



Licensing Local Television

How Ofcom will exercise its new powers and duties to license new local television services

Statement

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Section 1

Executive Summary

Background

- 1.1 Three Orders have been passed by Parliament, which give Ofcom the necessary powers and duties to license a new generation of local television services.
- 1.2 Ofcom has consulted on how it would exercise these new powers and duties to create a licensing framework for local television. We set out our proposals before the Orders were passed so as not to delay the timetable for launching new local TV services. Our consultation *Licensing Local Television* was published on 19 December 2011 and closed on 19 March 2012.
- 1.3 This Statement concludes that consultation and sets out how we will advertise and award licences for, and regulate, the local television multiplex and local TV channels ('local digital television programme services' or 'L-DTPS').
- 1.4 Ofcom received 72 consultation responses, which are addressed in this Statement. As well as responses on our consultation questions, we also sought expressions of interest in the licences we were proposing to advertise. We received 87 distinct expressions of interest in local digital television programme service licences;¹ and 3 expressions of interest in the local multiplex licence.
- 1.5 The L-DTPS licence is only for a service carried on this local multiplex, i.e. on digital terrestrial television (DTT). L-DTPS licensees may wish to distribute their services on satellite and/or on cable and/or online, subject to commercial negotiations. A separate Television Licensable Content Service (TLCS) licence would be required for any such simulcasts.
- 1.6 Alongside this Statement, we have published the formal *Invitation to Apply for a Local Multiplex Licence* and *Invitation to Apply for an L-DTPS Licence* for the first 21 locations.

Structure of the licensing process

- 1.7 The local multiplex licence and the L-DTPS licences will be interdependent, with the multiplex required to make capacity available in the relevant location for the local digital television programme service, and an L-DTPS licensee required to make its service available to the local multiplex.
- 1.8 We are advertising a single local multiplex licence which will carry all local services with a minimum coverage specification at 21 locations. It is for applicants for this licence to propose what additional locations they will cover, above the minimum 21.
- 1.9 Simultaneously we are advertising separate L-DTPS licences for each of the 21 locations in the minimum coverage specification.
- 1.10 Both the local multiplex licence and the L-DTPS licences will be advertised for a period of 13 weeks, with the closing date for applications on 13 August 2012. Ofcom

¹ Counting each expression in any specific licence.

will publish applications (minus confidential sections) shortly after the deadlines, and award licences as soon as practicable.

- 1.11 Any further locations proposed by the successful local multiplex licensee will then form a second phase of local service licensing.

Locations that the local multiplex licence will cover

- 1.12 We set out analysis suggesting that a minimum roll-out of 20 locations will be viable for the local multiplex provider in most scenarios. We did not receive any consultation responses suggesting this would not be possible.
- 1.13 We are adding Sheffield to the list of minimum locations. As the largest UK city not on our minimum list, it is very likely that any local multiplex licence applicant would propose it in their additional coverage, and we consider that its addition will not significantly alter the viability of the multiplex. By making it part of the minimum requirement, we can offer certainty to potential L-DTPS bidders.
- 1.14 So we are requiring that any local multiplex licence applicant must cover the 20 locations we proposed, plus Sheffield. There was at least one expression of interest in the L-DTPS licence for each of these locations.
- 1.15 We are now advertising L-DTPS licences for: Belfast, Birmingham, Brighton & Hove, Bristol, Cardiff, Edinburgh, Glasgow, Grimsby, Leeds, Liverpool, London, Manchester, Newcastle, Norwich, Nottingham, Oxford, Plymouth, Preston, Sheffield, Southampton and Swansea.
- 1.16 We are inviting applicants for the multiplex licence to propose additional locations to cover, over and above the first 21: the number of additional locations proposed will form one criterion for the award of the local multiplex licence. In our planning work we identified 44 other possible locations for local television, based on where it is technically feasible to provide a local TV service.
- 1.17 In response to our consultation we received expressions of interest from potential L-DTPS licence applicants for 28 of those 44 locations plus a further two locations that were not included on the original list.
- 1.18 For us to advertise an L-DTPS licence, it is necessary that coverage of the location by the local multiplex is technically possible, and that there is a potential L-DTPS licence applicant. Therefore, in proposing their additional coverage, applicants for the multiplex licence may select from:
- 1.18.1 the following 28 locations where Ofcom received an expression of interest from at least one potential L-DTPS licence applicant and where it is technically feasible to provide a service: Ayr, Basingstoke, Bedford, Derry/Londonderry, Guildford, Kidderminster, Limavady, Luton, Maidstone, Malvern, Stoke on Trent, York, Aberdeen, Bromsgrove, Carlisle, Dundee, Inverness, Middlesbrough, Reading, Scarborough, Stratford upon Avon, Tonbridge, Bangor, Barnstaple, Cambridge, Hereford, Mold and Salisbury;
- 1.18.2 the following 16 locations where we have determined technical feasibility, if the local multiplex licence applicant can demonstrate that there is a potential L-DTPS licence applicant: Burnley, Carmarthen, Dover, Elgin, Falkirk, Gloucester, Greenock, Haverfordwest, Haywards Heath, Hemel

Hempstead, Keighley, Lancaster, Poole, Reigate, Shrewsbury and Telford;
and

- 1.18.3 any other location where the local multiplex licence applicant can demonstrate technical feasibility and also demonstrate that there is a potential L-DTPS licence applicant. We have had expressions of interest in Leicester and Solihull but it would be for applicants to demonstrate interest elsewhere.
- 1.19 Any additional locations proposed by the successful local multiplex licence applicant, above the required 21, will become a binding coverage commitment in their licence, and we will advertise L-DTPS licences for them shortly after the first phase of licensing is complete.

Additional conditions and requirements for the local multiplex licence

- 1.20 We are requiring applicants to propose a timely build-out of the minimum 21 locations, with additional sites to be covered as soon as these are complete.
- 1.21 The local multiplex licence will be for 12 years, although wider spectrum developments that affect the whole DTT platform mean that we will reserve the right to vary or terminate the licence with no less than five years' notice. This is similar to other DTT licences and we would consult fully on any proposed changes.
- 1.22 The local multiplex must reserve capacity for the licensed local service at each site. It may additionally make any commercial use it likes of the additional capacity, which is sufficient to carry two other standard definition video streams. Any other services broadcast using this capacity would need to be licensed under the normal Broadcasting Act regime.
- 1.23 The local multiplex licensee will be required to co-operate with the individual service licensees, and with a body consisting of all local service licensees.
- 1.24 The local multiplex licensee cannot charge the L-DTPS licensee a carriage cost that exceeds the net operating cost to the local multiplex licensee of providing that facility. The legislation gives Ofcom a role in determining the sum to be charged by the local multiplex licensee in the event of a dispute regarding this cost. We have set out a broad approach to determining this sum, based on cost orientation. This is set out in more detail at 3.148.
- 1.25 Reference Offers for the provision of network access and managed transmission services published by Arqiva give an indication of likely transmission costs to any local multiplex licence applicant, although no applicant is required to use Arqiva for either type of service.
- 1.26 Any applicant for the local multiplex licence that relies on the available funding from the BBC Trust must demonstrate that they have satisfied any criteria that are necessary to secure this. Following award, the licence will not actually be granted until a grant agreement has been signed.
- 1.27 We have said that we plan to impose spectrum fees based on our administered incentive pricing (AIP) principles for television multiplex licences from the end of 2014 onwards; we would consider the effect of this on local TV and examine policy or regulatory changes that may be appropriate to address or mitigate any effects.

Local multiplex licensing process

- 1.28 We will assess applicants' proposals against the statutory criteria and Ofcom's general duties. These include the extent to which award of the licence would promote the development of local digital television; the extent of coverage proposed by the applicant, and the timetable for coverage build-out; the ability of the applicant to establish the proposed service and maintain it for the duration of the licence; and proposals by the applicant for promoting local digital television programme services. The assessment and licensing process is set out in more detail in the *Invitation to Apply for a Local Multiplex Licence*.²

L-DTPS licence conditions and requirements

- 1.29 Local services will have specific content obligations, alongside general obligations that apply to all television broadcasters.
- 1.30 In usual circumstances the studio from which the service will be broadcast, and/or the main production base of the service, should be located within the licensed area.
- 1.31 L-DTPS licence applicants will need to describe their programming output and how it will satisfy the statutory criteria. They will summarise their local output in Programming Commitments, drafted as part of the licence application process. These will be written into the L-DTPS licence of the successful applicant and licensees will be held to these commitments.
- 1.32 Local services will be required to carry Party Political Broadcasts, and Ofcom will be consulting on its guidance on this obligation with a view to publishing a new set of guidance that includes guidance for local licensees, by the time any local services are broadcasting.
- 1.33 More broadly, we expect local TV services to engage with the local democratic process. The licence application form invites applicants specifically to consider what programming they propose in order to facilitate civic understanding and fair and well-informed debate through coverage of local news and current affairs.
- 1.34 L-DTPS licensees will have to comply with Ofcom's Broadcasting Code,³ Ofcom's Code on the Scheduling of Advertising, and the UK Code of Broadcast Advertising. They will need to comply with Ofcom's Code on Television Access Services setting out the requirements on subtitling, sign language and audio description (although we anticipate that most may be exempt from these requirements due to their audience share).
- 1.35 L-DTPS licensees will be specifically prohibited from broadcasting pornographic material and longer advertisements for a chat service made available for purchase by means of a premium rate service.
- 1.36 Any L-DTPSs not receivable outside the UK will be exempt from the advertising minutage restrictions set out in the AVMS directive (but not from advertising scheduling rules).
- 1.37 The Government has signalled its intention to lay new legislation to remove the requirement for local services to commission 10% of their output from independent

² <http://licensing.ofcom.org.uk/tv-broadcast-licences/local/>

³ Which includes the Fairness Code referred to in the L-DTPS licence.

production companies. This is an obligation on all broadcasters, and if not removed by a change in the law, will apply.

- 1.38 The L-DTPS licensee will need to make the service available to the local multiplex licensee at all times, at an interface point and in a specified technical format.
- 1.39 All Phase 1 services must be broadcasting within two years of award, unless coverage is not built-out at their location. In the period after licence award a launch date within this two year period will be agreed. We hope some services can begin broadcasting earlier.
- 1.40 Licences will be granted for a period such that they are coterminous with the local multiplex licence, because of their mutual interdependence. So the first 21 L-DTPS licences will be for up to 12 years, depending upon their exact launch date in relation to the local multiplex licence term. Any L-DTPS licence subsequently advertised will be granted for a shorter period.
- 1.41 L-DTPS licensees will be required to keep full recordings of their output for 60 days, and to complete a short annual return so that Ofcom can meet its statutory obligations to report on this emerging sector.
- 1.42 L-DTPS licensees must co-operate with each other, and with the local multiplex licensee, to facilitate the provision of local TV, and to participate in the formation of a legal entity which is intended to facilitate that provision. They are required to seek to measure the number of viewers of the service in co-operation with the legal entity, and to encourage that entity to apply or negotiate for a local multiplex licence, should one be advertised or become available.

L-DTPS licensing process

- 1.43 Ofcom will first establish that any applicant is eligible to hold a licence, then we will distinguish between applicants on the basis of how they compare to each other on the statutory criteria.
- 1.44 Applicants will need to present their programming proposition and also their business plan so that we can assess their ability to maintain the proposed service. We ask for a clear business plan and strategy for the duration of the licence, including financial information – budgets and funding – for set-up and the first three years of operation.
- 1.45 We invite applicants to set out aspects of their proposed local programming and scheduling as part of their application, including how much local programming will be in ‘peak time’, and how much broadcast material may be produced by a different organisation.
- 1.46 We are not setting quantitative requirements but we consider news to be the most important type of local television content. Applicants should propose a reasonable provision of news and current affairs, bearing in mind the public subsidy and public purposes of local TV.
- 1.47 As a guide, we will be unlikely to consider less than seven hours in total of broadcast news per week to be too burdensome for even the smallest L-DTPS licensee. This refers to duration of broadcast output, and we are open to proposals on how it may be scheduled, so long as a substantial proportion is during peak time. We will judge proposals in the context of the scale of operation, and resources available. We have

taken on board comments on our news guidance, and sought to clarify it: we intend to be flexible but nonetheless to prioritise journalism-led news.

- 1.48 We ask applicants to propose a specific launch date. The proposed build-out schedule, when the local multiplex licence is awarded, will be compared with proposed L-DTPS launch dates and, as far as possible, these will be aligned following discussion between the parties.

Related processes

- 1.49 In relation to the positioning of L-DTPSs on the DTT Electronic Programme Guide (EPG), DMOL – the organisation responsible for the management and allocation of channel numbers on DTT – has set out proposals for consultation.⁴ The consultation closes on 24 May 2012.
- 1.50 Following responses we received which asked for greater clarity about the EPG position of any L-DTPS service that wishes to simulcast on satellite or cable, Ofcom has written to Sky, Virgin and Freesat asking for confirmation of the likely positioning on these platforms. We will publish the replies we receive on our website⁵ before L-DTPS applications close so that potential licensees can take this into account in their business plans.
- 1.51 The BBC has set out its proposed requirements and processes for both the local television multiplex funding⁶ and the purchase of content⁷ from L-DTPS licensees.

