

**Local Digital Sound Programme (DSP)  
Licences & Digital Additional Sound  
Services (DAS) Licences**

**Notes of Guidance for Applicants**

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## Section 1

# Local Digital Sound Programme Service Licence

## Local Digital Sound Programme Services

1. A local digital sound programme (DSP) licence is required by anyone who wishes to broadcast a sound programme service on a local digital multiplex, whether this service is unique to digital or a simultaneous broadcast of an existing analogue, satellite or cable radio service. One licence covers all the DSP services provided by the licensee, on any number of local multiplexes.
2. The Media Ownership (Local Radio and Appointed News Provider) Order 2003 contains provisions for ownership 'points' to be allocated to DSP services. Applicants should be aware that there is a limit on providing DSP services representing no more than 55% of the points in any given market (which includes overlapping multiplexes).
3. A local DSP licence will also cover any ancillary data services directly related to the sound programme service, such as accompanying text and graphics including, for example, details of the music being played, the background to an interview or a weather map. Ancillary material should be broadly concurrent with the audio from the relevant DSP service. Ancillary services may not include advertising, but may include sponsorship within the terms of the current codes. For all regulatory purposes Ofcom will treat the DSP service licensee as the responsible licensee for all (non commercial) material provided on the multiplex which relates to that licensee's programme service or to which the programme service refers, regardless of any arrangements, contractual or otherwise, which the DSP service or the multiplex licensee may have with third parties for the provision of that material. The applicant must indicate for which DSP services it is intended to provide ancillary services.
4. A local DSP licence will also cover any technical services which are involved in the encryption/decryption of the sound programme service (such as for 'pay' radio services).

## General Matters

5. These notes are for the general guidance of applicants and do not purport to explain all the relevant provisions of the legislation, or give an exhaustive account of the licensing requirements and cannot be taken as modifying the effect of the statutes.
6. The appropriate licensee will be the "provider" of the service. The provider is the person who is in a position to determine what is to be included in the service or in the words of the Communications Act 2003 (section 362 subsection 2) the person "with general control over which programmes and other services and

facilities are comprised in the service (whether or not he has control of the content of individual programmes or of the broadcasting or distribution of the service)”).

- 7 The licence does not grant any ‘right’ to broadcast; carriage on a multiplex is dependent on agreement with the multiplex operator, subject to the approval of Ofcom where required.

### **Criteria and timetable for licensing**

8. Licence applications are considered as and when they are received. To be able fully to consider an application, Ofcom may need to request further information or clarification from the applicant. Should Ofcom request such further information or clarification from an applicant, and no response is received by Ofcom within 6 months of such request, then an application will be deemed to have lapsed.
9. As a guideline, our aim is to issue a licence within four weeks of receipt of the application. This assumes that full and accurate information has been provided by an applicant in the application form and accompanying documentation. Applicants are nevertheless advised to ensure that they have obtained their licences well in advance of their intended launch date. Applicants with religious objectives are advised to allow approximately eight weeks for their application to be considered by Ofcom in the light of the religious ownership guidelines which can be found in these guidance notes in Annex A.
10. Applicants should be aware that Ofcom is under a duty to ensure that it does not license bodies with objects which are of a wholly or mainly political nature, and will consider applications carefully in the light of its duties. Applications where questions arise in relation to this issue may take longer than the usual four weeks.

### **The Application Process**

11. Ofcom will need to be satisfied that an applicant complies with the statutory provisions on ownership as laid out in Schedule 2 to the Broadcasting Act 1990 (as amended by the Broadcasting Act 1996) and the Communications Act 2003.

Briefly stated, these are:

12. Disqualified Persons:
  - i) Local authorities may not hold licences except in circumstances defined in part 2 of schedule 2 to the Broadcasting Act 1990 (see also section 349 of the Communications Act 2003), and are limited to a 5% participation in any company which does hold a licence.
  - ii) Political bodies, their associates and officers may not hold licences and are limited to a 5% participation in any company which does hold a licence.

