Digital Television Programme Services (DTPS) and Digital Television Additional Service (DTAS) Licences

Guidance notes for licence applicants

Guidance

Published 14 July 2026

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1. Introduction

General disclaimer

1.1 These notes are intended to help Digital Television Programme Service (DTPS) and Digital Television Additional Service (DTAS) licence applicants understand the licensing process. The guidance notes should not be relied upon as legal advice, or be understood as modifying the effect of the statutory requirements or the conditions of the licence.

1.2 Applicants should seek their own legal advice on the licensing process and requirements, and when making their own independent assessment on the information that should be included in their application.

1.3 In providing the information in these guidance notes, Ofcom is not making, nor implying any judgements on the commercial prospects (or otherwise) of licensed services, or that they will be profitable.

1.4 Ofcom makes no representation or warranty, express or implied, with respect to information contained in these guidance notes (together with the standard form licence and other documents referred to in this document) or with respect to any written or oral information made or to be made available to any potential applicant or its professional advisers. Any liability therefore is expressly disclaimed.

1.5 These guidance notes may be updated from time to time. Applicants should check Ofcom's website to make sure they are using the most recent version. Applicants should also be aware that certain key features, such as fees, procedures and content rules, may change in the future.

1.6 If you have any queries you can contact the Ofcom Broadcast Licensing team by email (broadcast.licensing@ofcom.org.uk). The team cannot provide advice or pre-approve applications.

1.7 You may also wish to read the DTPS and DTAS guidance notes for licensees which provide information about the licensing requirements and the conditions that licensees are subject to.

2. What is a Digital Television Programme Service (DTPS)/Digital Television Additional Service (DTAS)

2.1 Digital Television Programme Services (DTPS) and Digital Television Additional Services (DTAS) are services broadcast for reception by members of the public on a digital terrestrial television (DTT) multiplex.

2.2 Part I of the Broadcasting Act 1996 (as amended) describes digital terrestrial television multiplexes, a DTPS, a DTAS and the licensing regime which applies to them. Further information about multiplexes is set out in paragraphs 2.10 to 2.13 below. Whether your service requires a DTPS or a DTAS licence depends on the service you will be providing.

2.3 A DTPS is a service consisting of the provision of television programmes i.e. it consists wholly or mainly of images capable of being seen as moving pictures. The definition of a DTPS excludes qualifying services [1] and teletext services, but includes text or data which is ancillary to the DTPS (such as subtitling or audio-description). Generally, a DTPS consists of "normal" television channels (consisting of moving pictures), including their interactive enhancements.

2.4 A DTAS is a service which usually consists of self-standing text or data services, including teletext services and EPGs. A DTAS is defined in the Broadcasting Act 1996 largely by what it is not, [2] i.e. it is not a qualifying service, a Digital Sound Programme Service (DSPS) [3] an ancillary service [4] or a technical service. [5]

2.5 DTPS/DTAS licences can have multiple services on one licence.

2.6 Television services made available using either satellite, cable, a radio multiplex, or an electronic communications network are licensed as Television Licensable Content Services (TLCS). Separate guidance notes for applicants for TLCS licences are available on the Ofcom website.

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[1] Defined in section 2 of the Broadcasting Act 1996 as: a television broadcasting service included in Channel 3; Channel 4; Channel 5; S4C; a television programme service provided by the Welsh Authority; and the digital public teletext service.

[2] See the definition of a DTAS in section 24 of the Broadcasting Act 1996.

[3] For more information on DSPS services, please visit our website.

[4] An 'ancillary service' is defined in section 24(2) of the Broadcasting Act 1996 as a service which is provided by the holder of a DTPS licence (or by a relevant public broadcaster) and consists in the provision of: assistance for disabled people in relation to some or all of the programmes included in the digital programme service or qualifying service provided by it; a service (apart from advertising) that relates to the promotion or listing of programmes included in such a service or in a digitalsound programme service; or any other service (apart from advertising) that is ancillary to one or more programmes so included and relates directly to their contents.

[5] A 'technical service' means a service which is provided for technical purposes connected with the encryption or decryption of one or more digital programme services, digital sound programme services or digital additional services and is specified in an order made by the Secretary of State.

2.7 More information on the different types of television licence, including application forms and guidance notes for applicants, is available on our website.

2.8 Following the UK's exit from the European Union, the requirements for whether a service falls under UK jurisdiction has changed. Please see the Jurisdiction section below for further details.

2.9 Applicants are responsible for assessing whether their proposed service requires a DTPS or DTAS licence. You may wish to take your own professional advice in order to comply with this obligation. Ofcom cannot determine for you whether you need a licence or not and you should not rely on the guidance provided in these notes.

Digital Terrestrial Television Multiplexes

2.10 A multiplex is a collection of television programme, radio and data services that are broadcast together in a digital signal that occupies no more spectrum than just one analogue television service. Multiplexes are generally licensed by Ofcom under the Broadcasting Act 1996 or under the Wireless Telegraphy Act, with the exception of 'Multiplex 1' which was granted by the Government. There are six national television multiplexes:

- Multiplex 1 is operated by the BBC under their Royal Charter and Agreement with the Secretary of State for Culture, Media and Sport.
- Multiplex 2 is operated by Digital 3 and 4 Limited (jointly owned by Channel 3 and Channel 4) and the capacity on this multiplex is split between Channel 3 and Channel 4.
- Multiplex A is operated by SDN Limited (controlled by ITV plc), and 50% of the capacity on this multiplex is reserved for Channel 5 and (in Wales) S4C.
- Multiplex B is operated by BBC Free to View Limited.
- Multiplexes C and D are operated by Arqiva.

2.11 In addition there are two further multiplexes which do not have national coverage:

- The Local Multiplex is operated by Comux Limited, and provides DTT access for local services which are licensed following a competitive award process[6].
- The Northern Ireland Multiplex is operated by Multiplex Broadcasting Services N.I. Limited.