⁴ <http://www.dmol.co.uk/DMOL%20LCN%20Consultation%2029%20March%202012.pdf>

⁵ <http://stakeholders.ofcom.org.uk/consultations/local-tv/>

⁶ http://www.bbc.co.uk/bbctrust/our_work/other/local_tv_contribution.shtml

⁷ <http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/localtv.html>

Section 2

Licensing local television

Ofcom's new powers and duties

- 2.1 Three Orders, which give Ofcom the necessary powers and duties to license a new generation of local television services, were laid before Parliament on 15 December 2011.
- 2.2 The *Local Digital Television Programme Services Order* ('s.244 Order'), the *Wireless Telegraphy Act 2006 (Directions to Ofcom) Order* ('s.5 Order') and the *Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order* ('s.310 Order') were passed by Parliament and have been signed into law. Ofcom's new powers and duties came into force on 14 February 2012 (s.244 and s.5 Orders) and 31 January 2012 (s.310 Order).
- 2.3 Respectively, these Orders:
- 2.3.1 create a legislative framework for licensing a new class of local television services (s.244 Order);⁸
 - 2.3.2 direct Ofcom to reserve spectrum for these services (s.5 Order);⁹ and
 - 2.3.3 establish the status of these services in relation to Electronic Programme Guides (EPGs) (s.310 Order).¹⁰
- 2.4 The first two of these Orders relate only to the licensing of services on DTT. Any broadcaster wishing to provide a local television service on another platform, whether satellite, cable or internet, will need a standard Television Licensable Content Service (TLCS) licence, for which they can apply to Ofcom at any time. These platforms are not covered by the licensing regime set out in this document, although we recognise that some broadcasters who are successful in being awarded local television DTT (L-DTPS) licences may also wish to broadcast on other platforms.

Our consultation

- 2.5 Ofcom has consulted on how it would exercise its proposed new powers and duties to create a licensing framework for local television. We published our consultation before the Orders were passed so as not to delay the timetable for launching new local TV services. Our consultation *Licensing Local Television* was published on 19 December 2011 and closed on 19 March 2012.
- 2.6 During the consultation period we also published three documents in draft, alongside the consultation:

⁸ For s.244 Order (now UK statutory instrument no. 292) see <http://www.legislation.gov.uk/ukSI/2012/292/contents/made>

⁹ For s.5 Order (now UK statutory instrument no.293) see <http://www.legislation.gov.uk/ukSI/2012/293/contents/made>

¹⁰ For s.310 Order (now UK statutory instrument no. 3003) see <http://www.legislation.gov.uk/ukSI/2011/3003/contents/made>

- 2.6.1 the *Local Digital Television Programme Service (L-DTPS) Licence Application Form*;
- 2.6.2 the *Invitation to Apply for a Local Multiplex Licence*; and
- 2.6.3 the *Note for Applicants on Coverage of Local Television* (the 'Coverage Note').

These accompanying documents did not contain any policy proposals so were not formally being consulted on, but were published to inform stakeholders during the consultation period and give an advance view of the licensing process. We were happy to take comments on them alongside the consultation questions.

- 2.7 Ofcom received 72 consultation responses from stakeholders. As well as responses on our consultation questions, we also sought expressions of interest in the licences we were proposing to advertise. We received
 - 2.7.1 87 distinct expressions of interest in L-DTPS licences;¹¹ and
 - 2.7.2 3 expressions of interest in the local multiplex licence.
- 2.8 This Statement sets out Ofcom's final position on local TV licensing and concludes the consultation.
- 2.9 Alongside this Statement, we have published the formal *Invitation to Apply for a Local Multiplex Licence* and *Invitation to Apply for an L-DTPS Licence* for the first 21 locations. We have also published the *Local Digital Television Programme Service (L-DTPS) Licence Application Form*, the *Note for Applicants on Coverage of Local Television* and draft licences for both the local multiplex and the L-DTPSs.

Structure of the licensing process

- 2.10 We were consulting on our broad approach to local TV licensing as well as on a series of specific questions. Here we set out our final position on the structure of the licensing process that we outlined in Section 3 of our consultation.
- 2.11 We proposed a phased approach based on an assumption that we should license local television services as soon as possible. Thus, we proposed that in a first phase of licensing we would:
 - 2.11.1 advertise a single multiplex licence with a minimum coverage requirement in terms of locations;
 - 2.11.2 simultaneously advertise L-DTPS licences for the locations in the minimum list;
 - 2.11.3 ask applicants for the local multiplex licence to propose which locations they will serve in addition to this minimum list, and award the multiplex licence partly on a basis of how many additional locations would be covered.

¹¹ Counting each expression in any specific licence.

- 2.12 Then, when the first phase of licensing was complete, we proposed that there would be a second phase of licensing in which we would advertise licences for the further L-DTPS locations proposed by the successful local multiplex licence applicant.
- 2.13 We also proposed an approach to re-advertisement of any L-DTPS licences where either we could not make an award, or we awarded a licence but the licensee could not go on to launch the service.
- 2.14 The proposals we made for a minimum coverage requirement in the local multiplex licence, and what that should be, are addressed in the following two sections on the local multiplex licence.
- 2.15 The remainder of this section addresses six matters on which we received feedback from stakeholders, although we did not ask specific consultation questions on them. These are:
- 2.15.1 the simultaneous advertisement of L-DTPS and local multiplex licences;
 - 2.15.2 the timetable generally;
 - 2.15.3 the use of any multiplex capacity not reserved for the L-DTPS service;
 - 2.15.4 planning for a Scottish Digital Network;
 - 2.15.5 the award of a single local multiplex licence;
 - 2.15.6 our approach to re-advertisement of L-DTPS licences; and
 - 2.15.7 the choice of platform for Local TV.
- 2.16 Section 7 sets out the next steps after licence advertisement, including the processes for award, grant and commencement of the L-DTPS and local multiplex licences.

Simultaneous advertisement of L-DTPS and local multiplex licences

- 2.17 We proposed that the first stage of local television licensing should comprise the advertisement of the local multiplex licence, plus L-DTPS licences for the locations set out in the minimum coverage requirement for the multiplex, and that these should be advertised simultaneously and then awarded concurrently. We noted that concurrent processes would enable licensed services to prepare to launch whilst transmitters are being built-out and would be the fastest way of getting the new local services on air.
- 2.18 This followed from the Government's position that local services should be given the opportunity to launch as soon as possible; we also inferred that there was support for this from potential licensees, given the responses to the DCMS consultation on Pioneer Locations and the public events hosted by the Secretary of State.
- 2.19 Since we published our consultation, the BBC has published high level principles for disbursing its funding for the local services' content and the local multiplex.¹² Both documents have emphasised that the BBC funding will only be available within the present charter period, i.e. up to the end of March 2017.

¹² See http://www.bbc.co.uk/bbctrust/our_work/other/local_tv_contribution.shtml and <http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/localtv.html>.

- 2.20 Additionally, we have said that the L-DTPS licences and the local multiplex licence must be coterminous. Therefore a concurrent award will enable L-DTPSs to be licensed for the maximum possible duration.
- 2.21 Some stakeholders, mostly potential applicants for L-DTPS licences, commented on the simultaneous advertisement of the local multiplex and L-DTPS licences. A small number of potential applicants suggested that it would be better to advertise the multiplex licence after awarding the first L-DTPS licences. Two potential applicants argued the opposite, that the multiplex should be advertised first. A couple of respondents commented that the simultaneous advertisement was undesirable but did not propose an alternative order.
- 2.22 We recognise that the simultaneous advertisement of the first tranche of L-DTPS licences and the local multiplex licence results in challenges for potential operators who wish to have commercial discussions about the potential relationship between L-DTPS licensees and the local multiplex licensee, were they to win the licence.
- 2.23 We further recognise that the simultaneous advertisement makes it difficult for any potential operators who would only be interested in applying for one type of licence if they are successful in applying for the other type.
- 2.24 However, a sequential licensing process for the local multiplex licence and the L-DTPS licences would add perhaps six months, or more, to the timetable for service launch. This is because a 12 week period of licence advertisement would be necessary, in addition to the time needed for Ofcom to assess and award the licence(s). This could add perhaps a couple of months to the timetable if the local multiplex licence was awarded first, and a longer period if the L-DTPS licences were advertised and awarded first. If the delay from an extended licensing period resulted in the local multiplex licensee's schedule for building the new transmission network being delayed into the winter season, during which it is difficult to do the necessary outdoor work, this could further extend the timetable for service launch.
- 2.25 The BBC funding for both the transmission network and the content procured from local services must be claimed by the end of March 2017, and because of this we consider there is a risk that either some local service operators or the local multiplex licensee could lose out on some of the available funding if we were to propose a longer process for licence advertisement and award.
- 2.26 Therefore we are proceeding to advertise the local multiplex and L-DTPS licences simultaneously, and they will be assessed and awarded concurrently.

Our proposed timetable

- 2.27 A related matter is our proposed timetable more generally. We proposed advertising and awarding licences as soon as possible, for the reasons set out above.
- 2.28 Given the publication date of this Statement, the simultaneous advertisement of local multiplex and Phase 1 L-DTPS licences will enable licence applications to be assessed from August onwards, with awards following as soon as practicable afterwards. L-DTPS licences for any Phase 2 locations would be advertised shortly after that.
- 2.29 Some stakeholders made observations on the proposed timescales for licence advertisement and award. On one hand potential L-DTPS licence applicants voiced frustration with the duration of the process and, on the other hand, Creative Scotland

called for a longer time period during which further interest might emerge, in particular around a dedicated Scottish multiplex.

- 2.30 One respondent called for the period for the preparation of multiplex licence applications to be lengthened from 12 weeks to five months. Taking into account both the need to allow applicants a reasonable timeframe in which to prepare thorough applications, and the wider timescales over which we aim to progress the launch of local TV services, we do not propose to extend the length of the application period beyond the additional two weeks for L-DTPS licences, outlined above.
- 2.31 Ofcom has outlined in this Statement how we will discharge our new statutory duties to license local television, and we have no discretion to balance the delivery of this against other broadcasting policy considerations. We have taken into account the Government's desire, and potential licensees' desire, to launch services quickly and that has driven our proposed timetable.
- 2.32 Section 7 of this Statement sets out the next steps and timings for licence advertisement and award.

Use of additional multiplex capacity (the 'two other video streams')

- 2.33 We said in our consultation that the local multiplex will have the technical capacity to carry three standard definition TV services at each location; only one will be required by the L-DTPS licensee. Ofcom's duties are limited to ensuring that capacity sufficient for carrying one standard definition video stream is reserved for the local service; there are no provisions in the Orders about the precise use of the additional capacity.
- 2.34 We speculated that the most likely source of commercial revenue for the local multiplex licensee would be joining up these two video streams across all the locations it covers, in order to create two quasi-national channels.
- 2.35 However there are other possibilities: in particular, the local multiplex licensee might sell this capacity to an operator at a single location, who might offer a locally-targeted service that would compete with the L-DTPS for audience.
- 2.36 Any service using the additional capacity would need to be licensed by Ofcom (this would be a standard DTPS licence), unless it was licensed in another Member State.¹³
- 2.37 A small number of potential local service operators commented on the use of the additional multiplex capacity:
- 2.37.1 one respondent sought more clarity about the use of the capacity and the subsidy to the local services;
- 2.37.2 another thought that the capacity should be used to carry an HD version of the L-DTPS service;

¹³ European Directive 89/552/EEC (the "Television Without Frontiers Directive"), as amended by European Directive 97/36/EC and European Directive 2007/65/EC (the "Audio Visual Media Services Directive"), provides for freedom of retransmission and reception for television services within the European Economic Area. A service which is licensed (or otherwise appropriately authorised) in one Member State does not need separate licensing in any other Member State. Dual licensing is not permitted.

- 2.37.3 some argued that the additional capacity should be used for public purposes, such as additional local channels; and
- 2.37.4 others argued that there should be a prohibition on the additional capacity being used for local competitors to the L-DTPS service.
- 2.38 Some potential local multiplex licence applicants also made points in relation to the possibility of monetising the additional local multiplex capacity, but as these relate to the multiplex viability – and conditions that we are proposing for the licence given our understanding of its viability – these are addressed below.
- 2.39 The legislative framework now in place makes no provisions for any multiplex capacity not utilised by the L-DTPS service. Furthermore, the policy set out by Government is that this capacity should be used commercially by the local multiplex licensee to cross-subsidise the local services (both by requiring them to be carried at cost and by enabling a greater number of locations to be covered).
- 2.40 The framework is also clear on what Ofcom’s criteria can be for awarding the local multiplex licence. It does not allow us to take into account uses of the additional capacity, other than the extent to which those uses make the multiplex business sustainable.¹⁴
- 2.41 In addition, any local service that secured capacity on commercial terms to use one of the additional video streams at a given location, and was licensed by Ofcom as an ‘ordinary’ DTPS service, would be disadvantaged relative to the L-DTPS service:
- 2.41.1 it would pay a commercial rate for transmission;
- 2.41.2 it would not have the right to appropriate EPG prominence accorded to the L-DTPS service;
- 2.41.3 it would not have access to the BBC content funding; and
- 2.41.4 it would not have any of the other associated benefits, such as required membership of a mutual entity and thus collaboration on audience research.
- 2.42 We note that the BBC Trust is proposing restrictions on the types of channels that can be carried on the spare capacity as one of its conditions in the provision of funding for the local multiplex.¹⁵ This is a matter for the BBC Trust.

Planning for a Scottish Digital Network

- 2.43 In our consultation we noted that the Scottish Government has proposed the creation of a Scottish Digital Network (SDN) to deliver new DTT services throughout Scotland, possibly with local opt-outs. We noted that, at local TV sites in Scotland, the local multiplex licensee might negotiate with local parties and one or both of the additional video streams – appropriately licensed – could form the basis of such a wider network.

¹⁴ The BBC Trust has indicated that it will make its funding for the local television network conditional upon the local multiplex operator not leasing capacity to certain types of services; however, this is not a matter for Ofcom.

