector or by any officer appointed in that behalf by the Minister that the System does, in fact, comply with the Regulations.

(2) The licensee of each System shall maintain at its principal office a current listing of the cable television channels which that System delivers to its subscribers and the station or stations the signals of which are delivered on each non-origination cablecasting channel.

(3) The licensee of each System shall conduct complete performance tests of the System at least once each calendar year (at intervals not to exceed 14 months) and shall maintain the resulting test data on file at the licensee's principal office for at least five years.

(4) The data shall be made available for inspection by the Telecommunications Inspector or by a person appointed in that behalf by the Minister at any reasonable time on request.

(5) The performance tests shall be directed at determining the extent to which the System complies with all the technical standards set forth in regulation 40. The tests shall be made on each non-origination cablecasting channel specified pursuant to paragraph (2), and shall include measurements made at no less than three widely separated points within each mechanically continuous set of cables within the System. Within each mechanically continuous set of cables, at least one measurement point shall be representative of terminals most distant from the System input in terms of cable distance. The measurements may be taken at convenient monitoring points in the cable network:

Provided that data shall be included to relate the measured performance to the System performance as it would be viewed from a nearby subscriber terminal.

A description of instruments and procedures and a statement of the qualifications of the person performing the tests shall be included with the test data.

(6) Successful completion of the performance tests required by paragraph (3) does not relieve the licensee of the obligation to comply with all pertinent technical standards at all subscriber terminals. Additional tests, repeat tests, or tests involving specified subscriber terminals may be required by the Minister in order to secure compliance with the technical standards.

(7) Paragraphs (2) and (3) shall not apply to any System having fewer than 1000 subscribers:

Provided that the licensee of any System using any portion of the frequency spectrum other than that allocated to television and FM broadcasting is required to conduct all tests, measurements, and monitoring of radiation and signal leakage that are required by these Regulations.

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Technical standards

40 (1) The following requirements apply to the performance of a System as measured at any subscriber terminal with a matched termination, and to each of the non-origination cablecasting channels in the System—

- (a) the frequency boundaries of cablecasting channels delivered to subscriber terminals shall conform to those set forth in the Schedule hereto:

Provided that the Minister may in the licence forbid the use of any of the channels in the Schedule and may, on application in writing by the licensee, approve other channel arrangements;

- (b) if no frequency converter is supplied to the subscriber the visual carrier frequency shall be maintained within a tolerance of 25 kHz at 1.25 MHz above the lower frequency boundary of the cablecasting channel. If a frequency converter is supplied to the subscriber by the licensee, the following requirement shall be applied at the interface between the converter and the subscriber's terminal equipment: when the visual carrier at the output of the converter has been tuned to a frequency 1.25 MHz above the lower frequency boundary of a cablecasting channel with the converter stabilized at an ambient temperature between 20 degrees Celsius and 25 degrees Celsius, the frequency of the visual carrier shall not vary more than 250 kHz for a period of at least three hours, during which period the ambient temperature may vary 5 degrees Celsius about the initial ambient temperature;
- (c) the aural centre frequency of the aural carrier shall be at 4.5 MHz within a tolerance of 1 kHz above the frequency of the visual carrier;
- (d) the visual signal level, across a terminating impedance which correctly matches the internal impedance of the cable system as viewed from the subscriber terminals, shall be not less than the following appropriate value—

Internal impedance:

75 ohms

300 ohms

Visual signal level:

1 millivolt

2 millivolts

(At other impedance values, the minimum visual signal level shall be the square root of $0.0133 Z$ millivolts, where Z is the appropriate impedance value).

- (e) the visual signal level on each channel shall not vary more than 12 decibels within any 24 hour period and shall be maintained within—