2.12 The multiplex licences contain conditions for the provision of television broadcast services which are carried on the multiplex. Some of the conditions place obligations on the multiplex provider with regard to the range and nature of the services it may carry, for example, Multiplex B reserves capacity for High Definition Public Service Broadcasters. Please note, however, that the multiplex provider's licences do not all contain identical conditions. For full information about the conditions that multiplex providers are subject to, you should refer to the multiplex licences and, where appropriate, the relevant legislation. The multiplex licences issued by Ofcom, along with contact details for the multiplex providers, are available on the Ofcom website. Each application for a DTPS or DTAS licence must be accompanied by a letter from the relevant multiplex provider, confirming that it will carry the service.

[6] There is further information about the local TV licensing process on our website.

2.13 More information on the different types of television licence, including application forms and guidance notes for applicants, is available on our website.

3. Electronic Programme Guides

3.1 Section 310(8) of the Communications Act 2003 defines an Electronic Programme Guide (EPG) as a service which consists of:

a) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
b) a facility for obtaining access, in whole or in part, to the programme service or services listed or promoted in the guide.

3.2 The Broadcasting (EU Exit) (Amendment) Regulations 2019 amend the Communications Act 2003 so that services consisting, or accessed by means, of a "regulated EPG" must hold an Ofcom broadcasting licence.

3.3 A provider of an EPG which is not a "regulated EPG" does not need a licence in the UK. However, the Secretary of State may designate EPGs, or their providers, and so turn them into "regulated EPGs".

3.4 If you intend to provide an EPG, please do contact Ofcom if you wish to establish the legal position before commencement of the service. Details of such applicants will be shared with the Department for Digital Culture, Media and Sport (DCMS), who may then decide to designate your service.

3.5 Applications for a licence to provide EPG services will take substantially longer to process than applications to provide television programme services.

3.6 Ofcom has published a list of regulated EPGs on our website.

3.7 If the licensed service is an electronic programme guide, it must comply with Ofcom's Code of practice on Electronic Programme Guides, as well as the relevant content rules.

3.8 Applicants are responsible for assessing whether their proposed service requires a DTPS or DTAS licence. You may wish to take your own professional advice in order to comply with this obligation. Ofcom cannot determine for you whether you need a licence or not and you should not rely on the guidance provided in these notes.

4. Before you apply for a DTPS or DTAS licence

This section contains important information you should take account of before submitting your DTPS or DTAS application form.

Determining who should hold the licence

4.1 Ofcom considers that a person will normally have general control if that person exercises effective control over the selection of programmes that comprise the service and their organisation into a programme schedule. It is that person who will normally be treated as being the provider of the relevant service and who will need to hold a broadcasting licence authorising its provision. The full guidance document can be found on our website, which applicants should read before applying for a licence.

How to complete the form

4.2 Please download the application form and fill it in on a computer. If completing by hand, please use block capitals and black ink.

4.3 Please answer all the questions as fully as possible, use extra sheets if required and provide the supporting documentation listed at section 11 of the form. Sufficient information must be supplied about the applicant and the proposed service to enable Ofcom to consider the application in accordance with the statutory criteria for the granting of DTPS/DTAS licences. Ofcom may need to request further details from you before a licence can be granted.

4.4 **Ofcom will reject applications made using an old version of the form.**

4.5 Ofcom will accept handwritten application forms but they must be filled in using block capitals and black ink.

4.6 **Ofcom will reject application forms that are illegible.**

4.7 You must answer all questions in the application form and respond "N/A" to any questions that do not apply to the applicant.

4.8 **Ofcom will reject applications which do not meet the following criteria:**

a) The declaration in section 12 of the form must be signed and dated.
b) The person who signs and makes the declaration on behalf of the applicant must be:
    i) A director of the company or the company secretary where the applicant is company.
    ii) A designated member where the applicant is a Limited Liability Partnership.
    iii) A partner, where the applicant is a partnership.
    iv) A member of the organisation's governing body where the applicant is an unincorporated body or association.
    v) The individual who will be the licensee where the applicant is an individual.
c) All supporting documents as requested in the checklist in Section 11 of the form must be supplied in legible form and translated into English where applicable.

4.9 If you are completing the form as an agent, i.e. you are acting on the applicant's behalf, please note that you cannot sign it on your client's behalf, and that the person signing the form needs to have personally checked the truth and completeness of the responses given. If your client wishes you to be Ofcom's main contact in relation to the application, please make this clear in an accompanying letter, and provide evidence of your authority to act on behalf of the applicant. The form should be filled in so as to include information about the applicant, not the agent. If Ofcom has further questions once the application has been submitted, we will direct these to the applicant, not to the agent, but we will accept responses from the agent.

Notification of agreement with multiplex provider

4.10 In submitting your DTPS or DTAS licence application, you are formally notifying Ofcom of an agreement with the multiplex licensee that will carry your service. In addition, in support of your application, you must supply a letter from the multiplex licensee, confirming what you have stated in your application with respect to the notification.

4.11 If a licence is granted, you will need to request Ofcom to vary your licence if:

a) you make a new agreement with a multiplex provider (for example, for carriage of an additional service); or
b) there is a variation or a cessation to the agreement between yourself and the multiplex provider.

4.12 If you need to request Ofcom to vary your licence, you should complete a separate form: Application to vary an existing service or to add a new service to an existing Digital Television Programme Service (DTPS)/Digital Television Additional Service (DTAS) or variation to an existing DTPS/DTAS. You should submit this to Ofcom as soon as the agreement with the multiplex operator has been made, and in any event no later than 28 days after that agreement.

How to submit the form

4.13 We prefer application forms and required supporting documents to be submitted by email to broadcast.licensing@ofcom.org.uk. Handwritten applications and required supporting documents should be scanned and attached to the email.

You should receive an auto-response from broadcast.licensing@ofcom.org.uk confirming that your application has been received by Ofcom.