- iii) Publicly-funded bodies may not hold licences and are limited to a 5% participation in any company which does hold a licence.
  - iv) The BBC and the Welsh Authority are disqualified from holding Broadcasting Act licences. However, companies which the BBC controls are not disqualified.
  - v) Advertising agencies and their associates (including directors) may not hold licences and are limited to a 5% participation in any company which does hold a licence.
  - vi) Anyone who has been convicted of any offence under the Wireless Telegraphy Act 1949 or Marine & c., Broadcasting (Offences) Act 1967, or of an offence under section 97 of the Broadcasting Act 1990 or section 145 of the Broadcasting Act 1996 is disqualified from holding a Broadcasting Act licence.
  - vii) Religious bodies, their associates and officers may only hold licences if they have prior approval from Ofcom. For guidance, please refer to Annex A.
13. In addition to the categories of disqualified persons listed above, Ofcom will not grant a licence unless it is satisfied that the applicant is “fit and proper” to hold it.
  14. A licensee may be disqualified if, in the opinion of Ofcom, a local authority or political body is exercising undue influence over the licensee.
  15. Failure by a licensee to comply with statutory ownership provisions will constitute a breach of the licence and, if not rectified, may result in revocation in accordance with the terms of the licence.
  16. Full details of the ownership of any applicant company are requested on the application form. A declaration confirming that the applicant does not fall into any of the above disqualified categories must be signed and dated.

### **Licence Obligations**

17. The DSP licence will require that the sound service it covers complies with The Ofcom Broadcasting Code:  
  
<http://www.ofcom.org.uk/tv/ifi/codes/bcode/>
18. Potential applicants should be aware that in order to assist Ofcom in its functions, licensees are required to retain recordings of all programmes and ancillary material for a period of 42 days and produce them to Ofcom on request.
19. Sanctions may be imposed if licence conditions (including Code rules) are breached. These include a requirement to broadcast a statement of findings, a financial penalty, or the suspension or revocation of a licence.

## **Variation of Licences**

20. Ofcom has the power to vary licences, but only after the licensee has been given a reasonable opportunity to make representations about any proposed variation.

## **Additional Requirements**

21. Details of the programme services to be provided by the DSP licensee will be set out in the Annex to the licence. If there is any change to the package of DSP services covered by the licence (either in terms of the number of services or the description of individual services including the multiplexes the services are on), Ofcom will require notification.
22. Although a carriage contract with a multiplex operator is not required in order to apply for a DSP licence, if carriage has been agreed, this must be made clear on the application form. Ofcom will require notification of subsequent contractual arrangements, or changes or additions to carriage agreements.
23. It is the responsibility of each DSP licensee to enter into agreements with the appropriate copyright licensing bodies before commencing broadcasting.
24. In contracting, or offering to contract, with the holders of DSP service or digital additional sound services licences, multiplex licensees must not discriminate unduly. Any report of unfair or anti-competitive behaviour will be considered by Ofcom in the light of the particular facts.
25. Multiplex licensees must not prevent those DSP service or digital additional sound services licensees contracted by them from 'sub-letting' the capacity to which the relevant agreement relates. The multiplex licensee, however, may impose reasonable conditions to ensure the technical quality of the broadcasts and to secure compliance with any other licence condition.
26. Multiplex licences contain an Annex which sets out the character of the various services which must be carried on the multiplex, and the timetable by which they must be established. Any services provided to the multiplex licensee must comply with the terms of this Annex. If changes are sought, the multiplex licensee must seek them. Requests to vary the Annex will be considered by Ofcom under the criteria laid out in Section 315 of the Communications Act 2003 and section 54 (6B) of the 1996 Broadcasting Act.

## **Duration**

27. DPS licences are for an indefinite period as long as the annual fees are paid, but may be surrendered by the licensee.

## **Fees**

28. Each application must be accompanied by a non-refundable application fee of £250.
29. There is an annual licence fee of £100. This is payable in advance and the first payment must accompany the application document.
42. Completed applications should be sent to:

**Radio Planning and Licensing Team  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London  
SE1 9HA**

## Section 2

# Digital Additional Sound Services (DAS) Licences

*Applicants must also read Section 1 of these Notes.*

## Digital Additional Sound Services

30. Digital additional sound services are services other than technical, programme or ancillary services, and include text or data services such as paging, videotext and graphics which are not directly related to programming. Additional service capacity may also be used to provide advertising.
31. Unlike DSP services, digital additional services do not attract ownership points, nor is there any regulatory restriction on the number of services which may be provided on a single multiplex.
32. One digital additional sound services licence will cover the provision of any number of digital additional services on any number of radio multiplexes (it is important to note that the licence does not give the 'right' to broadcast. Carriage on a multiplex is dependent on agreement with the multiplex operator). The total proportion of capacity on any one multiplex which may be devoted to digital additional sound services is 20%.