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- (i) 3 decibels of the visual signal level of any visual carrier within 6 MHz nominal frequency separation; and
 - (ii) 12 decibels of the visual signal level on any other channel; and
 - (iii) a maximum level such that signal degradation due to overload in the subscriber's receiver does not occur;
- (f) the root-mean-square (hereinafter referred to as the "rms") voltage of the aural signal shall be maintained between 13 and 17 decibels below the associated visual signal level; except that, if the System carries signals on neither an upper nor a lower channel adjacent to the first channel, the rms voltage of the aural signal shall be maintained between 7 and 17 decibels below the associated visual signal level;
- (g) the peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the System, or by inadequate low frequency response, shall not exceed 5 percent of the visual signal level;
- (h) the amplitude characteristic shall be within a range of 2 decibels from 0.75 to 5.0 MHz above the lower boundary frequency of the cablecasting channel, referenced to the average of the highest and lowest amplitudes within these frequency boundaries;
- (i) the ratio of visual signal level to system noise, and of visual signal level to any undesired co-channel television signal operating on proper offset assignment, shall not be less than 36 decibels. This requirement is applicable to—
- (i) each signal which is delivered by a System to subscribers; or
 - (ii) each signal which is first received by the System by direct video feed from a television broadcast station;
- (j) the ratio of visual signal level to the rms amplitude of any coherent disturbances such as intermodulation products or discrete frequency interfering signals not operating on proper offset assignments shall not be less than 46 decibels;
- (k) the terminal isolation provided each subscriber shall be not less than 18 decibels, but in any event, shall be sufficient to prevent reflections caused by open circuited or short circuited subscriber terminals from producing visible picture impairments at any other subscriber terminal;
- (l) as an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the class of a cablecasting channel involved, radiation from a System shall be measured in accordance with procedures outlined in regulation 41(8), and shall be limited as follows—

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Frequencies	Radiation limit (microvolts/meter)	Distance (feet)
Up to and including 54 MHz	15	100
Over 54 up to and including 216 MHz	20	10
Over 216 MHz	15	100

(2) Systems distributing signals by using multiple cable techniques or specialized receiving devices and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraph (1) may be permitted to operate provided that an adequate showing is made which establishes that the public interest is benefitted. In such instances the Minister may prescribe special technical requirements to ensure that subscribers to such cable television system are provided with a good quality of service.

Measurements

41 (1) Measurements made to demonstrate conformity with the performance requirements set forth in regulations 39 and 40 shall be made under conditions which reflect system performance during normal operations, including the effect of any microwave relay operated in the Cable Television Relay Service intervening between pickup antenna and the cable distribution network. Amplifiers shall be operated at normal gains, either by the insertion of appropriate signals or by manual adjustment. Special signs inserted in a cablecasting channel for measurement purposes should be operated at levels approximating those used for normal operation. Pilot tones, auxiliary or substitute signals, and non-television signals normally carried on the cable television system should be operated at normal levels to the extent possible. Some exemplary, but not mandatory, measurement procedures are set forth in this regulation.

(2) When it may be necessary to remove the television signal normally carried on a cablecasting channel in order to facilitate a performance measurement, it will be permissible to disconnect the antenna which serves the channel under measurement and to substitute therefor a matching resistance termination. Other antennas and inputs should remain connected and normal signal levels should be maintained on other channels.

(3) The Minister may require such additional tests as may be necessary to ensure satisfactory service to a subscriber to demonstrate system performance or may specify the use of different test procedures.

(4) The frequency response of a cablecasting channel may be determined by one of the following methods as appropriate—

- (a) by using a swept frequency or a manually variable signal generator at the sending end and a calibrated attenuator and frequency-selective voltmeter at the subscriber terminal; or

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- (b) by using a multiburst generator and modulator at the sending end a demodulator and oscilloscope display at the subscriber terminal.

(5) System noise may be measured using a frequency selective voltmeter (field strength meter) which has been suitably calibrated to indicate rms noise or average power level and which has a known bandwidth. With the System operating at normal level and with a properly matched resistive termination substituted for the antenna, noise power indications at the subscriber terminal are taken in successive increments of frequency equal to the bandwidth of the frequency selective equal to the bandwidth of the frequency selective voltmeter, summing the power indications to obtain the total noise power present over a 4 MHz band centered within the cable television channel. If it is established that the noise level is constant within this bandwidth, a single measurement may be taken which is corrected by an appropriate factor representing the ratio of 4 MHz to the noise bandwidth of the frequency selective voltmeter. If an amplifier is inserted between the frequency selective voltmeter and the subscriber terminal in order to facilitate this measurement, it should have a bandwidth of at least 4 MHz and appropriate corrections must be made to account for its gain and noise figure. Alternatively, measurements made in accordance with the US National Cable Television Association (NCTA) standard on noise measurement may be employed.