If you do not receive a response, it is likely your application has not been received and you should leave a voicemail for the Broadcast Licensing team on 020 7981 3002 who will look into this and contact you.

4.14 If you cannot submit the application form and/or the supporting documentation by email, you can send by post to:

Ofcom
Broadcast Licensing
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

Application fee

4.15 The application must be accompanied by the application fee. Ofcom will not assess an application until the application fee has been received in Ofcom's bank account.

4.16 Application fees are reviewed by Ofcom annually, and applicants should consult the Ofcom website for the most up-to-date fees. Our tariff tables are published no later than 31 March each year. The current application fee is £2,500 per application. This payment is non-refundable.

4.17 Ofcom requests that applicants pay the application fee by bank transfer.

To ensure that Ofcom can identify the payment, it must include a payment reference which is the applicant's postcode followed by the applicant's name (or as much of the name as is possible to provide within the character limit set by the bank) as provided in response to question 4.2 of this application. In the case of a company, partnership or unincorporated body applying for the licence, the applicant's name will be the name of the company, LLP, partners or members of an unincorporated body who have applied for the licence (as provided in response to question 4.2), not the individual who has submitted the application on its behalf.

4.18 The bank details to be used to pay the application fee are:

Account Name:	Office of Communications
Bank details:	Lloyds Bank, 69-73 Borough High Street, London SE1 1NQ
Account number:	00782415
Sort code:	30-97-90
BIC:	LOYDGB21351
IBAN:	GB05 LOYD 3097 9000 7824 15
SWIFT:	LOYD GB 2L

Annual licence fee

4.19 If a licence is granted, the licensee must pay an annual fee to Ofcom, as a condition of its licence. The fees are revised annually and published no later than 31 March of each year. The annual fees for editorial services are based on a percentage of 'Relevant Turnover', which in the Television sector relates to any turnover that is derived from advertising/sponsorship, subscriptions and interactive activities. The minimum fee is currently £1,000 for the charging year.

4.20 A self-promotional service – which consists of a particular kind of advertising whereby the broadcaster promotes its own products, services or channels – is charged the minimum fee of £1,000 for the charging year.

4.21 For teleshopping services, there is a fixed annual fee. The current fixed fee for the charging year is £2,000.

4.22 For further information about fees, see Ofcom's Statement of Charging Principles, and Ofcom's Tariff Table.

4.23 It is important that licensees pay their annual licence fees on time. If fees are not paid by the date stated in the invoice, Ofcom is likely to investigate whether a breach of the

relevant licence condition has occurred and may consider whether to impose a financial penalty and/or revoke the licence.

4.24 If you wish to pay your annual fee by direct debit, please visit the 'How to make a payment to Ofcom' page for information.

Timescales for assessing applications

4.25 Applicants will receive an auto-response from broadcast.licensing@ofcom.org.uk, which should be taken as acknowledgment of receipt of the electronic application. If you do not receive a response, it is likely your application has not been received and you should leave a voicemail for the Broadcast Licensing team on 020 7981 3002 who will look into this and contact you.

4.26 As a guideline, our aim is to issue a licence within 25 working days for services seeking to broadcast television programme services. However, this cannot be guaranteed. Applications are assessed on a first come, first served basis, and during peak periods it may take longer for us to assess applications. The timeframe also assumes that full and accurate information has been provided by the applicant in the application form and accompanying documentation. Applications will not be assessed until all the requested information has been submitted. Applications to provide EPG services will take substantially longer.

4.27 Applications for which potential issues arise relating to ownership restrictions and eligibility requirements may take longer to assess. Applicants with religious objects are also advised to allow longer for the assessment and consideration of their application by Ofcom in the light of the Guidance for religious bodies applying for a Broadcasting Act licence.

4.28 Applications for a licence to provide EPG services will take substantially longer to process than applications to provide television programme services.

4.29 Ofcom has a duty to ensure that it does not license bodies with objects which are of a wholly or mainly political nature. If questions arise on this issue, an application may take significantly longer than usual for Ofcom to consider.

4.30 Ofcom may refuse to issue a DTPS or DTAS licence if the applicant is not a "fit and proper person";[7] if the applicant is a "disqualified" person;[8] or if the proposed service would be likely to involve contraventions of the standards for programmes and advertising.[9]

4.31 In cases where Ofcom has instigated sanctions procedures against an existing Licensee which may lead to the revocation of any licence(s) it holds, it will not generally consider any applications for new licences by the same licensee or by a person/body connected to that licensee until such time as that aspect of the sanctions procedure is concluded. Similarly, Ofcom will not generally consider transfer applications either to or from a licensee while a sanctions procedure which may lead to licence revocation is ongoing.

4.32 Ofcom will normally only issue a DTPS or DTAS licence if the applicant has supplied a letter from the relevant multiplex provider confirming carriage of the service.

[7] Under section 3 of the Broadcasting Acts 1990 and 1996.
[8] Under Schedule 2, Part II of the Broadcasting Act 1990.
[9] See paragraphs 5.47 and 5.48.

4.33 To be able fully to consider an application, we may need to request further information or clarification from the applicant. If we don't receive a response to a request for further information within one month, we will consider the application to have lapsed.

Publication of information about applications and licensed services

4.34 When a licence is granted, the name of the service, contact details for the licensee and a brief description of the licensed service are published on the Ofcom website. These are the details supplied in the application form. If you have any questions about the information that we publish, or there are any changes to this information, you should contact the Television Broadcast Licensing team by email (broadcast.licensing@ofcom.org.uk).

4.35 Additionally, Ofcom considers issued DTPS and DTAS licences to be public documents and will make copies of licences available to third parties on request.

4.36 Ofcom also publishes a monthly update which lists new services licensed, licences revoked, licence transfers, and changes to the name or nature of the licensed service during the past month. The licensing updates are available on our website.

5. Completing your application form

This section of the guidance notes provides information on the corresponding sections of the DTPS/DTAS application form, to help you fill in your application form correctly.