## The Application Process

33. Ofcom will need to be satisfied that the applicant complies with the statutory provisions on ownership as set out in Schedule 2 of the Broadcasting Act 1990 (as amended by the Broadcasting Act 1996); see also paragraphs 11 to 14 in Part 1 of these notes and the Communications Act 2003.
34. Full details of the ownership of any applicant company are requested on the application form. A declaration confirming that the applicant falls into none of the disqualified categories must be signed and dated.

## Licence Obligations

35. The digital additional sound services licence will require that the sound service it covers complies with The Ofcom Broadcasting Code <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>
36. Potential applicants should be aware that in order to assist Ofcom in its functions, licensees are required to retain recordings of all programmes and ancillary material for a period of 42 days and produce them to Ofcom on request.

37. Sanctions may be imposed if licence conditions (including Code rules) are breached. These include a requirement to broadcast a statement of findings, a financial penalty, or the suspension or revocation of a licence.

### **Additional Requirements**

38. Details of all the digital additional services provided by the digital additional sound service licensee will be listed in the Annex to the licence. If there is any change to the package of digital additional services covered by the licence (either in terms of the number of services or the description of individual services), Ofcom will require notification. Ofcom must be notified if a digital additional sound service ceases to be provided.
39. Whilst a carriage contract with a multiplex operator is not required in order to apply for a digital additional service licence, if carriage has been agreed, this must be made clear on the application form. Ofcom will require notification of subsequent contractual arrangements or changes or additions to carriage agreements. The amount of digital capacity which the digital additional service licensee is entitled to use must be specified.

### **Duration**

40. DAS licences are for an indefinite period as long as the annual fees are paid, but may be surrendered by the licensee.

### **Fees**

41. Each application must be accompanied by a non-refundable application fee of £250.
43. There is an annual licence fee of £100. This is payable in advance and the first payment must accompany the application document.
44. Completed applications should be sent to:

**Radio Planning and Licensing Team  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London  
SE1 9HA**

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## Annex A

# Religious Affiliations

## Religious Ownership

Ofcom is currently consulting about formulating new religious ownership guidelines. Until that process has been completed the principles set out in the Radio Authority's guidelines (as set out below) will continue to apply.

1. A religious body (as defined in para. 7 below) cannot hold a licence to provide a national sound broadcasting service (an INR) or a national or local radio multiplex service (together called "disqualified services").
2. Religious bodies which seek to hold a licence for a service which is not a disqualified service must apply to the Authority for a determination regarding that category of licence. Where a positive determination has already been made for a religious body with regard to a specific category of licence, that body does not need to apply for a further determination should they seek to hold another licence in that same category.
3. The Authority will apply the following principles when determining whether it considers it appropriate for a religious body to hold a licence which is not a disqualified service:
  - a) whether, in the view of the Authority, the religious body would be able to adhere to the licence conditions pertaining to the category of licence and,
  - b) in particular, whether, in the view of the Authority, the religious body would be able to adhere to the Authority's programme and advertising and sponsorship codes; and
  - c) whether, in the view of the Authority, the current aims or practices of the religious body are compatible with those codes. The Authority will treat those who practice or advocate illegal behaviour, or whose rites or other forms of collective observance are not normally directly accessible to the general public, as acting in such a way as to be incompatible with the Authority's codes.
4. A determination will only be considered if the applicant is not otherwise disqualified from holding a licence (e.g. is not a fit and proper person or is disqualified on political or nationality grounds).
5. Religious bodies applying for a determination will be required to supply detailed information about their constitution, aims and objectives, including the constitution, aims and objectives of any associates or participants. A statement of belief may also be required. The Authority may also seek additional information, at its discretion, for example about the applicant's funding, business plan and staffing.

6. The Authority will seek advice, as necessary, if there is any doubt about the credentials of a religious body applying for a determination.
7. "Religious body" means:
  - a) a body whose objects are wholly or mainly of a religious nature;
  - b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together;
  - c) a body which controls a body falling within paragraph (a);
  - d) a body corporate which is an associate of a body corporate falling within paragraph (a), (b) or (c);
  - e) a body corporate in which a body falling within any of paragraphs (a) to (d) is a participant with more than a 5 per cent. interest;
  - f) an individual who is an officer of a body falling within paragraph (a); and
  - g) a body which is controlled by an individual falling within paragraph (f) or by two or more such individuals taken together.

