

## Data Collection Guidance Notes:

### Digital-only (television and interactive) channels and Restricted Service Licensees

January 2008

This data relates to calendar year 2007 for:

- transmission and revenue; and
- European programming.

**All digital-only channels** (including television and interactive services) are required to complete and return both forms, under the terms of their Ofcom licence and Articles 4 and 5 of the Television without Frontiers Directive respectively.

**Restricted Service Licensees (RSLs)** are required to complete the Transmission and Revenue return only.

We use this information for a number of purposes, including the calculation of licence fees, to ensure compliance with European legislation, industry monitoring (including our statutory requirement to publish an Annual Statistical Review of the broadcast industries) and to support Ofcom's ongoing work. All data gathered will remain confidential and, if published, will be aggregated to ensure anonymity.

**As this is one of your licence conditions, failure to provide the data requested in a timely fashion could result in a fine or other sanctions being imposed, including revocation of your licence.**

### Transmission and Revenue Return

#### Hours transmitted

Data provided in this section should include all broadcast hours, **including** advertising and promotion.

- **“First-run original programmes”** are programmes that have not been transmitted previously on any UK channel. Time-shifted simulcasts should be excluded for the second and subsequent transmissions. Programmes previously shown on a non-UK channel should be included for their first UK transmission only;

- **“Made in-house in the UK”** are programmes made entirely or largely using facilities owned or long-term leased by the broadcaster in the UK and entirely or largely using staff employed or otherwise contracted to the broadcaster. This excludes programmes made by a broadcaster’s parent company or international affiliate and broadcast previously in another country;
  - **“Commissioned from other UK producer”** are programmes made on behalf of the broadcaster, either exclusively or as part of a co-production, but not programmes produced in-house as defined above, and not co-productions which were shown first on another UK or overseas channel;<sup>1</sup> and
  - **“Acquired”** programmes are those that were originally produced for transmission by a different broadcaster, either in the UK or overseas, including the broadcaster’s parent company where relevant.
- **“Total hours transmitted”** equals total transmission time by the broadcaster, excluding simulcasts or time-shifted transmission, but including all advertising and promotional time. Therefore, for a channel broadcasting 24 hours per day, 365 days per year, the figure entered here should be 8,760 (=24 \* 365).

Please note that total hours transmitted is **not** expected to be equal to the sum of the three first-run programming categories. Additional, non-specified output categories could include repeats, non-originated material (e.g. music videos), and non-broadcast content (e.g. interactive services). For the majority of digital-only channels, first-run original programmes will only constitute a small proportion of transmitted hours – the intention is to understand exactly how much transmitted content is original programming.

- **“Total programme cost”** is the total cost of all activities associated with **programme-making**, including the fees paid to external producers, artists and presenters, internal production staff costs, rights costs, costs of facilities and resources, and all associated overheads. It does not include other operational costs, including expenditure relating to management, marketing, finance or programme **commissioning** (as distinct from programme-making), or overheads.

### Income categories

- Some forms of revenue are taken into account for the purposes of calculating Ofcom’s licence fees, while others are not. Comprehensive data are nonetheless required for industry monitoring and to support Ofcom’s ongoing work.

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<sup>1</sup> Commissioned programmes are only counted for the channel on which they are first shown – programmes commissioned by a UK or overseas parent broadcaster for transmission on other channels should be counted as acquired.

- Information should be provided on advertising/sponsorship, subscription and interactive revenues. Note that all forms of interactivity, including telephony revenue from viewer calls via a premium rate phone line, should be included on the return.
- The form clearly sets out which categories are taken into account in determining licence fees and which are not. Full details of the methodology for determining licence fees, including definitions of the relevant income categories, can be found in Ofcom's Statement of Charging Principles, available at: <http://www.ofcom.org.uk/consult/condocs/socp/statement/#content>
- In addition to the field for *Subscription income received from platform operators*, please also show any subscription income earned from self-retailed channels in the separate box, if relevant. We require the figure in full and the wholesale equivalent figure and a statement in the Additional Comments box to explain the basis on which the wholesale equivalent income figures have been calculated where applicable.
- Similarly, in addition to the field for *Income from pay-per-view services received from platform operators*, please also show any income earned from pay-per-view self-retailed channels in full and the wholesale equivalent figure plus explanatory additional comments where relevant.

### Other information

- **Opportunity to restate:** we recognise that final audited financial data for calendar year 2007 may not be available in time to meet our initial deadline. We are therefore providing licensees with the option to restate their data later in the year, when final figures are available. Data will not be used for the purpose of determining Ofcom licence fees for 2008-09 until after this restatement.

Those licensees who do wish to restate their data later in the year should get in touch with the MID administrator on [mid@ofcom.org.uk](mailto:mid@ofcom.org.uk) or 020 7981 3798. Nonetheless they should still complete the form with the most accurate data they currently have available, which will be used for our estimates of industry size and growth, to be published in *The Communications Market 2008* in mid-2008.

