



# Television Multiplex Licence Renewals

Multiplex A and Multiplex 2

Statement

Publication date:

4 July 2008



# Contents

Section		Page
1	Summary	1
2	Summary of responses to the consultation	2
3	Next steps in the licensing process	5
Annex		Page
1	List of non-confidential responses	6
2	Glossary	7

## Section 1

# Summary

- 1.1 This statement sets out the decisions we are required to take in inviting two television multiplex licensees to apply for renewal of their licences.
- 1.2 Two digital terrestrial television multiplex licences held under the Broadcasting Act 1996 ('the Act') expire in 2010. These are the licences for Multiplex A and Multiplex 2. Under the provisions of the Act, the licensees may apply to renew their licences for one further period of 12 years. The window for the current licence holders to make an application under this provision opened at the end of 2006.
- 1.3 As part of the renewal process, Ofcom has to decide whether to require certain licence changes under its discretionary powers. However, we have decided that it is not necessary to vary the licences in this respect. In particular, this statement explains that we have decided not to require any changes in relation to:
- the coverage of services provided under the licence; or
  - the licensees' obligations in regard to the acquisition of digital equipment by households.
- 1.4 We have also decided not to set an Additional Payments rate for these licences. This is in view of our intention from the end of 2014 to introduce Administered Incentive Pricing (AIP) for the spectrum the licensees use.<sup>1</sup>
- 1.5 Under the Act the consent of the Secretary of State for Culture Media and Sport is required for us to implement these decisions. The Secretary of State has now confirmed by letter that he consents to our proposed approach. He has also confirmed that he will not use his discretionary powers to direct us to set a particular Additional Payments Rate.
- 1.6 This statement follows on from the public consultation we published on 22 November 2007 entitled *Television Multiplex Licence Renewals*.<sup>2</sup> The consultation set out our proposals for the renewal of the licences of Multiplexes A and 2, and asked stakeholders for their views. It aimed to inform stakeholders about our thinking and to allow thorough consideration of the proposals before we formally invited applications.
- 1.7 We received four replies to the consultation, three of which were confidential. The responses were supportive and largely agreed with our proposals.

## Next steps

- 1.8 We will write to the licence holders for Multiplex A and Multiplex 2 to notify them of the renewal process and inviting them to apply to renew their licences. We will also confirm that we intend to renew the licences on their existing terms.
- 1.9 Provided that the applications to renew the licences are satisfactory in terms of the Act, we expect to renew the licences for a period of 12 years.

<sup>1</sup> <http://www.ofcom.org.uk/consult/condocs/futurepricing/statement/statement.pdf>

<sup>2</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/condoc.pdf>

## Section 2

# Summary of responses to the consultation

## Background

- 2.1 Section 16 of the Broadcasting Act 1996 (“the Act”) states that if a television multiplex licence is granted within six years of the commencement of that section, it may be renewed on one occasion for a period of twelve years. This period begins with the date upon which it would otherwise expire.
- 2.2 Each licensee may submit a renewal application during a specified timeframe. This runs from four years prior to the original expiry date, to three months before what the Act terms as the “relevant date”. This is the date by which we consider we would need to start a formal re-advertisement process for the licence if, for any reason, the renewal did not go ahead.
- 2.3 Two of the five existing Digital Terrestrial Television (DTT) multiplex licences will expire in 2010.<sup>3</sup> These are the licences for Multiplex A and Multiplex 2 (“Mux A” and “Mux 2”). The licence holders may now submit renewal applications as the renewal period began in 2006. The closing dates for applications, set under the Act as three months prior to the “relevant date”, are 15 February 2009 for Mux A and 19 March 2009 for Mux 2.
- 2.4 As part of the renewals process, Ofcom has to reach decisions on certain issues set out in the Act:
- we may alter coverage-related aspects of multiplex licences;
  - we may alter any requirements to promote or assist the acquisition of digital receiving equipment; and
  - we may set additional payments, in the form of a percentage of multiplex revenue (PMR).
- 2.5 Before finally confirming any of these decisions, we need the consent of the Secretary of State for Culture, Media and Sport. With regard to any decision on PMR, in addition to his powers of consent, the Secretary of State may also positively direct Ofcom to set a particular rate. He may also make an order specifying a zero rate.
- 2.6 In light of the Secretary of State’s consent to our proposals, we are now able to confirm how we will proceed with these renewals.
- 2.7 We set out our proposals on these issues in the consultation *Television Multiplex Licence Renewals*, published in November 2007.
- 2.8 For the coverage-related aspects of the licences, we did not propose any changes as part of the process of renewing either licence. This is because the coverage requirements in both licences have been widely consulted upon and confirmed for some time.