(6) The amplitude of discrete frequency interfering signals within a cablecasting channel may be determined with either a spectrum analyzer or with a frequency selective voltmeter (field strength meter), which instruments have been calibrated for adequate accuracy. If calibration accuracy is in doubt, measurements may be referenced to a calibrated signal generator, or a calibrated variable attenuator, substituted at the point of measurement. If an amplifier is used between the subscriber terminal and the measuring instrument, appropriate corrections must be made to account for its gain.

- (7) Annual measurements of terminal isolation are not required when either—

- (i) the manufacturer's specifications for coupler directivity, or
- (ii) laboratory measurements on a representative sample of the couplers, plus an allowance for the attenuation of drop cables,

indicate that the requirements of regulation 40 (1) (k) are met.

(8) Measurements to determine the field strength of radio frequency energy radiated by cablecasting systems shall be made in accordance with standard engineering procedures. Measurements made on frequencies above 25 MHz shall include the following—

- (a) a field strength meter of adequate accuracy using a horizontal dipole antenna shall be employed;
- (b) field strength shall be expressed in terms of the rms value of synchronizing peak for each cablecasting channel for which radiation can be measured;
- (c) the dipole antenna shall be placed 10 feet above the ground and positioned directly below the system components. Where such placement results in a separation of less than 10 feet between the centre of the dipole antenna

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and the system components, the dipole shall be repositioned to provide a separation of 10 feet;

- (d) the horizontal dipole antenna shall be rotated about a vertical axis and the maximum meter reading shall be used;
- (e) measurements shall be made where other conductors are 10 or more feet away from the measuring antenna,

(9) Annual measurements of frequency stability of set top converters, when such converters are supplied by the licensee, are not required when either of the following indicates that the requirements of regulation 40 (1) (b) are met—

- (i) manufacturer's specifications based on a representative sample of the converters; or
- (ii) laboratory tests performed by or for the System operator on a representative sample of the converters' tests.

Operation in the frequency bands 108-136 and 235-400 MHz

42 All Systems' transmitting carriers or other signal components capable of delivering peak power equal to or greater than .0001 watts at any point in the cable system in the frequency bands 108-136 and 225-400 MHz for any purpose are subject to the following requirements—

- (a) the licensee shall notify the Minister annually of all signals carried in these bands, noting the type of information carried by the signal (television, aural, or pilot carrier and system control, etc.);
- (b) the licensee shall notify the Minister of proposed use of any new frequency or frequencies in these bands. Notification shall include carrier and subcarrier frequencies, types of modulation, and maximum peak power occurring at any location in the cable distribution system. No System shall commence use of any frequency or frequencies in these bands without the prior authorization of the Minister;
- (c) the licensee shall maintain at its office a current listing of all signals carried in these bands, noting carrier and subcarrier frequencies, types of modulation, and maximum peak power which occurs at any location within the cable distribution system;
- (d) the licensee shall provide for regular monitoring of the cable system for signal leakage covering all portions of the cable system at least once each calendar year. Monitoring equipment and procedures shall be adequate to detect leakage source which produces field strengths in these bands of 20 microvolts per meter at a distance of 3 metres. The licensee shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was eliminated, and the probable cause of the leakage. The log shall be kept on file for a period of two years;

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- (e) all carrier signals or signal components capable of delivering peak power equal to or greater than .0001 watts must be operated at frequencies offset from aeronautical radio services;
- (f) if a licensee is notified by the Minister that a change in operation of an aeronautical radio service will place the System in conflict with any of the offset criteria, it shall eliminate such conflict within 30 days of notification;
- (g) a minimum frequency offset between the nominal carrier frequency of an aeronautical radio service and the nominal frequency of any System carrier or signal component capable of delivering peak power equal to or greater than .0001 watts shall be maintained or exceeded at all times. The minimum frequency offsets are as follows—

Frequencies	Minimum frequency offsets
108-118 MHz))	(50 + T) kHz)
328.6-335.4 MHz))	
118-136 MHz))	(100 + T) kHz
225-328.6 MHz))	
335.4-400 MHz))	

In this table, "T" is the absolute value of the frequency tolerance of the cable television signal. The actual frequency tolerance will depend on the equipment and operating procedures of the System, but in no case shall the frequency tolerance "T" exceed 25 kHz in the bands 108-136 and 225-400 MHz.