¹⁵ http://www.bbc.co.uk/bbctrust/our_work/other/local_tv_contribution.shtml

- 2.44 We received a number of responses from potential L-DTPS licensees, and from other stakeholders in Scotland including the Scottish Government, that discussed broadcasting issues specific to Scotland.
- 2.45 The Orders made by the UK Government and approved by the UK Parliament, reserving interleaved spectrum for local TV and giving Ofcom licensing powers, provide a specific framework within which we must work. We were not consulting on any alternative proposals for Scotland, which would rightly be the subject of a detailed consideration in their own consultation. This statement is not the proper place for that discussion.
- 2.46 However, it may be helpful here to note that providing a new DTT channel or network to serve Scotland does not necessarily require additional spectrum. Carriage on an existing DTT multiplex would avoid the need for the service provider to duplicate transmission infrastructure. As we said in our Consultation, one possibility is that a Scottish Digital Network might occupy one of the additional video streams on the local multiplex, and be broadcast in the locations where the local multiplex is established.
- 2.47 Reserving spectrum for a new network to be built that is more ambitious in terms of its capacity or coverage than the UK Government's existing local television plans (for example, licensing a new multiplex for Scotland, separate from the local television multiplex) would be a matter for the UK and Scottish Governments to agree. We would not take this step without a direction from the Secretary of State. Aside from implementing the UK Government's plan for local TV under such a direction, we will continue with our stated approach of releasing spectrum through market-based mechanisms that are neutral in terms of the service and technology that use it.
- 2.48 If the two Governments agree to require a new, separate DTT network to be established for Scotland, our view is that there could be sufficient interleaved spectrum available to provide an additional multiplex from the main transmitters there. It is difficult to be more precise without greater knowledge of the requirements of the network, such as coverage or allowances for regional opt-outs.

Award of a single multiplex licence

- 2.49 Following the Government policy that there should be a single multiplex provider for local TV but independent, separately licensed local services, we proposed advertising a single multiplex licence for the local television network and a separate 'content' (L-DTPS) licence for each location. We also said that the local multiplex licence and all L-DTPS licences must be coterminous because of their mutual dependency.
- 2.50 We intend to grant the L-DTPS licences as soon as practicable after they have been awarded, but each licence will not come into force until the local digital television programme service commences broadcasting. This maximises its operating duration (rather than having the licence duration include a period when the service is not broadcasting). Because of the mutual dependency of the multiplex and local licences, while the local multiplex licence can be for the maximum 12 years that the statute allows (as we outline below), any L-DTPS licences awarded will have the same end date as the local multiplex licence and may therefore be for a shorter duration than the maximum 12 years. The longer after the local multiplex licence is granted that the L-DTPS is granted, the shorter the L-DTPS licence will be.

- 2.51 Some respondents queried whether it might be possible (and consistent with the same policy) for Ofcom to award multiple local multiplex licences simultaneously to a single applicant, so that each location has a separate multiplex licence and L-DTPS licence; the rationale being that, at each location, the two licences could be coterminous and for the maximum possible duration of 12 years.
- 2.52 We do not consider this is possible within the policy framework, and it would be highly unusual, given that the statutory framework for broadcasting licences has always conferred the rights and obligations of a broadcasting licence to a specific entity via a single licence.
- 2.53 The s.244 Order requires Ofcom to award any local television multiplex licence – as it does the L-DTPS licences – by ‘beauty contest’, independently, with reference to given criteria. We are required to apply the statutory criteria for awarding a local television multiplex licence in each case of an individual licence advertised and awarded. Bundling multiple licences together and awarding them all to a single entity applying for them simultaneously would not allow us to apply the award criteria to the bundle of licences, i.e., in a contingent fashion across different licence awards.
- 2.54 It would therefore make it very difficult for us to incentivise coverage build-out in terms of numbers of locations, which is a central feature of our proposed approach to the beauty contest award of the local multiplex licence. This is because the statute only allows us to consider the proposed coverage plan of each applicant, and not the total number of licences that an entity, applying simultaneously for multiple licences, wishes to hold (i.e., the total coverage commitment of the applicant, in terms of numbers of locations). This is a central feature of the Government’s local television policy and of our proposed approach. So, for example, in awarding a local television multiplex licence for Manchester, we could not take into account whether or not the applicant proposed building out coverage to Maidstone; we could only consider their technical plan in relation to their proposed coverage for Manchester.
- 2.55 Also, with the single local multiplex licence we are proposing to award, it is open to Ofcom and the licensee to vary the coverage commitment, adding new locations to the licence, if, for example, there was new local demand for an L-DTPS service and the local multiplex licensee was willing to build out to that new location. Under the ‘multiple licences’ scenario, Ofcom would have to advertise a new multiplex licence for that location, with no guarantee that it would be awarded to the entity operating the local television network.
- 2.56 Finally – although this is not a policy consideration – this scenario would require greater resourcing by Ofcom and it is likely that the greater cost of licensing would need to be reflected in licence fees.¹⁶
- 2.57 For all these reasons, our approach remains to advertise and award a single multiplex licence in the first phase of licensing.

Re-advertisement of licences

- 2.58 We highlighted scenarios in which we advertised an L-DTPS licence for a location but this did not result in the successful launch of a service. This might be:

¹⁶ If the funding contractual arrangements are linked to multiplex licences, as seems likely, there may be a parallel resource implication for the BBC Trust in disbursing funding, and the Trust has said that the administrative cost of this would be deducted from the £25m available.

- 2.58.1 if there were no applicants for the licence;
 - 2.58.2 if applicants did not meet the minimum statutory criteria that would enable a licence to be awarded; or
 - 2.58.3 if a licensed entity proved unable to deliver on its licence obligations (e.g. if it ceases trading), after licence award.
- 2.59 We said that Ofcom’s presumption would be that L-DTPS licences would be re-advertised wherever we think that we will be able to make an award. If there was evidence that it was an aspect of our proposed approach that led to the failure of a successful launch occurring, we would seek to review our approach if we thought that could increase the chances of success following re-advertisement.
- 2.60 Two stakeholders commented on different aspects of licence re-advertisement. One individual argued that in the event of an L-DTPS operator wishing to transfer the licence, Ofcom should re-advertise it rather than allow a transfer. Another suggested that locations in a second phase of licensing should be substituted for a location for which we were unable to award a licence.
- 2.61 On the question of licence transfers, there is an existing statutory provision for transfer of a broadcasting licence, which has the effect that licences are transferable with Ofcom’s consent. Ofcom has no power to make a special exception in the case of L-DTPS licences. It would be preferable for a licence – with its content obligations continuing – to be transferred (subject to Ofcom’s consent) than for it to be revoked, with a resulting break in provision of service and uncertainty around whether a new licence could be awarded.
- 2.62 If we were unable to award a licence for a location that the local multiplex licensee had committed to building out to, in the first instance we would consider substitution of that location for another of similar size where we thought a licence could be awarded. This is discussed in the local multiplex section below.
- 2.63 One other stakeholder, a potential L-DTPS licence applicant, raised a similar question in relation to the multiplex licence: what would we do if we could not award it in the first round of licensing? Our approach would be the same as for L-DTPS licences: to re-advertise if we thought we could make an award, and to consider whether we could make any policy changes that would make it more likely for there to be a successful applicant.

Choice of platform for local TV

- 2.64 In its response the satellite operator Astra, questioned whether Ofcom was complying with its statutory duty to promote competition and suggested that Ofcom’s consultation displayed a clear policy of favouritism towards the terrestrial platform. Astra stated its view that there is a place on satellite for local TV services and raised concerns that the proposed BBC funding is only destined to benefit terrestrial platform operators and may breach EU State Aid rules.
- 2.65 Ofcom’s general approach is to pursue a policy of technological neutrality with no delivery platform favoured above another. As part of the development of the Government’s policy for local TV, Ofcom provided advice to the Government and its advisors that looked at the possibilities for delivering local services through a variety

of platforms. In particular, we published a report¹⁷ in 2010 that concluded that each of the platforms offered opportunities for local TV as well as challenges. Some of the Government's policy objectives for local TV are that it should be easily available, free-to-air and financially sustainable with low ongoing costs. Once these criteria are applied, the option of terrestrial delivery via geographic interleaved spectrum shows clear advantages over other approaches.

- 2.66 Ofcom's proposals for how it plans to implement the process of licensing local TV services are based on the framework put in place by the three Orders of Parliament described earlier in this Section. Specifically the Orders direct Ofcom to reserve spectrum with a view to licensing a terrestrial television multiplex and provide for a licensing regime which is specific to digital terrestrial television. There is, however, nothing preventing the local services licensed through this process from seeking carriage on other platforms, including satellite or cable and they would benefit from eligibility for appropriate EPG prominence on those platforms too.
- 2.67 The arrangement by which the BBC is expected to provide funding to help establish local TV services was agreed solely between the Government and BBC. It is envisaged that Ofcom will play no role in the distribution of the funds to licensees other than to provide advice to the BBC on matters relating to the local multiplex licensee's licence commitments as necessary. The BBC has set out in its funding arrangements document that the proposed funding arrangements for local TV are subject to State Aid clearance by the European Commission.¹⁸ The final arrangement under which funding would be made available will depend upon the European Commission agreeing that the aid can go ahead and on any further conditions that the Commission may see fit to impose.

Related processes and projects

- 2.68 Our consultation document made reference to a number of related processes and projects that are relevant to the licensing of local TV services, but were outside the scope of the consultation, either because they are distinct, wider, policy projects within Ofcom, or because they involve other authorities.
- 2.69 Respondents commented on these and on other related matters. In particular, on
- 2.69.1 the BBC funding for local television;
 - 2.69.2 the Ofcom rules on Party Political Broadcasts;
 - 2.69.3 the Government's consultation on independent producers and local TV;
 - 2.69.4 the DMOL statement/consultation on the EPG Code; and
 - 2.69.5 the rights of existing RTSL holders to provide a service until their licences expire.
- 2.70 We will briefly summarise the responses here and reiterate the processes through which these views can be addressed.

¹⁷ Technical options for local television services in the UK:

<http://stakeholders.ofcom.org.uk/broadcasting/tv/technical-delivery-options/>

¹⁸ http://www.bbc.co.uk/bbctrust/our_work/other/local_tv_contribution.shtml

BBC funding

- 2.71 A number of respondents made comments on the BBC funding for local television, either on the funding available for the transmission network, or the funding for purchasing content from local stations. Ofcom has no role in deciding the terms of either type of funding, and we have alerted the BBC Trust and DCMS to the comments made.

Rules on Party Political Broadcasts

- 2.72 The new statutory framework requires that L-DTPS services must carry party political broadcasts ('PPBs'). Ofcom publishes broadcasting rules for elections and referenda including licensees' obligations in relation to party election broadcasts and party political broadcasts. These rules will inform L-DTPS licensees of what their exact obligations are.
- 2.73 We said in our consultation that Ofcom proposes to review the arrangements for party political and party election broadcasts, in time for a new set of rules to be in place by the time the first L-DTPSs start broadcasting.
- 2.74 Two individuals commented on the requirement for L-DTPS services to carry PPBs, both opposed to it. However, there were no comments from potential licence applicants.
- 2.75 During 2012, Ofcom will be consulting on revisions to the rules on Party Political and Referendum Broadcasts. As part of this consultation, we will lay out proposals for how the obligations placed on L-DTPS licensees to carry party political broadcasts should be delivered. We envisage that any such proposals will be proportionate and commensurate to the overall content obligations applied to the local television sector.
- 2.76 For L-DTPS licence applications, we are not looking for applicants' business plans to factor in any costs relating specifically to this obligation to carry PPBs.

Consultation on Independent Producers and local TV

- 2.77 The Government has consulted on two questions in relation to independent producers and local TV:
- 2.77.1 whether independent producers can hold a local TV licence and still count as independent producers for the purpose of production quotas; and
- 2.77.2 whether the 10% independent production quota for local TV broadcasters should be removed.
- 2.78 The consultation has closed and Government has signalled its intention to proceed with an Order to effect both these policy changes. Until such an Order is passed by Parliament, Ofcom will act within the statutory framework as it currently stands. We note the Government's ambition is to have made the necessary changes to the statute ahead of our formal licensing process ending so that independent producers may choose to participate in the process for an L-DTPS licence, and potentially be awarded a licence, without forfeiting their independent status.
- 2.79 We received a small number of responses which commented on these questions and we have alerted DCMS to these.