Data protection

5.1 We require the information requested in the application form in order to carry out our licensing duties under the Broadcasting Act 1990, Broadcasting Act 1996, and the Communications Act 2003. Please see Ofcom's General Privacy Statement for further information about how Ofcom handles your personal information and your corresponding rights.

Section 3 of the application form: Jurisdiction of the applicant

5.2 In this section of the application form, we ask for details of where the company carries out its various activities and the method of delivery of the proposed service in order to determine whether the service falls under UK jurisdiction.

5.3 Should a licence be granted, you should be aware that it is a Condition of the DTPS/DTAS licence requires that the licence holder notify Ofcom as soon as reasonably practicable of any changes which might affect the criteria under which the licensed service falls under the jurisdiction of the UK. Additionally, that Condition 2(2) of the DTPS/DTAS licence requires the licence holder to publish or provide recipients of the service with confirmation that the service falls under the UK's jurisdiction.

5.4 Following the UK's exit from the European Union on 29 March 2019, the Broadcasting (EU Exit) (Amendment) Regulations 2019 amends the Communications Act 2003 regarding whether a service falls under UK jurisdiction.

5.5 The following jurisdiction requirements now apply:

a) **Country of destination licensing:** any TV channel that appears on a "regulated" UK Electronic Programme Guide (EPG)' (see explanation in section 3 of this guidance) needs to be licensed and regulated in the UK. The exceptions to this are TV channels from countries party to the European Convention on Transfrontier Television (ECTT) (see explanation below), as well as the following Irish channels: TG4, RTÉ1 and RTÉ2.

b) **European Convention on Transfrontier Television (ECTT and country of origin):** The ECTT is a Council of Europe treaty. Where TV channels based in the UK are broadcasting to another ECTT country (see list of countries below), they would be regulated under the provisions of the ECTT. This may be the case even if the service does not appear on a UK "regulated EPG".

5.6 **The following countries are party to the ECTT:** Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Malta, Montenegro, Norway, Poland, Portugal, Republic of

Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Switzerland, North Macedonia, Turkey, Ukraine, United Kingdom.

5.7 **The following EU Member States are not party to the ECTT:** Belgium, Denmark, Greece, Ireland, Luxembourg, The Netherlands and Sweden.

5.8 Article 4 of the ECTT provides for freedom of retransmission and reception of television programme services in one or more ECTT Parties licensed or otherwise authorised by the relevant authority of an ECTT Party.

5.9 The ECTT only applies where a service under the jurisdiction of an ECTT Party is transmitted or retransmitted to another. A service will be considered to broadcast to a relevant ECTT country where it can be received in all parts of the relevant ECTT country and it can be accessed through an EPG which is licensed or otherwise regulated in the relevant State; or accessed through an EPG, the provider of which has its head office in the relevant State where that State does not regulate EPGs.

Primary establishment criteria

5.10 Under the ECTT, the first question is whether you are established in a member state of the European Union under the Audiovisual Media Services Directive. If it is, then the ECTT deems you to be established there for ECTT purposes. If you are established in an EU member state, and that country is not in the ECTT, we take the view that you fall outside the ECTT. You may still require a licence from Ofcom if you appear on a "regulated EPG" in the UK.

5.11 The criteria set out in Article 5 of the ECTT state that a broadcaster will fall to an ECTT Party's jurisdiction in the following circumstances:

a) If a broadcaster has its head office in that country and the editorial decisions about programme schedules are taken in that country.

b) If a broadcaster has its head office in one country but editorial decisions on programme schedules are taken in another country, it will be considered to be established in the country where a significant part of the workforce involved in the pursuit of programme-related activity operates.

c) If a significant part of the workforce involved in the pursuit of programme-related activity operates in each of those countries, the broadcaster will be considered to be established in the country where it has its head office.

d) If a significant part of the workforce involved in the pursuit of programme-related activity operates in neither the country where the editorial decisions about programme schedules are taken, nor the country where the applicant has its head office, the broadcaster will be considered to be established in the country where it first began broadcasting lawfully, provided that it maintains a stable and effective link with the economy of that country.

e) If a broadcaster has its head office in a country but decisions on programme schedules are taken in a third country, or vice-versa, it will be considered to be established in the country concerned, provided that a significant part of the workforce involved in the pursuit of programme-related activity operates in that country.

Subsidiary technical criteria

5.12 Broadcasters that are not established in an ECTT Party (where the primary establishment criteria listed at 4.3 (a)-(e) do not apply), and to which the ECTT applies, may still fall to the jurisdiction of an ECTT Party in the following circumstances:

a) If a broadcaster uses a frequency granted by that country.

b) If a broadcaster uses satellite capacity relating to that country.

c) If a broadcaster does not use satellite capacity relating to that country but does use a satellite uplink situated in that country. This subsidiary criterion will apply if jurisdiction of any country cannot be established under the "satellite capacity" criterion referred to above.

5.13 Broadcasts intended exclusively for reception in countries that are not a Party to the ECTT and which are not received directly or indirectly by the public in one or more ECTT Party are not normally licensable by Ofcom.

Licensing jurisdiction scenarios

5.14 By way of example, a number of scenarios are given below to highlight how the criteria listed above work in practice.

a) **A broadcaster established in the UK broadcasting into the UK:**
Broadcasters established in the UK and: i) broadcasting a service which meets the definition of a DTPS/DTAS (see section 2 of this guidance above); and ii) broadcasting on a UK "regulated EPG"; requires an Ofcom licence.

b) **A broadcaster established in the UK broadcasting to both the UK and Europe:**
Broadcasters established in the UK and: i) broadcasting a service which meets the definition of a DTPS/DTAS (see section 2 of this guidance above); and ii) broadcasting on one of the "regulated EPGs" in the UK; requires an Ofcom licence. The existing Ofcom licence should enable broadcasting into other ECTT Parties.