### **Guidance on the Involvement of Religious Bodies**

Guidance for religious bodies making applications for a broadcasting licence under paragraph 2 of Part II of Schedule 2 to the Broadcasting Act 1990

1. This guidance applies to any applicant for a broadcasting licence:
  - a) whose objects are wholly or mainly of a religious nature;
  - b) that is controlled by a body or bodies whose objects are wholly or mainly of a religious nature;
  - c) that controls a body whose objects are wholly or mainly of a religious nature;
  - d) that is an associate of a body corporate whose objects are wholly or mainly of a religious nature;
  - e) that is a body corporate in which a body falling within paragraph 1(a) to (d) holds more than a 5 per cent interest;
  - f) who an individual who is an officer of a body falling with paragraph 1(a); or
  - g) that is a body which is controlled by one or more individuals falling within paragraph 1(f).

2. Ofcom will consider applications from bodies described in paragraph 1 for the following broadcasting licences in accordance with the guidance set out in this note:
  - a) a restricted (television) service licence within the meaning of Part 1 of the Broadcasting Act 1990;
  - b) a digital (television) programme licence within the meaning of section 18 of the Broadcasting Act 1996 for the purposes of Part 1 of that Act;
  - c) a digital (television) additional services licence within the meaning of section 25 of the Broadcasting Act 1996 for the purposes of Part 1 of that Act;
  - d) a television licensable content services licence within the meaning of Part 3 of the Communications Act 2003;
  - e) a local analogue sound programme service within the meaning of section 245 of the Communications Act 2003 (including community radio service licences, as defined in the Community Radio Order 2004);
  - f) a restricted (radio) service licence within the meaning of section 245 of the Communications Act 2003;
  - g) a radio licensable content service within the meaning of section 247 of the Communications Act 2003;
  - h) a local or national digital sound programme service licence within the meaning of section 60 of the Broadcasting Act 1996 for the purposes of Part 2 of that Act; and
  - i) a digital additional sound services licence within the meaning of section 64 of the Broadcasting Act 1996 for the purposes of Part 2 of that Act.
  
3. Pursuant to paragraph 2A of Part II of Schedule 2 to the Broadcasting Act 1990 and paragraphs 9 and 10 of Schedule 1 of the Human Rights Act 1998, Ofcom will consider the appropriateness of religious bodies to hold BA licences provided they do not:
  - a) practice or advocate illegal behaviour;
  - b) practice or advocate behaviour which is injurious to the health or morals of participants or others;
  - c) practice or advocate behaviour which infringes the rights and freedoms of participants or others;
  - d) pose a threat to public safety;
  - e) pose a threat to national security or territorial integrity; or
  - f) threaten the authority and impartiality of the judiciary.

4. Ofcom will also require to be satisfied that the applicant meets the requirements placed upon all prospective licensees, including the requirements:
  - a) to be a fit and proper person (section 3(3) of the Broadcasting Act 1990). This requirement will also apply to the directors and chief officers of any corporate body intended to hold the licence, and of any person or associated corporate body of that the applicant deemed to have control of the applicant for the purposes of section 357 of the Communications Act 2003;
  - b) the ability and the intention to comply with other licence conditions placed upon broadcasters, including compliance with:
    - i) Ofcom 's standards objectives (section 319 of the Communications Act 2003);
    - ii) fairness and privacy requirements (section 107 of the Broadcasting Act 1996);
    - iii) complaints handling procedures (section 328 of the Communications Act 2003);
    - iv) obligations to retain and produce recordings (section 334 of the Communications Act 2003);
    - v) relevant international obligations (section 335 of the Communications Act 2003);
    - vi) equal opportunities and training requirements (section 337 of the Communications Act 2003);and
  - c) to comply with the media ownership rules applying from time to time in accordance with Schedule 14 of the Communications Act 2003.
5. Ofcom may seek evidence from the applicant and advice from other parties on the matters referred to in paragraphs 2 and 3 above before making a determination.
6. If having made a determination under paragraph 2A of Part II of Schedule 2 of the Broadcasting Act 1990 that a body defined in paragraph 1 may hold one or more of the licences described in paragraph 2, Ofcom are satisfied that a licensee:
  - a) is in breach of the restrictions set out in paragraph 2;
  - b) is no longer a fit and proper person;
  - c) is in breach of the media ownership rules referred to in paragraph 3(c);
  - d) has committed a breach of its licence conditions that is serious enough to warrant licence revocation, it may revoke that determination. In that event, the licensee shall cease to be eligible to hold the licence and its licence will be revoked.