EPG prominence

- 2.80 In our consultation we explained that DMOL – DTT Multiplex Operators Limited – would be running a consultation on its code, which would include proposals for achieving the EPG prominence of L-DTPS services.
- 2.81 We received a consultation response from DMOL setting out its proposals for channel numbers for local TV, which it has since published its consultation on. DMOL is inviting responses from all local TV stakeholders.
- 2.82 Some potential L-DTPS licence applicants raised issues relating to DMOL’s proposals in their responses to our consultation. We have alerted DMOL to these.
- 2.83 As part of the Orders in Parliament to provide the statutory framework for a new class of local television services, local digital television programme services and simulcast local services (‘local TV services’) will be designated as public service channels under section 310 of the Communications Act 2003. EPG providers are required to afford public service channels appropriate prominence and to incorporate their approach to do so in their published EPG listings policies.
- 2.84 In their consultation responses, several prospective L-DTPS licence applicants asked Ofcom for greater certainty about their likely EPG position. In particular, some prospective applicants from Scotland said they do not consider the current position of DMOL, which allocates DTT positions, is sufficient. Some prospective applicants for the London licence wanted greater certainty about their position on cable and satellite platforms.
- 2.85 While the licence applications are for DTT service licences, we understand some applicants may or may not choose to make or include plans for distribution on other platforms, both for linear channels and associated on-demand content. EPG providers do not typically allocate EPG positions before the launch and content proposition of a service is confirmed and carriage terms are in place. However we understand that prospective applicants are keen for clarity on their potential allocation to inform their applications and business plans.
- 2.86 Ofcom has therefore written to the main EPG providers asking for clarity on their proposed policy for listing of local TV services that, when licensed, will be subject to section 310.
- 2.87 We have received initial responses from the following EPG providers setting out their proposals, which we summarise below.
- 2.88 BSkyB (‘Sky’) operates the Sky satellite TV platform. To facilitate the provision of local TV services on its platform, Sky’s response states that local TV channels will need to be regionalised before obtaining a listing in the Sky EPG. Thereafter, Sky intends that a local TV channel in each relevant Sky "region" will be allocated the first available channel number in the relevant genre (which Sky assumes, for at least some of the launched local TV services, will be the Entertainment genre). Sky has reserved channel numbers 117 (for UK regions other than Wales) and 134 (for Wales) for this purpose as well as three additional channel numbers at the end of the Entertainment genre in the event of a second, third and fourth local TV channel launch in any given region. Sky also intends to make changes to its Sky+ HD EPG to make local TV services accessible from the ‘yellow button’ on the front page. The yellow button will launch a ‘quick-link’ menu containing links to the available local TV

channels and On Demand content within Sky's Anytime+ service. The Sky+ HD EPG is available in excess of six million Sky households.

- 2.89 Virgin Media operates the UK's main cable TV platform. Virgin Media's response states that Virgin Media has had tentative discussions with a number of potential local TV operators. On the basis of these discussions Virgin Media considers it would be preferable to deliver a combined linear, Video on Demand (VOD) and text service as an application via internet protocol on its TiVo platform. The TiVo platform is available in approximately 677,000 Virgin Media households. The application would be reserved a position on the first page of the TiVo applications page. Virgin Media's understanding to date has been that local TV services could be classified as news which would allow for the TiVo application also to be accessed via a link from the EPG within the news section in a currently unallocated slot close to the BBC News channel. Virgin Media will continue its discussions with interested parties and will keep the position under review as such discussions progress.
- 2.90 Freesat operates the Freesat satellite TV platform. Freesat's response states it is not presently in active discussions with local TV services, and its response is therefore on a hypothetical basis. Freesat would allocate linear local TV services an appropriate position on the EPG subject to availability in a suitable genre and to Freesat's EPG Listing Policy. Freesat anticipates local TV services would be subject to a single listing and one logical channel number (LCN), with different local TV services regionalised to the level of the existing TV regional structure: more granular regions would incur considerable expense for local TV services. Freesat consider that Video On Demand or IPTV could offer a more cost effective and flexible approach to delivery of local TV services.
- 2.91 DMOL manages channel listing used by Freeview and other DTT brands. DMOL's response states that the likely intended allocation of channel positions for local public service television channels is logical channel number (LCN) 8 in England and Northern Ireland and LCN 45 in Scotland and Wales - being the lowest vacated LCN in these areas. The positions are being held vacant for the launch of local TV services. Should a lower LCN subsequently become vacant in Scotland or Wales, DMOL would hold the lower LCN vacant for the new local channels, and any lower LCN that subsequently becomes available would be offered first to the next public service channel below it.
- 2.92 Ofcom notes that DMOL is currently consulting on its general DTT channel listings policy, and has outlined its proposed policy in its response above. DMOL have invited responses to the consultation from stakeholders, and contingent on these will then confirm the position for local TV services.
- 2.93 The full responses are published alongside this statement on our website.¹⁹
- 2.94 Applicants should base their plans on the assumption that their services will be listed on the basis of the published positions by the relevant EPG providers.
- 2.95 Ofcom will consider the intention of the responses and where necessary seek further clarification from EPG providers. In doing so we will continue to assess whether the emerging proposals of each EPG provider is consistent with both the letter and spirit of the current legislation. As we obtain further information from EPG providers we will make this available to applicants. We will consider what steps are available to Ofcom should any of the responses fall short of the letter and spirit of current legislation.

¹⁹ <http://stakeholders.ofcom.org.uk/consultations/local-tv/>

Subject to this will continue to engage with EPG providers to ensure that they provide certainty and prominence for local TV services. Although Ofcom expects that news provision will be an important part of the local services' content, it is not the primary purpose of these channels. Therefore Ofcom does not expect that they will be listed within the 'news' genre in the EPG. Ofcom reserves its right to carry out a full review of the existing Code to determine whether it is still fit for purpose.

- 2.96 We also received two responses, from a potential L-DTPS licence applicant and another interested party, which raised a number of wider issues relating to DMOL. These issues are outside the scope of this consultation.

Existing RSLs

- 2.97 Another issue raised was that of the ability of existing licensees holding a Restricted Television Service Licence (RTSL) to be able to launch their services in digital form and to continue those services until the end of their full term.
- 2.98 Restricted Television Service Licences (RTSLs) authorise licence holders to broadcast terrestrial television to a specific location using interleaved spectrum (frequencies which are unused by existing regional and national TV networks). The licences were originally awarded for a two or four year term under the Broadcasting Act 1996, but have since been extended up to the relevant date of Digital Switchover (DSO) in each region.
- 2.99 While RTSLs were originally licensed to be broadcast in analogue form, Ofcom has offered existing Licensees the possibility, subject to technical feasibility, to migrate to digital (DVB-T) transmission in advance of DSO. Subject to technical feasibility, Ofcom may also offer RTSLs which are licensed to transmit digitally a final licence term extension permitting their continued operation until the end of 2013. Most of the 12 RTSL holders have applied to Ofcom and received the necessary licence variation to allow them to launch services in digital form, although none has as yet done so. There is a provision in each RTSL licence that they can be revoked if they have not begun to broadcast in digital form by October 2012.
- 2.100 We expect that the new local multiplex could commence broadcasting within a year of licence award, which would mean services commencing from the latter part of 2013. Although there is no licensing reason preventing the local multiplex and RTSL services operating at the same time, there are a few locations where there is a risk of interference occurring between these services:
- 2.100.1 Southampton local service and Fawley/Portsmouth/Southampton RTSL (channel 29);
 - 2.100.2 London local service and Oxford RTSL (channel 29); and
 - 2.100.3 Oxford and Bristol local services and Reading RTSL (channel 51).
- 2.101 Whether a conflict will actually arise in those locations will depend upon a number of factors such as the final technical plans (and frequencies) agreed with the successful local multiplex licensee, the timetable for launch of the local multiplex and whether the RTSL in the locations above have actually launched a service.
- 2.102 Ofcom's consent for the extension of the RTSLs until the end of 2013 was granted, however, subject to the continued availability of frequencies. One of the conditions of the extension of the RTSL licences is that they can be terminated should the

frequencies be required for other uses. We would expect to work with the affected parties and the local multiplex licensee to seek to minimise the impact on any operational RTSLs.

Section 3

Local multiplex licence: conditions and requirements

- 3.1 This section sets out Ofcom's final position on the conditions and requirements that will be placed on the party that is awarded the local multiplex licence. These include obligations relating to the coverage that the multiplex must deliver, as well as conditions on the licence term, costs of delivering the multiplex and technical standards that must be adopted.
- 3.2 The *Invitation to Apply for a Local Multiplex Licence* provides additional information on these conditions and requirements. The purpose of this section is to set out the rationale for our approach in light of the responses that we have received to our consultation questions.

Multiplex coverage

- 3.3 In our consultation we proposed a minimum roll-out of 20 locations. We have increased this number to 21 locations to include Sheffield. This is discussed in more detail below.

Minimum roll-out requirement: number of locations

- 3.4 In relation to the number of different locations across the UK where local TV services should be provided, we proposed that there should be a required minimum roll-out of local TV locations.
- 3.5 We based our proposal on a further assessment of the 65 locations that were first identified in our 2011 technical report.²⁰ That report provided information on the locations across the UK where it may be technically possible for local TV services to be broadcast and the indicative coverage that might be achieved, based on a number of assumptions. Our further assessment considered these results, along with the findings of an independent study commissioned by Ofcom to look at the potential financial viability of the local multiplex licensee.²¹
- 3.6 By varying a number of assumptions to give a range of different operating scenarios, our modelling indicated that with the external funding earmarked to be provided by the BBC, a minimum of 20 locations would be financially viable in a range of scenarios. In our view, due to the complexity of the modelling and the number of assumptions made, 20 locations represents an appropriately conservative approach while giving a potential local multiplex licensee a range of business models under which it can choose to operate.
- 3.7 There was broad agreement among respondents to the consultation – including potential L-DTPS and multiplex licence applicants, as well as other groups and individuals – that 20 locations should be set as a minimum roll-out obligation.

²⁰ Indicative locations for local television multiplexes:

<http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf>

²¹ FTI Study: <http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Annex6.pdf>

- 3.8 A small number of responses from both potential L-DTPS and local multiplex licence applicants expressed the view that there should be no minimum number of sites. This was argued on the basis that build-out should only take place in locations where the service is economically viable and sustainable, while forcing the inclusion of less attractive locations to fill a set quota could damage the growth and credibility of the local TV sector.
- 3.9 Conversely, a small number of potential L-DTPS licence applicants responded that a minimum of 20 locations would be overly conservative. These respondents argued that an increased number of sites would give greater credibility to the launch of the sector and suggested that the list of 20 sites should be expanded if sufficiently strong and genuine expressions of interest are received.
- 3.10 Our proposal for a minimum roll-out to 20 sites was based on evidence suggesting that this was likely to fall within the range of greatest economic viability for the first phase of local TV deployment. On this basis, we do not believe that there is a likelihood of fewer than 20 economic sites being identified (and therefore of the local multiplex licensee being forced to build out in uneconomic locations to reach the minimum number).
- 3.11 Equally, based on our analysis, and given the uncertainty around some of the assumptions, we do not believe that there is a strong rationale for a significantly greater number of sites as a minimum requirement. In any case, we are sufficiently confident of competition between applicants for the multiplex licence that we believe there is likely to be an offer made above the minimum 20.
- 3.12 In the absence of clear evidence that a requirement of 20 sites does not represent a viable minimum requirement, we are minded not to change substantively our proposals on the minimum number of locations.

Minimum roll-out requirement: selection of Phase 1 locations

- 3.13 We proposed that the local multiplex licensee should be subject to an obligation to establish its local multiplex service at a minimum of 20 locations: Belfast, Birmingham, Brighton & Hove, Bristol, Cardiff, Edinburgh, Glasgow, Grimsby, Leeds, Liverpool, London, Manchester, Newcastle, Norwich, Nottingham, Oxford, Plymouth, Preston, Southampton and Swansea.
- 3.14 In selecting these locations we considered a number of factors. Firstly, the necessity that there should be interest in the provision of local TV services in each named location. In this respect we considered the responses to the DCMS consultation: taking an indication of interest from these responses provided a list of 45 locations from the 65 where local TV is technically possible and there was local interest.
- 3.15 On the basis of the financial modelling described above, we considered that population coverage would be an important factor in maximising the opportunity for success of the local multiplex licensee's business model. As more populous locations will allow local TV services to be available to a more people, the potential advertising revenue is enhanced in those locations. It also means that local TV services are available to a larger total number of people. Using the DPSA (digital preferred service area) measure of coverage, the 45 most populous locations were further filtered to identify households that are likely to be able to receive the services from a particular transmitter without having to make changes to their aerials.

- 3.16 Our proposal also took account of local support from general stakeholders (other than prospective licensees) with an interest in local TV services on the basis that where there was local engagement, the chance of a successful launch was greater. We also considered the need to provide a spread of locations across the whole UK, given the public purposes of local TV.
- 3.17 Finally, we considered that due to the range of business models that it is anticipated that local TV services might adopt, it would be desirable that the first 20 locations should include a range of sizes of community. This was in recognition of the value and diversity of the sector of local services operating at different levels of scale, as well as the value of testing a range of different business models in the first phase of licensing.
- 3.18 We received a range of views on the choice of locations with respondents generally supportive of the locations chosen. We have received at least one expression of interest from potential L-DTPS licensees in each of the Phase 1 locations initially proposed, with more than one party indicating interest in a local licence in 16 of the 20 locations.
- 3.19 Several respondents said that only local services in locations where there is a large population would stand a chance of being viable. We received feedback on the technical arrangements we proposed in the *Coverage Note*, and suggestions on how those might limit the potential reach and viability of a local service in some locations, such as Sheffield and London.
- 3.20 A small number of respondents suggested that a greater emphasis should be placed upon developing local TV services in rural areas that have traditionally been underserved by broadcast services. They argued that larger towns and cities are often already catered for by existing media, and that introducing local TV services into those areas would result in an increase in competition for advertising revenue and a negative impact on existing operators.
- 3.21 Not all respondents agreed with our assumption that existing transmitter sites should be used, and some suggested that using a larger number of lower powered transmitters, or use of alternative sites, would enable coverage to be better targeted at specific areas. Further, this approach would enable the number of households served to be increased in some areas to the point where a local service might become viable.
- 3.22 Having considered the responses, it appears that there is broad (although not universal) support for our approach to targeting populous locations to maximise the likelihood that local TV services will be viable. We have received expressions of interest from at least one potential operator in all of the Phase 1 locations and in most cases there have been several expressions of interest in locations. We therefore have a degree of confidence that there are likely to be applicants in all of the 20 locations.
- 3.23 Our selection of 20 specific sites took into account the coverage at each site that our earlier report had predicted. During the consultation period, feedback was provided to Ofcom regarding the deployment of local TV in Sheffield, suggesting that there was significant local interest.
- 3.24 Sheffield was the largest city in the UK not in our proposed minimum coverage requirement because there are specific challenges with DTT coverage for this location as the surrounding terrain is hilly. Existing broadcasters have therefore had

to build several relay transmitters to provide TV services in otherwise un-served areas each of which requires clear transmission frequencies to operate. Some stakeholders had suggested that coverage in Sheffield could be improved through the use of an additional transmitter at Emley Moor, although our initial exploration of this suggests that there is not a spare channel available. We will continue to explore this with Arqiva.