Where a service is also available in non-ECTT Party countries within the European Union you should contact the media regulator of the EU Member State(s) in which you intend to broadcast to check whether a licence or authorisation to broadcast is required under the Audiovisual Media Service Directive.

c) **A broadcaster established in the UK broadcasting outside of the UK only:**
If a broadcaster falls to Ofcom's jurisdiction under the ECTT criteria set out above and broadcasts to a country that is party to the ECTT, the broadcaster would require a licence from Ofcom.

If a broadcaster falls to Ofcom's jurisdiction under the ECTT criteria, but the service is broadcasting to a country that is not party to the ECTT, then you would not require a licence from Ofcom. You should contact the relevant media regulator in the State(s) you wish to broadcast to.

Where a service is available in non-ECTT Party countries within the European Union you should contact the media regulator of the EU Member State(s) in which you intend to broadcast to check whether a licence or authorisation to broadcast is required under the Audiovisual Media Service Directive.

d) **A broadcaster established in Europe broadcasting into the UK:**
If a broadcaster holds a licence or authorisation issued by a country that is party to the ECTT, the service can broadcast on one of the UK "regulated EPGs" in the UK.

If a licence or authorisation has been issued by a country that is not party to the ECTT, but the service makes use of satellite uplink or capacity pertaining to an ECTT Party, or other subsidiary technical criteria above apply, the broadcaster may fall to the jurisdiction of that Party for the purposes of the ECTT.

If you are established in an EU state that is not party to the ECTT, you need to hold an Ofcom licence to broadcast a TV service on one of the "regulated EPGs" in the UK.

Section 4 of the application form: Applicant's details

5.15 In this section, we are asking you for basic details about the applicant (whether an individual or body corporate).

5.16 The requested details include company registration number (where applicable) and contact information.

5.17 We are asking for this information so that Ofcom knows precisely who to contact at the applicant company during the application process and if a licence is granted.

5.18 If any of the individuals named in your responses are known by more than one name/version of their name, all names must be provided.

5.19 If you are granted a licence, it will be a condition of your licence that the licence holder must notify Ofcom as soon as possible of certain changes to the information provided in this section.

5.20 The applicant is asked for contact details for the following contacts:

- **Person authorised to make the application:** This is the person who is duly authorised by the applicant for the purposes of making the application. If the applicant is an individual their details will need to be provided. If the applicant is a company, details of the company secretary or a director must be provided**.**
- **Licence contact**: The Licence Contact is the day-to-day contact for Ofcom on licensing matters. Examples of the type of communication between the Licence Contact and Ofcom could be questions regarding ownership of the licensee company; changes to the licence; and responding to information requests.
- **Compliance officer**: This is the person for Ofcom to contact on matters relating to compliance with the Broadcasting Code and other content-related codes and rules. If we receive a complaint about the licensed service we will contact the compliance officer to request recordings of output. We will correspond with the compliance officer during any investigations into whether content was compliant with our codes and rules.
- **Billing/Finance contact**: Contact details for Ofcom regarding invoicing/payment of annual licence fees.
- **Data contact**: Contact details for Ofcom regarding submission of the annual transmission and revenue return. This is information that Ofcom requests from its licensees every year, including information about the service's turnover (used to calculate subsequent licence fees) and any European productions.

- **Public contact**: Contact details for publication on the Ofcom website and/or in other relevant Ofcom publications. When a licence is granted, the name of the service, contact details for the licensee and a brief description of the licensed service are published on the Ofcom website.

Source of funding

5.21 Ofcom needs the applicant to provide details about its source of funding so that Ofcom can ensure that the applicant is not disqualified from holding a licence under Schedule 2 of the Broadcasting Act 1990, for example, where the funder is a political body or, in Ofcom's opinion, appears to be exerting influence over the applicant's activities in a way which may be adverse to the public interest. Such influence may include, for instance, the management of the station and/or the content of its programming, but might also extend to the applicant's other activities.

Affiliates and control

5.22 Ofcom needs the applicant to provide information about entities with which the applicant is affiliated and who controls the applicant, in order to ensure that the applicant is not disqualified from holding a licence under Schedule 2 of the Broadcasting Act 1990 and that it is fit and proper to hold a licence. We expect licence applicants to be able to provide full details of those controlling them, since it is in the interests of those controlling them that the applicant should be granted a licence.

5.23 Before completing this section of the form, you should read Ofcom's guidance on the definition of 'control' of media companies. Note in particular that:

- Throughout this section, "control" has the meaning it is given in Part I of Schedule 2 of the Broadcasting Act 1990.
- It includes situations where it would be reasonable to expect that any person would be able in most cases to secure that the affairs of a body corporate are conducted in accordance with their wishes. Therefore, for example, where a corporate body is held by its parent via a number of subsidiaries, all such subsidiaries have control.

Section 5 of the application form: Details of directors, designated members, participants and shareholders of the applicant (companies and LLPs)

5.24 Section 5 of the application form applies to applicants which are bodies corporate (e.g. companies or LLPs). If you are applying as:

a) A partnership which is not an LLP, skip to Section 6 of the application form.

b) An unincorporated body, skip to Section 7 of the application form.

c) An individual, skip to Section 8 of the application form.

5.25 Ofcom needs the additional information in this section in order to enable us to consider those types of disqualification which apply specifically to bodies corporate. We also ask questions which are relevant to our assessment of the applicant's fitness and properness to hold a broadcast licence.

5.26 Before completing Section 5 of the form, you should also read Ofcom's guidance on the definition of 'control' of media companies. Note in particular that:

- Throughout this section, "control" has the meaning it is given in Part I of Schedule 2 of the Broadcasting Act 1990.
- It includes situations where it would be reasonable to expect that any person would be able in most cases to secure that the affairs of a body corporate are conducted in accordance with their wishes. Therefore, for example, where a corporate body is held by its parent via a number of subsidiaries, all such subsidiaries have control.

In Section 5, we are asking for details of the directors or designated members, its shareholders and participants.

5.27 If any of the individuals named in your responses are known by more than one name/version of their name, all names must be provided.