---

<sup>3</sup> The remaining three Broadcasting Act DTT multiplex licences will not expire until 2014.

- 2.9 We also proposed not to alter requirements to promote or assist the acquisition of digital receivers. We explained we did not see a need, in the current circumstances, to put new requirements on these licensees.
- 2.10 For PMR we set out four options.<sup>4</sup> Each option is subject to the consent or direction of the Secretary of State. Three approaches involved applying some form of PMR, and all approaches included AIP as an additional or sole pricing mechanism.
- 2.11 We proposed that Option 1 was most appropriate. This involved setting a zero PMR rate for the duration of the licence, using AIP as the sole pricing mechanism after 2014.
- 2.12 We asked our stakeholders for their views on our proposals. Specifically, we invited responses to two questions:
- Question 1: Do you agree that the coverage obligations on Multiplex 2 and Multiplex A should remain the same as previously consulted on, confirmed and set in their current licences?<sup>5</sup>
  - Question 2: Do you agree with our preference for no PMR, in light of our intention to charge AIP for spectrum used for broadcasting?<sup>6</sup>
- 2.13 We received four responses. Two were wholly confidential, one was partially confidential, and one was not confidential. Copies of the non-confidential responses are on our website.<sup>7</sup>
- 2.14 This section of the statement provides a summary of the non-confidential responses.

### Responses to the consultation

- 2.15 The responses gave strong support to our proposed approach to licence renewal. Stakeholders considered that our approach was proportionate and avoided unnecessary and damaging intervention. Some respondents noted that it would be helpful if we could conclude the consultation and clarify our intentions in good time, if possible long before the statutory renewal dates. Responses to the two questions we asked are set out below.

*Question 1: Do you agree that the coverage obligations on Multiplex 2 and Multiplex A should remain the same as previously consulted on, confirmed and set in their current licences?*

- 2.16 Responses agreed that coverage obligations should be left as they are. Respondents noted our comment in the consultation that Ofcom had already addressed the issue of DTT multiplex coverage options after switchover in a 2006 statement.<sup>8</sup>
- 2.17 In addition, the responses agreed with our intention not to require further proposals regarding the acquisition of digital equipment from the Mux A and Mux 2 licence holders.

<sup>4</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/condoc.pdf>, p. 7.

<sup>5</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/condoc.pdf>, p. 5.

<sup>6</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/condoc.pdf>, p. 10.

<sup>7</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/responses/>

<sup>8</sup> <http://www.ofcom.org.uk/consult/condocs/tvmux/condoc.pdf>, p. 4. For the 2006 statement, see [http://www.ofcom.org.uk/consult/condocs/dtt\\_changes/statement/statement.pdf](http://www.ofcom.org.uk/consult/condocs/dtt_changes/statement/statement.pdf).

*Question 2: Do you agree with our preference for no PMR, in light of our intention to charge AIP for spectrum used for broadcasting?*

- 2.18 There was strong support for our proposals to set a zero rate of PMR. Respondents agreed that a single spectrum charging mechanism was preferable. They also agreed that AIP had significant advantages over PMR.
- 2.19 National Grid Wireless agreed with us that introducing PMR in addition to AIP would reduce any licence holder's incentive to maximise multiplex use.
- 2.20 Some respondents argued that introducing PMR prior to the renewal of the other multiplex licences would distort the market unfairly.
- 2.21 The responses agreed with us that AIP on its own was a better charging mechanism than either PMR or a combination of the two. But some respondents also expressed reservations about the principle behind charging AIP for broadcast spectrum.