- 3.25 We consider that applications for the local multiplex licence are likely to include Sheffield given its high ranking in terms of population, and do not expect its inclusion in the minimum to reduce the viability of the local multiplex in any way. We also consider that there are arguments based on demand for local TV services in Sheffield (and the overall availability of local TV services to consumers) that are persuasive in terms of including Sheffield in the list of minimum sites. We have therefore decided to increase the minimum roll-out obligation to 21 locations to take account of the specific inclusion of Sheffield. As we have not been able to improve the predicted coverage, the previous coverage that we predicted for Sheffield will be the minimum coverage requirement for the local multiplex licensee at this location.
- 3.26 There have been a number of responses from potential L-DTPS licence applicants which have raised concerns about the extent of the indicative London coverage, especially over the lack of coverage south of the Crystal Palace transmitter. This is represented in the *Coverage Note* as the 'baseline' arrangement for London. It has since been possible to increase the number of households in the Digital Preferred Service Area ('DPSA') from 3 million to 4.1 million. This has been achieved by proposing to position the antenna higher on the mast, and using a maximum power of 20kW. While all of the coverage information we have published is indicative, the enhanced arrangement represents a significant increase in coverage for London. This enhanced coverage is also included in the *Coverage Note*.
- 3.27 In the consultation we made a specific reference to the possibility of combining the Falkirk and Edinburgh coverage areas. We noted that, in the process of determining the minimum list of sites, Falkirk was removed on the basis that most of the population that would be served by local TV from the Falkirk transmitter lives in Edinburgh, for which there is already another transmitter. However, we suggested that there might be merit in combining the Falkirk transmitter into the Edinburgh area for local TV, which would increase the coverage area but also the cost. We received no responses expressing views on this suggestion directly (though one respondent cited a precedent for an arrangement of this type), so we have not developed this proposal further. We are not excluding the possibility that local multiplex licence applicants could give consideration to this approach in their applications.
- 3.28 The choice of transmission arrangements and the coverage achieved by the local services will be for the local multiplex licence applicants to propose. Ofcom will make the proposals from the successful applicant a binding licence commitment. The *Coverage Note* published alongside the *Invitation to Apply for a Local Multiplex Licence* sets out the indicative minimum coverage that we would expect the local multiplex licensee to achieve in each location. Applicants for the local multiplex licence can propose alternative arrangements that make use of alternative transmission sites or network arrangements, subject to satisfying Ofcom that these alternative arrangements will not result in an increase in interference to reception of other television services. Through using alternative transmitter sites, it may be possible for applicants to propose additional locations such as Leicester, which it is not possible to serve from the main broadcast sites.

3.29 We address detailed comments on the choice of specific locations and matters relating to coverage in the Phase 1 locations in Annex 1.

3.30 Taking the above into account, we confirm the 21 locations in Phase 1. The confirmed list is set out in Table 1 and on the map in Figure 1.

Figure 1: Confirmed Phase 1 locations

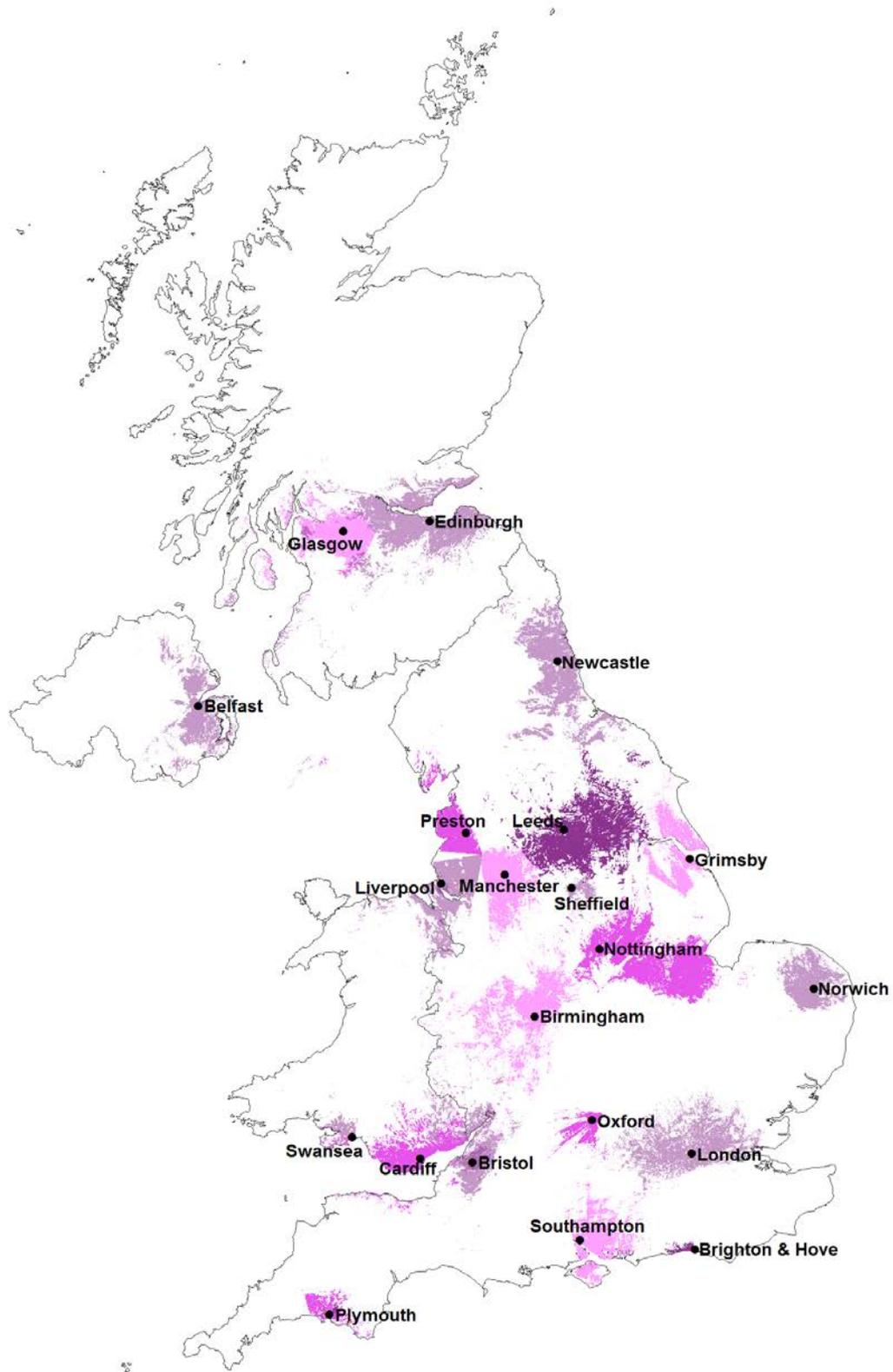


Table 1: Confirmed Phase 1 locations

Belfast	Manchester
Birmingham	Newcastle
Brighton & Hove	Norwich
Bristol	Nottingham
Cardiff	Oxford
Edinburgh	Plymouth
Glasgow	Preston
Grimsby	Sheffield
Leeds	Southampton
Liverpool	Swansea
London	

Further roll-out: approach to Phase 2

- 3.31 Our proposals for consultation addressed the issue of how sites should be selected for the second phase of local service licensing, beyond the initial 21 locations listed above. We outlined an approach whereby local multiplex licence applicants would be invited to select from a list of further locations on top of the minimum, and that this list would be drawn up by Ofcom on the basis of evidence of interest from local service operators.
- 3.32 Across the breadth of consultation responses which addressed this point, stakeholders were divided as to whether or not they were in favour of this approach. Of those respondents who expressed reservations, several potential L-DTPS licensees raised concerns that local multiplex licence applicants should not be solely responsible for selecting second phase locations. It was suggested that Ofcom should play a greater role in the selection of locations to ensure local demand and geographical balance is taken into account.
- 3.33 One potential L-DTPS licence applicant suggested that Ofcom should allow local multiplex licence applicants greater flexibility with regard to infrastructure build-out by not restricting applicants to a list of second phase locations at this stage.
- 3.34 With regard to respondents' concerns about the selection of sites by local multiplex licence applicants, Ofcom has taken into account expressions of interest in providing local TV, demand for services and the geographical spread of locations when compiling the list of possible second phase locations. We did not receive any substantive proposals for an alternative approach to the selection of second phase locations in these responses. We therefore continue to believe that Ofcom should not be further involved in selecting second phase locations, beyond suggesting a list of sites as we have done in this statement.

- 3.35 In response to the question of whether Ofcom is unduly restricting local multiplex licence applicants, we have no objections to local multiplex licence applicants proposing coverage in locations not on the list of second phase sites, provided these are supported with evidence of technical feasibility and interest from a potential L-DTPS licensee. Our aim has been to enable the selection of second phase locations to take place within a framework of technical feasibility, local demand and economic viability. Consolidating build-out around a list of the most promising locations will, we believe, assist rather than hinder potential local multiplex licensees' network planning. We further note that no concerns were expressed about this approach by potential local multiplex licence applicants who responded to the consultation.

Build-out and substitution of further locations

- 3.36 The consultation presented proposals on how the successful local multiplex licence applicant will provide local TV in locations beyond the initial 21. It was proposed that local multiplex licence applicants will include in their technical plans a commitment to build out to a number of further locations (in addition to the 21), which they will be held to in the event that they succeed in being awarded the local multiplex licence. These additional locations will be advertised in a second round of L-DTPS licensing.
- 3.37 We noted that, because of the statutory criteria for the award of L-DTPS licences, Ofcom will be unable to guarantee the award of L-DTPS licences in particular locations. In the event that a local multiplex licence applicant proposes to build out to a location where subsequently no L-DTPS licence is awarded, we proposed that Ofcom will recommend substituting the nearest equivalent-sized location that Ofcom can make available in its place. The local multiplex licence applicant will, in effect, be held to the number of additional locations they proposed to serve, though not the specific locations themselves.
- 3.38 There was agreement across a broad range of respondents to the consultation that this proposal represented a logical, practical and flexible approach. On the basis of this feedback, we have not altered the proposals that were presented in the consultation.
- 3.39 Queries were raised by a potential L-DTPS licence and a potential local multiplex licence applicant about the criteria Ofcom would use to choose substitute locations. It was queried, for example, whether Ofcom will take into account the cost of infrastructure and ease of build-out to the substitute location, or consider how well an area is already served by regional news providers.
- 3.40 When selecting substitute locations, in addition to looking for similarly-sized locations, we would expect to take into account the need to ensure a geographical spread of locations across the UK, as well as the likelihood of L-DTPS licence applications in the location in question.
- 3.41 One potential L-DTPS licence applicant queried Ofcom's ability to compel (through the threat or use of sanctions) the local multiplex licensee to build out to all of the locations specified in its technical plans, if, for example, it became less economically attractive to do so.
- 3.42 In the event that a local multiplex licensee fails to build out to a set of locations agreed and set out in the multiplex licence, Ofcom would retain the power to sanction the licensee on the basis that a breach of licence has taken place. Ofcom would, after giving the licensee the opportunity to make representations about the matter, retain the power to impose a financial penalty of up to £250,000 or five percent of the

multiplex revenue. Ofcom would also retain the ability to revoke the licence as a matter of last resort.

- 3.43 We consider that these sanctions are likely to be sufficient to ensure that the local multiplex licensee meets its licence obligations with regard to roll-out of services. We also expect that putting in place a set of robust, transparent sanctions will increase certainty with regard to speed and extent of build-out, thereby enhancing broader confidence in the local TV sector.

Further roll-out: choice of Phase 2 locations

- 3.44 In our planning work, as set out above, we identified 65 possible locations for local television, based on where it is technically possible to provide a local TV service from the existing broadcast transmitters. 21 of those locations comprise the minimum roll-out for the successful local multiplex licensee.
- 3.45 The remaining 44 locations are potential locations for further local television stations. It is for the local multiplex licence applicant to select these locations for inclusion in their application for the licence. These locations will then be written into the licence as a firm commitment and Ofcom will proceed to advertise L-DTPS licences for those locations as soon as we have finished the first phase of licence awards.
- 3.46 Some of the 44 locations may have greater levels of interest from potential local television operators than others. Based on responses to the DCMS consultation, we identified 23 locations where there was initial interest from potential L-DTPS licensees (N.B., this was originally 24 but Sheffield has now been moved into Phase 1). They are: Aberdeen, Ayr, Bangor, Barnstable, Basingstoke, Bedford, Cambridge, Carlisle, Derry/Londonderry, Dundee, Guildford, Hereford, Inverness, Kidderminster, Limavady, Luton, Maidstone, Malvern, Mold, Salisbury, Stoke on Trent, Stratford upon Avon and York. Our proposal was that any local multiplex licence applicant should select from this list of locations when proposing additional coverage, over and above the minimum list of 21 sites. In our consultation we also sought views on whether this list should be amended. This recognised that there would be potential L-DTPS licensees who would wish to operate an L-DTPS but may not have responded to the earlier DCMS consultation.
- 3.47 Responses to this question mainly supported the presence of a particular location in the Phase 2 list; some requested that additional locations be included or made suggestions as to how coverage might be amended from that proposed in our draft *Coverage Note*.
- 3.48 One respondent suggested that there should be a clear and transparent process for finalising the locations included within Phase 2, and a system of appeals.
- 3.49 Through our process of consultation and stakeholder events, we have attempted to raise awareness of our proposals for local TV. Through seeking expressions of interest from potential L-DTPS licensees, we have been seeking to determine those locations where there is the greatest chance that local TV services might become established.
- 3.50 In some of the locations on the list of 23, we received no expressions of interest from potential operators – these were Bangor, Barnstaple, Cambridge, Carlisle, Hereford, Mold, and Salisbury.