Operation near certain aeronautical and marine frequencies

43 The transmission of carriers or other signal components capable of delivering peak power equal to or greater than .0001 watts at any point in a System is prohibited within 100 kHz of the frequency 121.5 MHz, and is prohibited within 50 kHz of the two frequencies 156.8 MHz and 243.0 MHz.

Interference from a system

44 (1) The operator of a System that causes harmful interference shall promptly take appropriate measures to eliminate the harmful interference.

(2) If harmful interference to radio communications involving the safety of life and protection of property cannot be promptly eliminated by the application of suitable techniques, operation of the offending System or appropriate elements thereof shall immediately be suspended upon notification by the Telecommunications Inspector, and shall not be resumed until the interference has been eliminated to his satisfaction. When authorized by the Telecommunications Inspector, short test operations may be made during the period of suspended operation to check the efficacy of remedial measures.

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(3) The licensee may be required by the Telecommunications Inspector to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

Responsibility for receiver-generated interference

45 Interference generated by a sound or television radio receiver shall be the responsibility of the operator of the receiver:

Provided, however, that the licensee of a System to which the receiver is connected shall be responsible for the suppression of receiver-generated interference that is distributed by the System when the interfering signals are introduced into the System at the receiver.

Advertising

46 The licensee shall not insert any advertising matter into programmes transmitted over a non-origination cablecasting channel without the consent in writing of the Minister.

Sponsorship identification

47 (1) When a licensee engaged in origination cablecasting presents any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by the licensee, the licensee, at the time of the cablecast, shall announce—

- (i) that such matter is sponsored, paid for, or furnished, either in whole or in part; and
- (ii) by whom or on whose behalf such consideration was supplied:

Provided, however, that “service or other valuable consideration” shall not include any service or property furnished either without or at a nominal charge for use on, or in connection with, an origination cablecast unless it is so furnished in consideration for an identification of any person, product, service, trademark, or brand name beyond an identification reasonably related to the use of such service or property on the cablecast.

For the purposes of this regulation, the term “sponsored” shall have the same meaning as “paid for”.

(2) Each licensee engaged in origination cablecasting shall exercise reasonable diligence to obtain information to enable such licensee to make the announcement required by this regulation.

(3) In the case of any political origination cablecast matter or any origination cablecast matter involving the discussion of public controversial issues for which any film, record, transcription, talent, script, or other material or service of any kind is furnished, either directly or indirectly, to a licensee as an inducement for cablecasting such matter, an announcement shall be made both at the beginning and conclusion of such cablecast on which such material or service is used that such film, record, transcription, talent, script, or other material or service has been furnished to such System in connection with the transmission of such cablecast matter:

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Provided, however, that in the case of any cablecast of 5 minutes' duration or less, only one such announcement need be made either at the beginning or conclusion of the cablecast.

(4) The announcement required by this regulation shall, in addition to stating the fact that the origination cablecasting matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (3) are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a licensee on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (2), could be known to the licensee, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. Where the origination cablecasting material is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the matter, the licensee shall, in addition to making the announcement required by this regulation require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity shall be made available for public inspection at the office of the System. Such lists shall be kept and made available for a period of two years.

(5) In the case of origination cablecast matter advertising commercial products or services, an announcement stating the sponsor's corporate or trade name, or the name of the sponsor's product, when it is clear that the mention of the name of the product constitutes a sponsorship identification, shall be deemed sufficient for the purposes of this regulation and only one such announcement need be made at any time during the course of the cablecast.

(6) The announcement otherwise required by this regulation is waived with respect to the origination cablecast of "want ad" or classified advertisements sponsored by an individual. The waiver granted in this paragraph shall not extend to a classified advertisement or "want ad" sponsorship by any form of business enterprise, corporate or otherwise. Whenever sponsorship announcements are omitted pursuant to this paragraph, the licensee shall observe the following conditions—

- (a) maintain a list showing the name, address, and (where available) the telephone number of each advertiser; and
- (b) make the list available to members of the public who have a legitimate interest in obtaining the information contained in the list.