5.28 The response boxes and tables should be expanded or repeated where necessary or provided in a separate annex.

Section 6 of the application form: Details of partners of the applicant (partnerships)

5.29 Section 6 of the application form applies to applicants which are partnerships (excluding LLPs). Please complete Section 5 of the form if the applicant is an LLP.

5.30 If you are applying as:

- An unincorporated body, skip to Section 7 of the application form.
- An individual, skip to Section 8 of the application form.

5.31 In Section 6, we are asking for details of the partners.

5.32 If any partner is a company, the applicant will also need to complete questions 5.2 and 5.3 in Section 5.

5.33 If any of the individuals named in your responses are known by more than one name/version of their name, all names must be provided.

5.34 The response boxes and tables should be expanded or repeated where necessary or provided in a separate annex.

Section 7 of the application form: Details of governing members of the applicant (unincorporated bodies other than partnerships)

5.35 Section 7 of the application form applies to applicants which are unincorporated bodies.

5.36 If you are applying as an individual, skip to Section 8 of the application form.

5.37 In Section 7, we are asking for details of the applicant's governing members.

5.38 If any of the individuals named in your responses are known by more than one name/version of their name, all names must be provided.

5.39 The response boxes and tables should be expanded or repeated where necessary or provided in a separate annex.

Section 8 of the application form: Eligibility requirements

5.40 Ofcom has a duty to ensure that anyone who applies for a broadcasting licence is fit and proper to hold one [10].

5.41 When considering whether an applicant is fit and proper to hold a licence, Ofcom will look at – for example – whether individuals who are likely to exercise control over the applicant and its activities (e.g. directors, substantial shareholders or members) have any criminal convictions (in any jurisdiction), or whether they have ever been declared bankrupt (in any jurisdiction).

5.42 In determining whether a person is "fit and proper", a number of issues will be considered which could include, but are not limited to:

- Criminal convictions;
- Bankruptcy and insolvency;
- Disqualification of directors;
- Removal from a professional or trade body; and
- Previous broadcasting compliance history (e.g. licence applications, sanctions).

Ownership restrictions

5.43 The Broadcasting Act 1990 [11] lays down a number of restrictions on who may hold Ofcom's broadcasting licences. The following are among those who are disqualified from holding a DTAS/DTPS licence or from controlling a licensed company [12]:

- A local authority; [13]
- a political body;
- a religious body, other than where Ofcom is satisfied that it is appropriate for a particular person to hold a licence and makes a determination to that effect. If you wish to seek such a determination, please consult the Ofcom Guidance for religious bodies applying for a Broadcasting Act licence;
- any company controlled by any of the above or by their officers or associates;
- an advertising agency or any company controlled by such an agency or in which it holds more than a 5 per cent interest. [14]

5.44 Please note that in accordance with the Broadcasting Act 1990 (as amended) Ofcom has the power to determine that in certain circumstances a person with less than a 50 per cent share can be deemed to control a company.

5.45 If information is relevant to determining whether an applicant is a disqualified person, it is an offence for the applicant to supply false information or to withhold information with the

[10] Under section 3 of the Broadcasting Acts 1990 and 1996.
[11] As amended by the Broadcasting Act 1996 and the Communications Act 2003.
[12] In accordance with the Broadcasting Act 1990 (as amended).
[13] Except where the service is provided exclusively for the purposes of carrying out the functions of a local authority under Section 142 of the Local Government Act 1972 (as amended) provision by local authorities of information relating to their activities.
[14] According to the Broadcasting Act 1990 (as amended), an "advertising agency" means an individual or body corporate who carries on business as an advertising agent involved in the selection and purchase or advertising time or space for the person who wishes to advertise (section 202 (7) of the 1990 Act).

intention of misleading Ofcom. If a person is convicted in such cases, the court may make an order disqualifying the applicant from holding a licence for a specified period. A disqualification order applies to both the individual concerned and to any company of which he or she is a director or involved in the management of (whether directly or indirectly).

5.46 If the applicant or the form signatory fails without reasonable excuse at the date of signing the declaration in Section 12 of the form to declare any matter of which Ofcom subsequently becomes aware, and which we consider to be relevant to the applicant's eligibility to hold a licence, we will take that into account when determining the question of whether the applicant/licensee remains fit and proper to hold a licence. We expect you to disclose all matters which pertain to the honesty and integrity in regulatory matters of the applicant, its officers and its controllers.

Section 9 of the application form: The proposed service

5.47 Section 9 asks you to describe your programme service and its target audience. If a licence is granted the information you provide in this section will be used to form the basis of an annex to your licence. You will only be authorised to broadcast what is detailed in the annex of the licence. It is therefore important that you provide complete and detailed responses to the questions in this section.

Name of the licensed service

5.48 The applicant chooses the name for their proposed service. It is the responsibility of the applicant to ensure the name can be used.[15] Ofcom considers the proposed name of a service in an application to the extent that it may be relevant to the licensing criteria. This could concern, for example, matters relating to the Ofcom Broadcasting Code, such as the use of explicit language that viewers may find offensive.

5.49 It is the responsibility of the applicant to enter into agreements with the appropriate copyright licensing bodies before commencing broadcasting. The granting of a licence does not constitute a right to use a particular name.

Methods of delivery

5.50 A DTPS/DTAS licence is only valid for delivery on DTT. If your service will be delivered via cable, satellite, internet or other technology, you should apply for a TLCS licence.

Free-to-air, subscription-based, pay-per-view

5.51 A free-to-air service means that a viewer would be able to receive this (with the correct equipment) without any further subscription or payment. Free-to-air also refers to channels and broadcasters providing content for which no subscription is expected, even though they may be delivered to the viewer by another carrier for which a subscription is required.

[15] Ofcom's statutory remit does not extend to intellectual property matters, and it is for you to satisfy yourself that the proposed name of the service will not cause problems, from your own point of view, with (for example) a similar name for an existing service.