- 3.51 We have however received some interest from stakeholders in additional locations which were in the list of 44 locations, but for which DCMS did not register any expression of interest from potential applicants. These stakeholders asked for the following locations to be included – Bromsgrove, Middlesbrough, Reading, Scarborough and Tonbridge.
- 3.52 In addition, stakeholders suggested an additional two locations, not included in the list of 44: Solihull and Leicester. Our assessment is that it is not possible to provide a service to these two locations using our current planning assumptions (such as use of existing TV transmission sites). Local multiplex licence applicants may propose to build out to locations not on the list of 44, such as Leicester or Solihull, but if they do so they must support this with evidence of technical feasibility and interest from a potential L-DTPS licensee in those locations. Proposals for alternative locations must include evidence that there is a viable transmitter site that is in line with viewers' aerials and that the transmission parameters proposed would not cause interference to existing DTT licensees or localised 'hole punching' interference to nearby households.
- 3.53 Viewers in Solihull will mostly be receiving their television services from the Sutton Coldfield transmitter which we envisage carrying the L-DTPS service for Birmingham (which will also serve parts of Solihull). A separate transmitter location would be required to provide a service for Solihull. Ofcom does not have information on viable alternative transmitter locations and we are therefore not able to produce a design for that location.
- 3.54 For Leicester, we are aware that the existing RTSL operator has identified a location for a transmitter close to the city. Technical plans have been developed that predict coverage of around 160,000 households in Leicester. However, Ofcom has no further details of this site other than outline proposals received from the RTSL holder and we have no information regarding security of tenure of the location. As for Solihull we are therefore not able to produce a sound technical proposal for Leicester without these details.
- 3.55 We would however welcome proposals from a local multiplex licence applicant to cover either of these locations.
- 3.56 A number of responses asked why none of the locations is in the south of Scotland or the wider Borders area. They suggested that Ofcom should include locations in these areas in our list of potential locations where local TV might be provided.
- 3.57 The south of Scotland presents some significant challenges for terrestrial television. The population is fairly spread out and the terrain dictates that a large number of smaller relay transmitters are needed to supplement the coverage of the two main transmitters, Caldbeck and Selkirk, which serve viewers in the area.
- 3.58 Our *Coverage Note* does include indicative coverage for a local TV service from the Caldbeck transmitter. Caldbeck also serves parts of Cumbria and we have named the location after Carlisle in line with the convention of identifying the principal settlement in the coverage area. The local service from Caldbeck does also serve much of the western part of the Borders area including parts of Dumfries and Galloway so the proposed technical arrangement would reach many households in Scotland as well as Cumbria and could therefore support a local service targeting both sides of the border. We would consider applications from potential local multiplex operators that propose separate local services for Carlisle and the western Borders, supported by credible evidence of demand from potential L-DTPS

licensees. It should be possible to identify a separate frequency that would enable the areas to be targeted separately. It is however worth noting that the local service would not reach some of the settlements that are served by relay transmitters such as parts of Dumfries and Langholm, unless those relays too are upgraded.

- 3.59 A local service broadcast from the Selkirk transmitter would only reach around 20,000 households which in terms of population would make it the smallest area on our list. A further complication is that approximately 50% of the viewers in the area receive their TV signals from relay transmitters, including many in Galashiels, Hawick and Jedburgh which are the major centres of population. Viewers in these places would not be able to receive the local TV service unless the relay transmitters are also upgraded to carry it, which would increase transmission costs. In view of these challenging factors, we decided not to include Selkirk in the list of locations. We would however consider applications to serve the South of Scotland or wider Borders area from a potential local multiplex operator if supported by credible evidence of demand from a potential L-DTPS licensee.
- 3.60 We address further detailed comments on the choice of specific locations and matters relating to coverage in the Phase 2 locations in Annex 1.
- 3.61 Additionally, as we set out in our draft *Invitation to Apply*, we will accept alternative coverage proposals from a local multiplex licence applicant (or requests to extend coverage subsequent to a licence award), where the local multiplex applicant/operator supplies evidence that there is a likely applicant for an L-DTPS licence in another location.
- 3.62 In summary, we are inviting applicants for the local multiplex licence to propose additional locations to cover, over and above the first 21. Applicants may select from:
- 3.62.1 the 28 locations where there is a potential local applicant and where it is technically feasible to provide a service (Ayr to Salisbury in Table 2);
- 3.62.2 the 16 locations where we have determined technical feasibility, if they can demonstrate that there is a potential local applicant (Burnley to Telford in Table 2);
- 3.62.3 any other location where they can demonstrate technical feasibility and that there is a potential local applicant. We have had expressions of interest in Leicester and Solihull but it would be for applicants to demonstrate interest elsewhere.
- 3.63 The list is summarised in Table 2 below.

Table 2: Phase 2 locations

Locations	Expression of interest to Ofcom	Response to DCMS consultation
<i>The 44 locations planned for but not in phase 1</i>		
Ayr	✓	✓
Basingstoke	✓	✓
Bedford	✓	✓

Derry/Londonderry	✓	✓
Guildford	✓	✓
Kidderminster	✓	✓
Limavady	✓	✓
Luton	✓	✓
Maidstone	✓	✓
Malvern	✓	✓
Stoke on Trent	✓	✓
York	✓	✓
Aberdeen	✓	
Bromsgrove	✓	
Carlisle	✓	
Dundee	✓	
Inverness	✓	
Middlesbrough	✓	
Reading	✓	
Scarborough	✓	
Stratford upon Avon	✓	
Tonbridge	✓	
Bangor		✓
Barnstaple		✓
Cambridge		✓
Hereford		✓
Mold		✓
Salisbury		✓
Burnley		
Carmarthen		

Dover		
Elgin		
Falkirk		
Gloucester		
Greenock		
Haverfordwest		
Haywards Heath		
Hemel Hempstead		
Keighley		
Lancaster		
Poole		
Reigate		
Shrewsbury		
Telford		
<i>Additional locations not currently planned for but where there were expressions of interest</i>		
Leicester	✓	
Solihull	✓	

Extension to coverage

- 3.64 We stated in our consultation that, post licence award, we would consider requests from both the L-DTPS licensees and the local multiplex licensee to extend coverage beyond that set out in the local multiplex licensee's Technical Plan. This may be for the purpose of increasing the coverage of the service in existing locations, or alternatively where the local multiplex licensee wishes to target additional locations.
- 3.65 Consideration of such requests will need to take account of other spectrum users and whether the increase in coverage represents a natural extension of an existing location, as opposed to an overspill into an adjacent location.
- 3.66 Stakeholder responses to these proposals, from across both potential local multiplex licensees and potential L-DTPS licensees, generally agreed with our approach.
- 3.67 One respondent commented that Ofcom should validate the proposals to extend coverage with a view to ensuring that coverage was not extended too far resulting in a detrimental effect on localness. Another respondent commented that the wishes of

the L-DTPS licensees to extend coverage should take precedence over the local multiplex licensee, although this was not qualified. A further respondent suggested that Ofcom should only permit coverage to be altered with the consent and approval of the L-DTPS licensee concerned.

- 3.68 These points were addressed in our consultation. We confirmed that Ofcom would consider requests for extension of coverage from both the local multiplex licensee and the L-DTPS licensee. Factors that will be taken into consideration will include the impact of extended coverage on other spectrum users and whether the proposed extension is appropriate, or whether the provision of local TV in the proposed location would better suit a separate licence award. We would also take due regard of the views of the L-DTPS licensee in relation to any change in carriage costs arising from the coverage change.
- 3.69 In relation to the comment that requests of the L-DTPS operators for coverage extension should take precedence, we have already stated that there will be a general licence condition placed on both the local multiplex licensee and the L-DTPS licensee to co-operate with each other. It seems to us that to give precedence to the L-DTPS licensee in this regard would go against the principle of mutual co-operation. In any event, providing it is technically possible, L-DTPS licensees will be able to extend coverage at any location provided they are prepared to bear the costs of the build-out.
- 3.70 In a related matter, another respondent raised concerns that, in the event of the L-DTPS licensee financing the extension of the service, they would only have the use of one video stream. The respondent also raised concerns about the local multiplex licensee extending services where there is no L-DTPS licensee and that, in the event that Ofcom has to make an adjudication on costs, the regulatory process is too lengthy.
- 3.71 In relation to the first point, the s.5 Order reserving spectrum for local TV services only requires capacity sufficient for carrying a standard definition video stream be made available for local TV services, with any spare capacity (sufficient for two other video streams) available for use by the local multiplex licensee on a commercial basis. With the most commonly envisaged forms of coverage extension (through increased powers or building relay transmitters) it will not be technically possible for the L-DTPS licensee to gain access to the additional two streams. Should the L-DTPS licensee wish to have access to the additional channels across the whole of its licensed location (or more widely) then it will be on the basis of a commercial agreement with the local multiplex licensee.
- 3.72 On the second point about the local multiplex licensee extending out to a location where there was no L-DTPS licensee, our consultation made it clear that the local multiplex licensee would only be required to build out to locations where there was an appropriately-licensed L-DTPS operator. Our view is that there is no point in building out a service for it to remain unused for local TV.
- 3.73 On the final point, in our consultation we set out how we envisaged a formal adjudication process developing in the event of a dispute. Although we would endeavour to conclude any adjudication process promptly, we accept that resolving disputes through a regulated settlement has the potential to delay services getting to air. We therefore reiterate the view that this would be best avoided by the two parties resolving any disputes between themselves.

- 3.74 Two respondents did not agree with our proposals for extending coverage. One respondent disagreed with the basic principle of how locations were defined, preferring instead that L-DTPS licensees have the chance to define exclusive areas on a branding and business basis, rather than geographic locations.
- 3.75 While we understand the desirability of L-DTPS licensees identifying and developing their target locations, this approach does not take sufficient account of constraints inherent in delivering local TV, such as using interleaved spectrum, technical viability, reservation of spectrum only until 2018 and access to funding only until the end of 2017. It is also unlikely that such a system would support the public policy of rapid build-out of local TV services.
- 3.76 The other respondent that did not agree with our proposals for extending coverage commented that requests for extensions should be known ahead of the award of the licence, as any extension could impact on the L-DTPS business model.
- 3.77 While we accept that knowing how far a service might potentially extend ahead of a licence award could impact on a local service provider's business model, our expectation is that for each licence award, applicants should put forward a realistic business plan, in line with the known proposed coverage. We consider this to be a less speculative approach and that it also provides a better basis for comparing bids.
- 3.78 Having considered all of the responses, we are satisfied that our proposals for extending coverage strike the right balance between the local multiplex licensee and the L-DTPS licensee without diminishing the desired outcomes of more local TV in more locations.

Timetable of roll-out

- 3.79 The consultation paper set out our proposals on the build-out timetable for the broadcasting sites based on the desire to provide L-DTPS licensees with a level of certainty as to when they might be able to launch their services and to ensure that the allocated spectrum is used for the purposes that Ofcom has been directed to allocate it for, in a timely manner.
- 3.80 To this end, we proposed that applicants for the local multiplex licence should include in their technical plan a detailed roll-out schedule, specifying dates from which all locations will start broadcasting. We explained that while we would not specify the order in which sites in the minimum requirement are built-out, our expectation is that the successful local multiplex licensee will liaise with successful L-DTPS licensees to co-ordinate this process, to achieve the pre-planned dates and overall backstop date.
- 3.81 As an indicative guide we said that we would expect the first site to begin broadcasting no later than one year from the date of the licence award, and that most, if not all, of the remaining sites in the minimum requirement should be added within two years. With a suitable degree of flexibility, we said that these commitments would be included as conditions in the local multiplex licence when it is awarded.
- 3.82 Several respondents emphasised the need for build-out to occur as soon as possible. Some expressed concern as to how the local multiplex licensee will balance the needs of multiple L-DTPS licensees, many of whom will want to broadcast as soon as possible. Others raised concerns as they perceived that there is insufficient emphasis on speed of build-out.