- **Certification:** these data will be used (unless the licensee wishes to restate their data) for the purpose of setting the channel's licence fee. It is therefore imperative that these data are certified to be accurate and signed-off by the Finance Director, or other senior duly authorised individual.

### TWF Return

**Extract from Ofcom report on the consultation on guidance issued to television broadcasters in relation to their licence obligations to comply with Articles 4 and 5 of the Television without Frontiers (TWF) Directive:**

1. In accordance with the Television without Frontiers ('TWF') Directive, television broadcasters shall ensure that, where practicable, and subject to paragraphs 2 and 3:
  - (a) a majority of their Transmission Time is devoted to European programming;
  - (b) at least 10% of their Transmission Time or programming budget is devoted to European programming created by producers who are independent of broadcasters; and
  - (c) at least 50% of programming included in their Transmission Time in accordance with (b) above is created no less than five years earlier by producers who are independent of broadcasters.
  
2. The requirements in paragraph 1 shall apply as follows:
  - (a) new channels are required to meet the targets set in paragraph 1 within five years of their launch, and should demonstrate progress towards those targets during the five year transitional period. In cases of doubt, Ofcom will determine whether a channel is a new channel or the continuation of a previous channel; and
  - (b) television broadcasters who consider that it would not be practicable to meet one or more of the targets set out in paragraph 1 should explain why to Ofcom, which will advise whether any remedial measures are necessary.
  
3. Television channels that:
  - (a) are not receivable in the European Union;
  - (b) comprise programming broadcast in a language other than a language of the European Union;
  - (c) serve a local or regional audience, and do not form part of a national network; or
  - (d) are comprised wholly of news or sports event programming, games, teletext services or teleshopping,are exempt from the requirements of paragraph 1.
  
4. To enable the United Kingdom to fulfil its reporting obligations under the TWF Directive, television broadcasters must report to Ofcom, as part of the annual return:
  - (a) the performance of each channel in relation to the targets set out in paragraph 1;
  - (b) the reasons for the failure to achieve any of the targets set out in paragraph 1, and the remedial measures they are undertaking; and
  - (c) the grounds for any exemption they are claiming for any channel from the requirements set out in paragraph 1.

## Definitions

- **‘Television broadcasters’** means television broadcasters licensed in the United Kingdom, and the BBC.
  
- **‘European programming’** has the meaning attributed to ‘European works’ in Article 4 of the TWF Directive. This includes:
  - (a) Works originating from European Union Member States;
  - (b) Works originating from European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 2 of Article 6. A full list of parties to the Convention may be found on the Council of Europe’s website: [http://europa.eu.int/comm/avpolicy/regul/twf/implement/natimple\\_en.htm](http://europa.eu.int/comm/avpolicy/regul/twf/implement/natimple_en.htm) and
  - (c) Works originating from other European third countries and fulfilling the conditions of paragraph 3 of Article 6.
  
- The works referred to in paragraphs (a) and (b) above are works mainly made with authors and workers residing in one or more States referred to in those paragraphs provided that they comply with one of the following three conditions:
  - they are made by one or more producers established in one or more of those States; or
  - production of the works is supervised and actually controlled by one or more producers established in one or more of those States; or
  - the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.
  
- A producer is considered to be established in a European State if the company is a going concern which has a permanent staff involved in both production and commercial operations at the European location.
  
- The works referred to in paragraph (c) are works made exclusively or in co-production with producers established in one or more Member States by producers established in one or more European third countries with which the Community has concluded agreements relating to the audiovisual sector, if those works are mainly made with authors and workers residing in one or more European States.
  
- It should be noted that application of the provisions of (b) and (c) is conditional on works originating from Member States not being the subject of discriminatory measures in the third countries concerned.

- Works that are not European works within the meaning of the above provisions but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the Community co-producers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States. Member States shall draw up lists of their bilateral co-production treaties. The Member States and the Commission shall make these lists available, on request, to interested parties.
- Works which are not covered by any of the above provisions but are made mainly with authors and workers residing in one or more Member States, shall be considered to be European works to an extent corresponding to the proportion of the contribution of Community co-producers to the total production costs.
- **‘European programming created by producers who are independent of broadcasters’** means European programming (as defined) created by ‘independent producers, as defined in the Broadcasting (Independent Productions) Order 1991, and amended by the Broadcasting (Independent Productions) (Amendment) Order 1995 and the Broadcasting (Independent Productions)(Amendment) Order 2003.
- The **‘Television without Frontiers (TWF) Directive’** is the European Council Directive of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting services (89/552/EEC) as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997.
- **‘Transmission time’** means the period during the day when the broadcaster is broadcasting, but excludes the time used for transmitting news, sports events, games, advertising, teletext services and teleshopping programmes. It also excludes the time used for broadcasting programmes in languages other than Community languages, where these comprise a substantial proportion of Transmission Time.