5.52 A subscription-based service is encrypted or has another technology in place to prevent a viewer from receiving the service unless the viewer has paid for a regular subscription to receive the service.

5.53 A pay-per-view service is purchased by a viewer on a one-off basis to view a broadcast.

Nature of the service

Description of the licensed service (the Annex to the licence)

5.54 A licence is issued in respect of a specific, named service and authorises the provision of that service only. The licensed service is described in the Annex, which forms part of the licence.

5.55 Applicants should note that psychic and/or 'adult' content including 'adult chat' and 'adult sex chat' (even if only in teleshopping windows) is not permitted unless it is specifically authorised in the Annex of the licence. Therefore, if you are intending to broadcast this type of content, you must state this in the proposed service description in the application form.

Editorial, teleshopping or self-promotional

5.56 There is only one form (respectively) of the DTPS and the DTAS licence. Each licence contains the same conditions which apply to the licensee throughout the licence period. Further information about some of the conditions with which licensees are required to comply is set out in our DTPS/DTAS guidance notes for licensees.

5.57 Ofcom recognises three types of service which can be provided under a DTPS or DTAS licence:

- Editorial;
- Teleshopping; and
- Self-promotional.

5.58 You must state, when applying for a DTPS or DTAS licence, what type of service you intend to provide.

5.59 You are advised to carefully consider the rules in the Code on the Scheduling of Television Advertising ("COSTA"), as the type of service you choose to provide will affect how they apply to you, as well as what fee category applies to you.

5.60 You should note that if you intend to broadcast to an ECTT Party you will also be required to comply with rules required by the ECTT. If you intend to broadcast one feed to both the UK and ECTT Parties, you will be required to comply with the ECTT rules once published.

5.61 An **editorial service** is a "normal" programme service, with conventional programme material and scheduled advertising breaks. The majority of television channels (including electronic programme guides) fall within this category.

5.62 A **teleshopping service** is a service which consists of teleshopping. Teleshopping (also known as home shopping, advertorials, infomercials, etc.) is a particular form of advertising which includes the broadcast of direct offers to the public of the supply of goods or services in return for payment. Spot advertising is permitted on teleshopping services up to the same limits as for editorial services. Teleshopping services may not broadcast material (other than permitted spot advertising) which does not contain direct offers to the public. A

teleshopping service may therefore not contain any conventional programme elements such as news, sport, films, documentaries or drama, etc.

5.63 A **self-promotional service** consists of self-promotional material. This is a particular kind of advertising in which the broadcaster promotes its own products, services or channels. Spot advertising and teleshopping windows for other products and services are permitted on self-promotional services up to the same limits as for editorial services. Self-promotional services may not broadcast material (other than permitted advertising and teleshopping) which does not promote the broadcaster's own goods or services. A self-promotional service may not therefore contain any conventional programme elements such as news, sport, films, documentaries or drama, etc.

5.64 Transactional gambling services[16] will be treated as providing a teleshopping service rather than editorial output and licensed accordingly. The same will apply to 'windows' of transactional gambling within an otherwise editorial service. Licensees should continue to be able to choose what output they wish to provide: specifically, whether they wish to provide a purely editorial gambling-themed service, rather than a teleshopping service, and be licensed accordingly. However, to qualify as editorial, any such services should provide genuine programming and not include transactional gambling in which offers are made, express or implied, to viewers to participate in the services on screen.

5.65 If a service offers transactional gambling; the licence will not authorise the provision of transactional gambling content in the UK outside Great Britain where such content remains prohibited[17].

5.66 Television services providing or promoting adult or psychic programming, including interactive television services using premium rate telephone lines or text messages (for example, adult chat, adult sex chat and psychic programming), are required to be specifically licensed for the purpose. If the proposed service will comprise solely such content (i.e. with no conventional programme elements) then the service will be licensed as teleshopping. If the proposed service will carry such content alongside other conventional programme elements (i.e. in 'windows' within an otherwise editorial service) then the annex of the licence must include a reference to the provision of such programming. If this is not detailed in the Annex of the licence, you will not be authorised to provide this type of programming. Please refer also to the relevant rules in The UK Code of Broadcast Advertising ("the BCAP Code").

Broadcast content

5.67 The applicant must ensure that all content to be included in the proposed licensed service will be able to comply with the relevant codes including, but not limited to:

- the Ofcom Broadcasting Code (incorporating the Cross-promotion Code), which covers standards in programmes, sponsorship, product placement and fairness and privacy;
- COSTA, which sets limits on the amount of advertising that can be transmitted (e.g. no more than 12 minutes per hour) and when advertising can be scheduled; and

[16] Typically, transactional TV gambling output offers roulette, card games and virtual horse and dog racing.
[17] For further information see Ofcom's statement on the regulation of transactional TV gambling channels.

- the BCAP Code, which covers standards for the content of broadcast advertising.

5.68 You should refer to Ofcom's compliance checklist for and radio broadcasters for further details of the codes and rules you should consider.

5.69 You should note that if you intend to broadcast to an ECTT Party you will also be required to comply with rules required by the ECTT. If you intend to broadcast one feed to both the UK and ECTT Parties, you will be required to comply with the ECTT rules once published.

5.70 If the proposed service will be simulcast in more than one territory which is a Party to the European Convention on Transfrontier Television (ECTT) and there will be no differences in the service between those territories other than language dubbing, you will not normally be required to have an additional licence. If there will be differences, such as order of schedule, or local advertising, you will normally require a separate licence. Please refer to our Guidance note on services broadcast into multiple territories.

5.71 However, if the proposed service will be receivable in territories in which the ECTT does not apply, applicants will need to contact the local broadcasting regulatory authority to find out if a separate licence, or notification is needed in that territory.