- 3.83 Other respondents had concerns about possible delay to the timetable and the impact on the commercial viability of L-DTPS licensees. These could have made a significant investment in launching a service but would be unable to gain any revenue until the multiplex was broadcasting in their location. One respondent said that Ofcom may be unable to act promptly against the local multiplex licensee in the event of the build-out being delayed, therefore rendering the timetable unenforceable.
- 3.84 One potential local multiplex licence applicant suggested that Ofcom should not favour applicants who put forward faster build-out plans over those who propose slower but more robust build-out.
- 3.85 Another respondent stated that if L-DTPS licensees were responsible for building and operating their own infrastructure, the build-out would be quicker and cheaper than a single entity building multiple sites.
- 3.86 The overall stakeholder response to this question – whether they answered specifically yes or no – was that they were keen that build-out should be accomplished as quickly and efficiently as possible.
- 3.87 We have set out the background for the approach of licensing a single local multiplex operator in Section 2.
- 3.88 We are required to assess applications for the local multiplex licence in part based on the build-out plan. We are conscious that there needs to be a degree of flexibility and will be asking for prospective local multiplex licensees to tell us about the contingencies they will put in place to deal with unforeseen changes to the plan. We have stated in the *Invitation to Apply for a Local Multiplex Licence* our expectation that the local multiplex licensee provides for such instances and to demonstrate what level of flexibility they have in their proposals in terms of the ability to substitute sites in the event of any unforeseen circumstance.
- 3.89 Speed of build-out will be taken into account when assessing local multiplex licence applications. We believe the indicative timescale we have put forward for build-out incorporates the interests of L-DTPS licensees in moving quickly, while providing the local multiplex licensee enough time to build a robust transmission network.
- 3.90 Ofcom’s decision whether or not to award a local multiplex licence will be guided by how far each applicant is able to satisfy each criterion and further the objectives reflected in each criterion. In this regard we have stated that, given the limits on Ofcom’s duty to reserve spectrum for local TV services and access to funding, proposals for a timely build-out will be a significant consideration in awarding the local multiplex licence. We note the importance that stakeholders place on this element of the licensing process, however we are satisfied that our licensing process set out in this document appropriately takes account of these concerns. We will proceed with the build-out timetable on the basis of our proposal that the first location should be on-air within one year of licence award and all 21 locations within Phase 1 should be on air within 2 years of licence award.

Licence term

Duration of the local multiplex licence

- 3.91 Under the provisions of the s.244 Order, we proposed to award the local multiplex licence for a period of up to 12 years. Our proposal takes account of the significance

of the licence duration for the return on investment for operators and the impact this would have on the duration of the L-DTPS licences, which must be coterminous.

- 3.92 We explained that we were aware that different business models may suit different licence terms – for example, from our experience with commercial radio, the L-DTPS business may be operating at the margins of profitability and therefore prefer the longer-term licence. Our concern is that there should be certainty for the L-DTPS operator which we proposed favoured a longer licence term. We sought stakeholder comments on this position, including proposals for alternative models that would deliver this key objective.
- 3.93 Respondents generally agreed with our proposals to issue a licence for a term of 12 years. There was general support that a longer licence term of 12 years was probably appropriate for investment purposes.
- 3.94 One respondent disagreed with our proposals in relation to licence term and felt that we should review the proposed licence term in light of decisions made at the World Radio Conference in February 2012 (WRC-12). Another respondent said that a 12 year licence term provided a level of certainty but it was felt that this position was undermined by the potential revocation on five years' notice.
- 3.95 Ofcom's Wireless Telegraphy Act licences contain a standard condition that permits Ofcom to revoke a licence for reasons related to the management of the radio spectrum provided that the licensee is given 5 years' notice. There may be some changes made to the frequencies used by TV broadcasting during the 12 year licence term and we have therefore highlighted the existence of this clause to ensure that applicants are fully apprised of all material facts before applying for a licence. We provide further explanation in our discussion of the potential impact of decisions made at WRC-12 on local TV in paragraph 3.101 below.
- 3.96 While we are aware of the potential for change that the decisions at the WRC-12 have placed on local TV, there is as yet no clear view as to how those decisions will impact on spectrum users generally or local TV specifically. We consider that our approach of defining a licence term, but providing for an eventuality that could ultimately result in early termination, provides a realistic environment within which affected stakeholders are able to make business decisions now. While we understand the concerns of potential applicants, decisions on any future spectrum reorganisation are likely to take some years and will be made in an international context. Ofcom is currently seeking views from stakeholders on the future strategy for UHF spectrum.²²
- 3.97 As well as testing the proposal for the licence term, our consultation question sought proposals on alternative licensing models. Although no alternative model was put forward, respondents felt that, provided they offered certainty, Ofcom should consider alternative models.
- 3.98 One potential local multiplex licence applicant requested further details of the compensation Ofcom would provide to the local multiplex licensee in the event of the licence being revoked with more than five years' left to run of the licence term. There is no automatic right to compensation upon revocation of a licence. Any decision with regard to compensation would have to be judged on the facts of the specific case in question. We would also expect to consult with affected licensees when taking any decisions with regard to licence revocation and any compensation.

²² UHF strategy consultation: <http://stakeholders.ofcom.org.uk/consultations/uhf-strategy/>

- 3.99 A response from the Scottish Government expressed concerns that a 12 year licence could potentially impact on subsequent broadcasting powers created under a devolved Scotland. While this might be the case, Ofcom can only operate under current statutory powers. This is set out in more detail in Section 2 above.
- 3.100 Having considered the responses, it seems that the overriding concern is that there is certainty for the local service providers so as not to undermine each potential applicant's business models. While we appreciate that not all local service providers will enjoy a full 12 year term, we think that the proposed 12 year licence term for the local multiplex licensee gives local service providers that certainty. No proposals for alternative models were put forward. On that basis we have concluded that we should proceed as proposed and that the local multiplex licence should be awarded for a term of up to 12 years.

Wider spectrum strategy

- 3.101 In our document draft *Invitation to Apply*,²³ we mentioned the potential impact on local TV services of the future demands for UHF spectrum from other uses. While any changes to the use of the spectrum are only likely to occur in the longer term, there could be some changes during the 12 year licence term proposed for the local multiplex service. We set out the possibility that the local multiplex licensee might need to alter transmission arrangements in some locations in response to a future re-allocation of spectrum.
- 3.102 Some respondents to the consultation commented on recent developments at the World Radio Conference in February 2012 that may lead to a future reorganisation of the frequencies used by TV broadcasting. They urged that Ofcom ensures that the current plans for local TV neither cause a problem in any future re-allocation of spectrum or that local TV services are planned so as not to be unnecessarily affected by any future changes to reallocation of spectrum.
- 3.103 The World Radio Conference (WRC) is an international forum that takes place every 3-4 years where matters relating to the use of the spectrum are discussed.
- 3.104 In February this year the World Radio Conference agreed that it is very likely that at the next WRC meeting in 2015, some changes will be agreed to the uses that some parts of the spectrum may be put. The proposal is that some of the spectrum used by TV broadcasting, known as the 700MHz band, could also be used by mobile broadband services. In the longer term these developments could lead to a change in the use of the 700MHz band, with TV broadcasting being cleared from that spectrum in countries that decide to do so. If this happens, then there could be a need to rearrange the frequencies used by TV broadcasting in the UK.
- 3.105 In the short term, there is nothing in Ofcom's proposals for licensing local TV that we can alter to take account of future developments. As we set out in the draft *Invitation to Apply*, any changes to the use of the 700MHz band are only likely to occur in the longer term, but could occur during the 12 year licence term. Should it be necessary to change the use of those frequencies in the UK, Ofcom would consult fully on the process by which that could be achieved and any impact on stakeholders.
- 3.106 As a general principle though we would seek to allocate alternative frequencies for the local multiplex in those parts of the spectrum affected by any changes. As the

²³ Draft *Invitation to Apply for a Local Multiplex Licence*:
http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Draft_ITA.pdf

local services generally target specific locations rather than the more extensive coverage achieved by the UK-wide multiplexes, we are reasonably confident that it will be possible to identify alternative frequencies for most local services. Should this be the case, then the local multiplex would need to change frequency in those locations, but it would be able to achieve continuity of service. It is, however, conceivable that it may not be possible to find viable replacement frequencies in all locations.

3.107 We will keep a close eye on the developing situation in relation to the 700MHz band and the next WRC. We are also seeking views from stakeholders on the longer-term strategy for the UHF band through our consultation *Securing long term benefits from scarce spectrum resources – a strategy for UHF band IV and V*, which is open until 7 June 2012.²⁴ Any changes to the frequencies used by TV broadcasting are likely to take a number of years to achieve. Our UHF strategy consultation suggests that such any changes are unlikely to start to occur until 2018 at the earliest.

Interaction with L-DTPS licensees

3.108 The consultation paper noted that, as prescribed by the s.244 Order, various conditions will be included in the local multiplex licence relating to how the local multiplex licensee must interact with L-DTPS licensees. These are:

- The multiplex licensee must reserve capacity for, and carry, the L-DTPS in each location;
- It must not charge the L-DTPS licensee more than sufficient to recover the net operating costs of carrying the service;
- It must co-operate with persons notified to it by Ofcom, to facilitate the provision of local TV services; and
- It must, if notified by Ofcom, participate in or facilitate the formation of a legal entity which is intended to facilitate the provision of local TV services.

3.109 The consultation provided further explanation on each of the above points. On the first condition, we stated that this would require the multiplex licensee to reserve capacity on the multiplex which would be sufficient to carry a single standard definition video stream.

3.110 The second requirement is explained further below (see 3.146 following, *Carriage costs for L-DTPS licensees*).

3.111 In relation to the third and fourth requirements, we proposed to interpret these in terms of an industry body comprising all L-DTPS licence holders (the s.244 Order requires Ofcom to place parallel obligations on L-DTPS licensees – see Section 5).

3.112 We envisage that the co-operation requirement may take the form of consulting the industry body on to local TV transmission and promotion.

3.113 With regard to the requirement to participate in or facilitate the formation of a legal entity, we have outlined at 5.85 that Ofcom intends matters relating to make arrangements to incorporate this entity. Therefore we anticipate at this time that we will not notify the successful local multiplex licence applicant to this effect.

²⁴ <http://stakeholders.ofcom.org.uk/consultations/uhf-strategy/>

3.114 We did not seek respondents' views on these requirements directly, on the basis that they were statutory provisions in the s.244 Order. However, where respondents did express views relating to these issues, they have been discussed in appropriate sections elsewhere in this statement.

Technical standards

Transmission mode

- 3.115 In our consultation we proposed that the local multiplex licensee should adopt the DVB-T QPSK signal mode. Our proposals sought to provide the local multiplex with a robust signal that would allow it to maximise coverage whilst operating with modest transmitter powers. We also explained that the selection of MPEG-2 encoding would maximise the number of consumers able to receive the service.
- 3.116 Our proposals explained that in reaching the final decision on the exact signal mode to be adopted we would need to consider the findings of further studies that would (a) test the compatibility of existing DTT receivers with QPSK signal modes²⁵ (as this has not been used to any degree in the UK before), and (b) determine the amount of capacity that a multiplex would need to be able to accommodate three video services.²⁶
- 3.117 The results of the receiver compatibility study are very encouraging and show that almost all DTT receivers are able to receive services using DVB-T QPSK modulation.
- 3.118 The spectrum planning studies carried out for Ofcom and contained in the draft *Coverage Note* are based on the use of a QPSK rate 2/3 transmission mode. The multiplex capacity study showed that it would be possible to accommodate three video services within a multiplex operating with QPSK rate 2/3 with some compromises on picture resolution. Adopting QPSK rate 3/4 instead would offer more capacity with fewer compromises necessary on picture quality and a potential reduction in the complexity of the technical arrangement for assembling the services into the multiplex. Use of rate 3/4 would result in a slight reduction in the coverage achieved by the local multiplex when compared with QPSK rate 2/3.
- 3.119 Respondents that commented upon the technical standards were largely supportive of the proposals for transmission mode, with several stating that use of DVB-T and MPEG-2 is important to maximise compatibility with existing receivers. Several commented that QPSK rate 3/4 was most appropriate to enable three services to be carried satisfactorily.
- 3.120 One respondent said that the local multiplex licensee should be free to choose the most appropriate signal mode to suit local requirements – for example, switching to more rugged modes if only one or two services will be carried in the multiplex which would improve coverage and indoor reception.
- 3.121 The Digital TV Group (DTG) and DTT Multiplex Operators Limited (DMOL) both suggested that consideration should be given to the local multiplex operating using the newer DVB-T2 mode and MPEG-4 encoding which would provide greater capacity within the multiplex, better coverage and more features to help viewers in locations where local signals overlap. They emphasised the importance of using only

²⁵ DTG QPSK compatibility tests: <http://stakeholders.ofcom.org.uk/consultations/local-tv/dtg/>

²⁶ Zetacast capacity study: <http://stakeholders.ofcom.org.uk/consultations/local-tv/zetacast/>

thoroughly tested modes and to limit the number of modes used in order to avoid problems arising with domestic receivers.

- 3.122 Ofcom's view is that, as a new entrant into a platform, local TV faces considerable competition from a range of programme services that are already available via DTT. Local services will therefore need to be available to as many households as possible in each location in order to maximise their chances of achieving long term viability. Compatibility with existing receivers is a key consideration in this respect. Even though the penetration of DVB-T2 receivers has increased since we published our consultation (and is forecast to continue increasing), we believe that it is at this point preferable to adopt a DVB-T mode that is compatible with all DTT receivers.
- 3.123 The legislation that places the duty on Ofcom to reserve spectrum for local TV services stipulates that the spectrum must have sufficient capacity to enable three standard definition video services to be carried in the multiplex, with capacity made available for one of these services to be a local TV service. We will therefore base our minimum coverage requirements on the assumption that the local multiplex will operate with a signal mode that is able to accommodate three services.
- 3.124 We therefore confirm that the signal mode that the local multiplex licensee should adopt will be DVB-T QPSK rate 3/4 and video services should be encoded using MPEG-2. The tests carried out by DTG indicate that this combination is compatible with all of the wide range of receivers tested.
- 3.125 It would however be perverse to require operators to actually use a mode providing capacity for three services, should their business model operate on the basis of carrying fewer services. Under those circumstances, it may be preferable to choose a more rugged signal mode and achieve an increase in coverage and an improvement in reception to indoor aerials. However, should fewer than three services be carried in the multiplex by design, then there would almost certainly be an increase in operating cost charged to the L-DTPS licensees by the local multiplex licensee, as there would be fewer services within the multiplex to share the cost. There may also be receiver compatibility issues with using transmission modes that have not previously been used and are not contained in the D-Book, against which manufacturers test their products.
- 3.126 We will therefore consider requests from local multiplex licence applicants who wish to operate using alternative signal modes subject to: a) demonstrating that they have secured agreement with L-DTPS licensees that would be affected by any resulting increase in costs; and b) evidence of appropriate testing and of engagement with industry bodies, such as DMOL and DTG, to ensure ongoing compatibility with the installed base of receivers in the UK.