### **General comments**

- 2.22 One respondent noted the role of the Secretary of State in the renewal process, and asked for clarification of his views as soon as they were known. The Secretary of State confirmed on 30 June 2008 in a letter to Ofcom that he consented to our proposals. He also confirmed that he would not be directing us to set a particular rate of PMR.
- 2.23 One individual commented on Ofcom's plans for multiplex reorganisation, and expressed concern about the amount of multiplex capacity available for public service broadcasting channels on Freeview. We have recently published a statement on the future of Freeview and the DTT platform entitled *Digital Television: Enabling new services*.<sup>9</sup>

### **Conclusion**

- 2.24 It is clear that the consultation responses agree with our approach with regard to multiplex licence renewal. In particular, responses to the two questions we asked show that they agree with our decisions not to require supplementary technical proposals or impose PMR.

---

<sup>9</sup> This statement can be found at:

<http://www.ofcom.org.uk/consult/condocs/dttfuture/statement/statement.pdf>.

## Section 3

# Next steps in the licensing process

## Ofcom's decision

- 3.1 The consultation responses show that those stakeholders who made representations agree with our approach to these issues.
- 3.2 We have now received confirmation from the Secretary of State for Culture, Media and Sport that he consents to our proposals. In addition, the Secretary of State has confirmed that he will not direct us to set a particular rate of PMR.
- 3.3 Our decision is therefore as follows:
- We do not intend to require the applicant to furnish a supplementary technical plan under section 16 (a) (i) of the Act, in particular in relation to coverage obligations on Multiplex 2 and Multiplex A;
  - We do not intend to require further proposals from the licence holders of Multiplex 2 and Multiplex A under section 16 (a) (ii) of the Act with respect to promoting or assisting the acquisition of digital equipment; and
  - We intend to set a zero PMR rate for the duration of the licence, using AIP as the sole pricing mechanism starting from 2014.
- 3.4 The following section sets out the renewal process.

## Next steps

- 3.5 We will write to the licence holders of Multiplex A and Multiplex 2 to notify them of the renewal process and inviting them to apply to renew their licences. We will also confirm that we intend to renew the licences on their existing terms.
- 3.6 It is our practice to charge a fee for licence renewals. *Ofcom's Tariff Tables 2008/09* contains details of fees payable. In the case of Television Multiplex renewals we set the fee at £25,000.<sup>10</sup> The fee must be submitted with the renewal application.
- 3.7 The window to apply to renew the licences opened in 2006. The current licence holders can apply to renew their licences up until 15 February 2009 for Multiplex A, and 19 March 2009 for Multiplex 2. But we would welcome applications at the licensees' earliest convenience.
- 3.8 Provided the applications are satisfactory in terms of the Broadcasting Act 1996, we expect to renew the licences for a period of 12 years. We will inform the successful applicants in writing and publish the decision on the Ofcom website ([www.ofcom.org.uk](http://www.ofcom.org.uk)).

---

<sup>10</sup> <http://www.ofcom.org.uk/about/account/tariff/table0809/tariff0809.pdf>, p.10. Further details of Ofcom's charging principles can be found at: [http://www.ofcom.org.uk/consult/condocs/socp/statement/charging\\_principles.pdf](http://www.ofcom.org.uk/consult/condocs/socp/statement/charging_principles.pdf).

**Annex 1**

# List of non-confidential responses

Name withheld

National Grid Wireless Ltd

## Annex 2

# Glossary

**Additional Payments** payments made by the licensee to the Treasury in respect of a multiplex license

**AIP (Administered Incentive Payment)** fees charged for access to spectrum to reflect its value. AIP applies in bands for which significant demand exists for that spectrum either in its current use, or for an alternative radio service, and acts as an incentive to users to use their spectrum as efficiently as possible.

**Coverage** the proportion of the population able to receive DTT

**DTT** Digital Terrestrial Television

**Multiplex** A method of sending and receiving multiple signals over a communication channel without loss of information.

**Multiplex A (Mux A)** The multiplex owned and operated by ITV plc

**Multiplex 2 (Mux 2)** The multiplex owned and operated by Digital 3&4 Ltd

**Percentage of Multiplex Revenue (PMR)** An additional payment to Ofcom in respect of a multiplex license.

**Relevant Date** the date, set under statute, by which we consider we would need to start a formal re-advertisement process for the license if, for any reason, the renewal were not to go ahead. In relation to the Multiplex A and Multiplex 2 licences, we have set the Relevant Date at 18 months before each licence expires.