(7) The announcements required by this regulation are waived with respect to feature motion picture films produced initially and primarily for theatre exhibition.

Records of subscribers and programmes

48 (1) A licensee shall keep a record of all subscribers served each month. Such records shall be retained for three years.

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(2) A licensee shall keep a record of all programme material transmitted to subscribers over the System, (except for the programmes of broadcasting stations licensed in Bermuda and material transmitted over the Government channels), and copies of any agreements relating thereto, including copyright licences. The data in such record shall be retained for five years.

Inspection

49 A licensee shall at all reasonable times enable the Telecommunications Inspector or any person appointed by the Minister in that behalf to have free access to inspect all parts of the work related to the construction and operation of the System or any part thereof, or, to inspect, and if necessary take copies of any records relating thereto that the Licensee is required to maintain under these Regulations but such inspection will in no way lessen the responsibility of the licensee or release it from its obligation to construct and maintain the System. A licensee shall permit the removal of records for a reasonable time for the purpose of making copies thereof.

Publicly listed telephone number

50 A licensee shall have a publicly listed telephone number.

Subscriber complaints

51 (1) A licensee shall employ an operator or maintain a telephone answering device between the hours of 8 a.m. and 8 p.m. each day of the year, to receive subscriber complaints.

(2) A log shall be maintained by a licensee listing each and every subscriber complaint or request for repair received and the disposition thereof.

Maintenance and repair service

52 A licensee shall maintain a maintenance and repair service normally capable of responding to subscriber complaints or requests for repairs within twenty-four hours after the receipt of the complaint or request.

Prohibition against certain conditions of service

53 A licensee shall not make the provision of cablecasting service or the continuation thereof, contingent upon a person's purchase of or failure to purchase services or equipment from another person who engages in the business or activity of selling, leasing, repairing, dismantling or installing television or radio receivers or Systems, or accessories for such receivers, television cameras, audio or video tape machines, video tapes, microphones, converters, modulators, or other equipment utilized by users or subscribers in the operation of any System.

Pro rata credit for interrupted service

54 In the event that service to subscribers is totally interrupted for more than twenty-four hours, a licensee shall provide the subscribers so affected with a pro rata credit or rebate of the subscriber's fees paid or payable.

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Disconnections

55 A licensee shall neither impose nor collect any additional charge for the disconnection of any installation or outlet.

Refunds

56 (1) If a licensee collects a deposit or advance charge on any service or equipment requested by a subscriber, the licensee shall provide such service or equipment within thirty days of the collection of the deposit or charge or it shall refund such deposit or charge within five days thereafter.

(2) Nothing in this regulation shall be construed to—

- (a) relieve the licensee of any responsibility to subscribers under any contractual agreements into which it enters with them; or
- (b) limit the licensee's liability for fines, penalties or damages arising under any provision of law for the violation or breach of any of their provisions; or
- (c) limit the licensee's liability for damages because of its failure to provide the service for which the deposit or charge was made.

Security deposits

57 (1) A licensee shall not charge a security deposit for any equipment installed by it or on its behalf on a subscriber's premises greater than the actual cost to the licensee of such equipment. A statement of the amount of the item cost in respect of each type of equipment during the previous year shall be submitted each year to the Minister not later than the first of February.

(2) Any security deposit for equipment collected by a licensee shall be returned to the subscriber twenty-four months after the installation of such equipment, or upon termination of service by the subscriber and return of such equipment undamaged, with allowance for reasonable wear and tear, and payment of any outstanding balance due and payable, whichever occurs first.

Offences against regulation 6

58 Any person who contravenes the provisions of paragraphs (2), (3), (4), or (6) of regulation 6, or any of them, commits an offence:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$1,000 or both such imprisonment and fine.

Offences against regulation 7

59 Any person who sub-lets a channel on a System without the express authorization in writing of the Minister commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine.

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Offences against regulation 8

60 Any person, who without a licence granted by the Minister, uses, or permits the use of, a return path on any channel on the System from a subscriber's receiver to convey any intelligence, except for the purpose of controlling the reception of a particular service by such subscriber, commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine.