Section 10 of the application form: Compliance of the service

5.72 Section 10 of the application form asks you to describe the compliance arrangements for the proposed licensed service i.e. the arrangements which the applicant will put in place to ensure the content it proposes to broadcast will comply with the relevant regulatory codes and rules for programming and advertising. These include:

- The Ofcom Broadcasting Code
- The Cross-Promotion Code
- The Code on the Scheduling of Television Advertising
- The Code on Television Access Services
- The BCAP Code: the UK Code of Broadcast Advertising
- The Regulation of Premium Rate Services Order

5.73 You should note that if you intend to broadcast to an ECTT Party you will also be required to comply with rules required by the ECTT. Ofcom will consult on these shortly. If you intend to broadcast one feed to both the UK and ECTT Parties, you will be required to comply with the new ECTT rules once published

5.74 The applicant must have a Compliance Officer.

5.75 The applicant must be able to adopt procedures that are acceptable to Ofcom for ensuring that the proposed licensed service will comply with the requirements of the licence, including complying with any direction issued by Ofcom. Such procedures may include:

- ensuring that there are sufficient staff, and that staff are of sufficient seniority. All staff should fully understand the licence requirements (including compliance with relevant codes and rules) and the programme and advertising standards that apply to the service; and
- making arrangements for the adequate clearance of advertising.

5.76 It is the responsibility of the licensee to ensure that all material broadcast on the service, both live and pre-recorded (and including material sourced from third parties) is compliant with Ofcom's codes and rules.

5.77 Before you apply for a licence it is important that you read our Compliance checklist for TV broadcast content. The checklist is intended to help applicants and new licensees understand the obligations and rules with which they must comply as a condition of their Ofcom licence to broadcast. Prospective licensees must be aware of the potential scope of their regulatory responsibilities so that robust compliance procedures can be planned and financed at an early stage.

5.78 It is a Condition of DTPS and DTAS licences that you have compliance procedures in place, and this section asks that you demonstrate the ability to meet this licence condition.

5.79 Applicants should be aware that licensees must supply details of their compliance procedures to Ofcom, if we request them.

5.80 **Ofcom can impose sanctions on a licensee for serious, deliberate, repeated and/or reckless breaches of the licence conditions (for example, if broadcast content does not comply with the codes and rules). The sanctions available to Ofcom include the imposition of a financial penalty on the licensee, and/or revocation of the licence.**

European productions and sourcing of content

5.81 The Broadcasting (EU Exit) (Amendment) Regulations 2019 amend the Communications Act 2003 to keep the existing obligations of the Audiovisual Media Services Directive in relation to European works and independent productions as "international obligations of the UK", to be implemented by Ofcom via the broadcast licences.

5.82 Similar obligations in relation to European works also exist in the ECTT.

5.83 European productions should account for over 50% of the transmission hours (subject to certain exclusions) and European independent productions must account for at least 10% of transmission hours. Of these, an 'adequate proportion' must be programmes transmitted within five years of production.

5.84 The following are exempt from the requirements for European productions:

d) Services broadcasting programming entirely or substantially in a non-European language;

e) Services which serve a local or regional audience, and do not form part of a national network; or

f) Services which only broadcast news or sports event programming, games, teletext services or teleshopping.

5.85 For further information, please refer to the Ofcom Guidance on European production quotas.

Section 11 of the application form: Checklist of supporting documentation

5.86 You must ensure that you submit your application fee in accordance with paragraphs 4.15 to 4.18 of these guidance notes.

5.87 The application form must be accompanied by the supporting documentation set out in Section 11 of the form.

5.88 Documentation must be in legible form and translated into English where applicable. Failure to supply the necessary documents may result in the application being rejected.

5.89 Ofcom cannot receive emails larger than 35MB. If your application email exceeds this limit please send your supporting documents in a separate email(s) clearly state the applicant's name in the subject line of the email along with "DTPS" or "DTAS".

5.90 Please tick the relevant boxes below to confirm that you are providing each of the relevant documents with your application.

Section 12 of the application form: Declaration

5.91 The application form must be submitted by the applicant named in response to question 4.2 of the form. **An agent may not sign the form.**

5.92 The person authorised to make the declaration on behalf of the applicant must print their name and must be one of the following:

a) A director of the company or the company secretary where the applicant is a company.
b) A designated member where the applicant is a Limited Liability Partnership.
c) A partner, where the applicant is a partnership.
d) A member of the organisation's governing body where the applicant is an unincorporated body or association.
e) The individual who will be the licensee where the applicant is an individual.

5.93 The declaration must also be dated.

6. Frequently asked questions

How much does a licence cost?

The current application fee is £2,500 per application. This payment is non-refundable. Once a licence has been issued, you will be required to pay an annual licence fee. The fees for editorial services are based on a percentage of 'Relevant Turnover', which in the television sector relates to any turnover that is derived from advertising/sponsorship, subscriptions and interactive activities; the minimum fee is currently £1,000 for the charging year. Self-promotional channels are charged the minimum fee. For teleshopping services, there is a fixed annual fee. The current fixed fee for the charging year has been set at £2,000.

How long does the licensing process take?

As a guideline, we aim to issue a licence within 25 working days, and significantly longer for applications to provide EPG services. However, this cannot be guaranteed.

I already have a licence – is there a fast-track application process?

No, there is no fast-track application process. Ofcom licensees must follow the same process as all other applicants.

Do I need a compliance officer?

Yes, Ofcom must be satisfied that the applicant will have appropriate procedures in place for ensuring that the proposed licensed service will comply with the requirements of the licence.

Can I provide a service without a DTPS/DTAS licence?

If your service meets the definition of a Digital Television Programme Service or Digital Television Additional Service as set out in Section 2 of this guidance above, and falls under UK jurisdiction you must have a DTPS/DTAS licence to broadcast.

If your service does not meet the definition of a DTPS/DTAS you must check whether it meets the definition of the other licence types set out in paragraph 2.6. **It is a criminal offence to provide a licensable service without the appropriate licence.**

You may also wish to read the DTPS/DTAS guidance notes for licensees which provides information about the licensing requirements and the conditions that licensees are subject to.