Offences against regulation 12

61 Any licensee of a broadcasting station in Bermuda which knowingly and wilfully impedes or prevents a licensee of a System from transmitting over such System the television programmes of such broadcasting station commits an offence:

Punishment on summary conviction; a fine of \$2,000.

[Regulation 61 amended by BR43/2008 r.3 effective 11 July 2008]

Other offences

62 Any person who—

- (a) fails to keep accurate, complete and current maps and records of the System and to furnish copies of them annually to the Minister contrary to regulation 29;
- (b) during the construction and installation of a System or any part thereof fails to furnish the Minister with monthly progress reports contrary to regulation 30;
- (c) fails to keep available and in good order a sufficient stock of measuring and test equipment of a kind appropriate for the testing, measurement and maintenance of the System, contrary to regulation 38;
- (d) fails to maintain at its office current listings as required by regulation 39(2);
- (e) fails to conduct performance tests and maintain the data on file as required by regulation 39(3);
- (f) fails to make additional tests when required by the Minister pursuant to regulation 39(6);
- (g) fails to notify the Minister of signals as required by regulation 42(a);
- (h) uses frequencies in the bands 108-136 MHz and 225-400 MHz without the prior consent of the Minister as required by regulation 42(b);
- (i) fails to maintain at the licensee's office a current listing of all signals carried in the bands 108-136 MHz and 225-400 MHz as required by regulation 42(c);
- (j) fails to monitor the cable systems on a regular basis as provided for in regulation 42(d);

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- (k) fails to maintain and preserve as the log required by regulation 42(d);
- (l) fails to comply with the provisions of regulation 42(f);
- (m) fails to comply with the provisions of regulation 43;
- (n) fails to suspend operation of the System or any part of it upon notification by the Telecommunications Inspector under regulation 44(2);
- (o) fails to submit a report at the request of the Telecommunications Inspector made pursuant to regulation 44(3);
- (p) fails to maintain and keep a record of all subscribers served each month, contrary to regulation 48(1);
- (q) fails to maintain and keep a record of programme material transmitted, contrary to regulation 48(2);
- (r) fails to comply with regulation 49;
- (s) fails to maintain a log of complaints and requests in accordance with regulation 51;
- (t) fails to comply with regulation 52,

commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$1,000.

Offences against regulation 46

63 Any person who inserts any advertising matter into a programme transmitted over a non-origination cablecasting channel without the consent in writing of the Minister commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine.

Offences against regulation 47

64 Any person who fails to comply with any of regulation 47 commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine.

Offences against regulation 53

65 Any person who contrary to regulation 53 makes, or attempts to make, the provision of cablecasting service to any other person contingent upon any of the conditions stated in that regulation commits an offence:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine.

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Offences concerning provision of child-locks or equipment

66 Any licensee who supplies to a subscriber a child-lock or installs equipment on a subscriber's premises and wilfully charges therefor a security deposit in excess of the cost-price of such childlock or equipment, communicated to the Minister under regulation 13 or regulation 57, as the case may be, commits an offence:

Punishment on summary conviction; a fine of \$500.

Revocation

67 *[omitted]*

Commencement

68 *[omitted]*

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SCHEDULE

(regulation 40(1)(a))

Channel No.	Frequency Band (MHz)
2	54-60
3	60-66
4	66-72
5	76-82
6	82-88
7	174-180
8	180-186
9	186-192
10	192-198
11	198-204
12	204-210
13	210-216
14	470-476
15	476-482
16	482-488
17	488-494
18	494-500
19	500-506
20	506-512
21	512-518
22	518-524
23	524-530
24	530-536
25	536-542
26	542-548
27	548-554
28	554-560

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29	560-566
30	566-572
31	572-578
32	578-584
33	584-590
34	590-596
35	596-602
36	602-608
37	608-614
38	614-620
39	620-626
40	626-632
41	632-638
42	638-644
43	644-650
44	650-656
45	656-662
46	662-668
47	668-674
48	674-680
49	680-686
50	686-692
51	692-698
52	698-704
53	704-710
54	710-716
55	716-722
56	722-728
57	728-734
58	734-740
59	740-746

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60	746-752
61	752-758
62	758-764
63	764-770
64	770-776
65	776-782
66	782-788
67	788-794
68	794-800
69	800-806

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