Interoperability

- 3.127 We also reminded applicants of the need for the local multiplex service to be compatible with technical arrangements described in the *Reference parameters for Digital Terrestrial Transmissions in the United Kingdom*²⁷ and to ensure a reliable operation of the DTT EPG on viewers' receivers. We also set out our proposals for the technical standards to be adopted by the local multiplex licensee in the *Coverage Note* and draft *Invitation to Apply* that we published alongside our consultation.

²⁷ http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt_uk.pdf

- 3.128 No respondents disagreed with our proposed approach to ensuring conformity with the Reference Parameters, although some suggested this did not go far enough in ensuring either interoperability with other broadcast services or consistency of viewing experience for consumers. Some respondents stated that the technical standards must ensure that the local services are of a quality that is consistent with other broadcast services.
- 3.129 DTG and DMOL raised questions concerning the extent to which Ofcom will require the local TV services to comply with the D-Book, and whether licensees could be required to cross-carry data to populate the 7-day EPG and other certain information. This data is carried by the existing multiplexes voluntarily and provides additional features to viewers or enhances the performance of their receivers. DTG and DMOL also emphasised the importance of thorough testing in advance of the launch of the local multiplex to flush out any interoperability problems.
- 3.130 Ofcom has considered carefully the extent to which the conditions in the local multiplex licence can seek to ensure interoperability between the new local TV services, existing DTT services and viewers' receivers. The existing requirements are in place principally to seek to ensure interoperability. Maintaining platform stability is a key concern for Ofcom as the DTT platform relies upon close co-operation between a number of bodies in order to function. The *Reference Parameters* do not, however, put in place any benchmarks for what might be an acceptable standard for content production.
- 3.131 We confirm that the local multiplex licensee will need to comply with requirements set out in Ofcom's *Reference Parameters*. Our view is that it would be disproportionate at present to impose upon the local multiplex licensee technical licence conditions that are more onerous than those placed upon the existing national multiplexes. We will however undertake to review the *Reference Parameters* document and technical licence conditions and consider whether it is appropriate to change the requirements for all multiplex operators to cross-carry service information and increase the scope to include the 7-day EPG information and certain other metadata. We will carry out this activity once the successful local multiplex licensee is in place and consult upon our proposals with all of the multiplex operators and the directly affected industry bodies.
- 3.132 We also set out in the ITA that the local multiplex licensee will be under a requirement to co-operate with such other parties as may be specified by Ofcom. In order to ensure continued co-operation across the platform, we expect to specify that the local multiplex licensee co-operates with the existing multiplex operators and recognised industry bodies, such as DTG and DMOL.
- 3.133 New entrant multiplex operators and L-DTPS licensees should therefore ensure that their services are compatible with the requirements set out in the DTG's D-Book

Wider technical matters: high definition and 3D

- 3.134 A small number of respondents suggested that the technical arrangements for local TV should be compatible with a migration to HD or even 3D in the near or longer-term future.
- 3.135 The mode we have chosen provides a total multiplex capacity of just over 9Mbit/s which could accommodate three standard definition television services. The legislation that establishes the framework for licensing local TV stipulates that there must be capacity made available for one standard definition local TV service within

the local multiplex. The remaining capacity is available for the local multiplex licensee to make available to other services.

- 3.136 HD services require considerably more capacity than a standard definition service. While the L-DTPS licensee could in principle agree with the local multiplex licensee terms under which he could have access to more capacity, an HD service is likely to require all of the multiplex capacity leaving no room for any SD services. A possible solution would be to adopt an alternative transmission signal format mode such as DVB-T2 that offers greater capacity in a multiplex. However, the local services would then only be available to households that have HD receivers. As discussed above, we believe that it is preferable to adopt a transmission mode that is compatible with all DTT receivers. The uptake of HD receivers is continuing to increase and we would be prepared to revisit this position in the future.

Wider technical matters: sourcing equipment

- 3.137 One potential local multiplex licence applicant sought confirmation that the local multiplex licensee will not be restricted in its choice of suppliers for DTT transmission, multiplexing and encoding equipment.
- 3.138 We are fully supportive of the procurement of such equipment taking place in a competitive market and do not propose to place restrictions on the local multiplex licensee's choice of suppliers.

Retuning information for viewers

- 3.139 The draft *Invitation to Apply* published by Ofcom alongside the consultation paper noted that viewers would, in many cases, need to manually retune their DTT receiver in order to access the new local services. It was proposed that, because some consumers may require help to carry out this operation, the local multiplex licensee should make plans for providing information for viewers on retuning. The draft *Invitation to Apply* also noted that, because the local multiplex licensee will be responsible for managing the impact of its services upon reception of the national multiplexes, it should ensure that it is able to provide information on restoring reception to households affected by interference.
- 3.140 Some opposition to these proposals was registered in the consultation responses we received. One potential local multiplex licence applicant suggested that viewers suffering from DTT reception problems should instead seek advice from a UK DTT helpline paid for by national DTT multiplexes. This respondent also suggested that Ofcom should not require the local multiplex licensee to undertake 'retune' marketing campaigns.
- 3.141 We consider that, given that it will be the responsibility of the local multiplex licensee to avoid negatively impacting on existing DTT reception, it is appropriate that the licensee should be required to provide some assistance to viewers in the event that interference is caused. We also note that this obligation is likely to provide an additional incentive on the licensee to avoid causing such interference.
- 3.142 The technical planning for local TV services is designed to minimise the possibility of interference occurring to established DTT services. In view of this low probability of problems occurring, our view is that it is proportionate for the local multiplex licensee to at least provide advice to consumers that might be affected by interference (including, where appropriate, limited marketing campaigns) but would not be

expected to extend as far as paying for any remedial works to restore reception, although they will be free to offer to do so.

Regulated fees and income

Costs of transmission

- 3.143 The local multiplex licensee will be responsible for establishing the technical infrastructure to broadcast a local digital television programme service at various locations across the UK. The local multiplex licensee will be required to make sufficient capacity available and broadcast the service provided by the holder of the L-DTPS licence in each location, but will otherwise be free to use or lease the remaining capacity to providers of other services, subject to those uses being licensed, if appropriate.
- 3.144 The Government's policy for local television is based on the assumption that the single local multiplex licensee for the local television network will be able to exploit the additional capacity not used for local services, to create commercial revenue streams. We anticipate that applicants for the multiplex licence will seek to do this.
- 3.145 Legislation establishing the framework for local TV stipulates that the local multiplex licensee cannot charge the L-DTPS licensee a carriage cost that exceeds the net operating cost to the multiplex licensee of providing that facility.

Carriage costs for L-DTPS licensees

- 3.146 The local multiplex licensee will be able to charge L-DTPS licensees for broadcasting the L-DTPS in each location. The statutory framework specifies that L-DTPS licensees should not be charged by the holder of a local multiplex licence an amount which exceeds such sum as is sufficient to recover the net operating costs of their service being carried.
- 3.147 Ofcom expects that the local multiplex licensee and L-DTPS licensees will work constructively to reach agreement on the costs payable by each L-DTPS licensee to the local multiplex licensee. Should the parties not be able to reach agreement, then the legislation also gives Ofcom a role in determining the sum that may be charged by the local multiplex licensee.
- 3.148 We set out some guiding principles that Ofcom might apply should a dispute on the amount of carriage costs be escalated to us. These are set out below:
- 3.148.1 It is up to the local multiplex provider to demonstrate the basis of their cost calculations.
- 3.148.2 Central costs of the local multiplex provider should only be reflected in the cost of carriage for an L-DTPS if they are not solely attributable to commercial deployment of the additional two video streams. For example, office/staff costs might be reflected, but not national satellite distribution if this is used to carry the two commercial video streams to local sites, or any central multiplexing costs. The main components of costs to the L-DTPS licensees are expected to comprise managed transmission services (including network access) and electricity.

- 3.148.3 If the BBC funding includes a contribution towards the multiplex operating costs, we would expect this to be reflected in the cost calculation for L-DTPS licensees.
- 3.148.4 If the business model of the local multiplex licensee includes gaining revenue from the multiplex capacity not used by an L-DTPS (i.e. the two extra video streams) then we would still expect the L-DTPS licensee to make a contribution towards the costs attributable to the local service.
- 3.148.5 Conversely, however, if the L-DTPS is the only service carried, then all locally attributable costs would need to be covered. The FTI Consulting viability research annexed to the *Licensing Local Television consultation*²⁸ suggested that in this scenario, the costs would not be too great a burden for L-DTPS licensees to bear.
- 3.148.6 Should the local multiplex licensee seek to increase its coverage through transmitter enhancements that would result in a potential increase in the cost to the L-DTPS licensee, then the increase in cost should only be passed on to that licensee if the increase in coverage is of benefit to the L-DTPS licensee. For example, increasing coverage in a location where there is no natural affiliation to the local service's core target editorial area may not be of any benefit to the L-DTPS licensee.

3.149 We received no views opposing the principles set out above.

Reference Offers

- 3.150 In order to be able to broadcast his services, the local multiplex licensee will need to arrange for the local multiplex service to be transmitted.
- 3.151 Arqiva has published Reference Offers for Transmission Services which provide an indication of the price that Arqiva would charge for transmitting the local multiplex service at the 49 locations identified. The Reference Offer costs are based upon a number of assumptions and are for guidance only. Potential customers are free to negotiate alternative arrangements with Arqiva.
- 3.152 Although the local multiplex licensee may choose to broadcast services from the Arqiva sites, this does not necessarily mean that Arqiva has to be the organisation that provides transmission services to the local multiplex licensee. Arqiva is obliged to make access to its sites available to other transmission companies on cost-oriented terms. This means that the local multiplex licensee can choose to engage with an alternative provider of transmission services if it chooses. The local multiplex licensee is also free to select the technical specification of the transmission equipment from the supplier of its choice to suit its operational requirements.
- 3.153 One respondent requested that Arqiva should provide a Reference Offer for all of the 65 locations initially identified as being technically capable of transmitting a local multiplex.
- 3.154 Both the DCMS and Ofcom consultations have provided opportunities for potential L-DTPS licensees to provide expressions of interest in any of the 65 locations where local TV has been identified as technically feasible. Arqiva have published revised

²⁸ FTI Consulting Report:

<http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Annex6.pdf>

Reference Offers which include the five further locations that we have had expressions of interest in. However, we do not propose to add to our list any locations for which there has been no interest from a potential L-DTPS licensee. As there is also a cost and resource implication for Arqiva in producing Reference Offers, we do not feel that there is sufficient reason to re-commission the Reference Offer for all 65 locations at this time.

3.155 Further information on Reference Offers for local TV services is provided in Annex 2.

BBC funding

3.156 The BBC has committed to providing funding to help establish the local television multiplex infrastructure. The BBC itself will be responsible for administering the disbursement of the funding and the mechanism by which this will be achieved, as well as determining the scope of what will be eligible to receive funding.

3.157 If the local multiplex licensee accepts funding from the BBC to establish the multiplex infrastructure, the licensee must be aware of any constraints that the BBC may additionally place on the types of service that may be carried within the multiplex. Further information on the BBC's criteria on the eligibility to receive funding and the restrictions on the types of services that might be carried in the local multiplex are available from the BBC.²⁹

Fees for terrestrial broadcasting spectrum licences/AIP

3.158 The consultation paper reiterated our previously stated intention to introduce Wireless Telegraphy Act licence fees, set according to our Administered Incentive Pricing (AIP) principles, for spectrum used by digital terrestrial broadcasting, from the end of 2014. These fees would be set by reference to the estimated opportunity cost of the spectrum.

3.159 Opposition was expressed by two respondents to the introduction of AIP in local TV. One potential L-DTPS licence applicant suggested that AIP should not be introduced for the first six years of the local multiplex licensee's operation.

3.160 We acknowledge that an important issue with applying AIP to spectrum used for broadcasting is its potential impact on the ability of broadcasters to deliver against the specific conditions set out by Government and underpinned by the Local Digital Television Programme Services Order 2012. If it seems likely that this impact would be material, it will be important to consider any means by which this impact could be mitigated. We have stated previously that these means could include potentially not introducing AIP at the end of 2014, or levying it at a reduced rate, if this was necessary to ensure that broadcasting requirements for local TV continued to be met.

3.161 During 2012/13, Ofcom will consult on the implementation of AIP on spectrum used for terrestrial broadcasting in order to assess the possible level of fees, the impact of these fees on local TV services and the appropriate approach to charging from the end of 2014 onwards. During this process, we will of course take into account all relevant factors, including but not limited to the costs to industry.

²⁹ http://www.bbc.co.uk/bbctrust/our_work/other/local_tv_contribution.shtml

Free-to-air

- 3.162 The statutory framework requires that the L-DTPS service carried by the local multiplex must be available without charge to any persons in the UK, i.e. free-to-air, not pay-per-view. The L-DTPS licensee or connected persons may not enter into any contractual or technical arrangements that would require UK viewers to pay to receive the service on DTT.

Section 4

Local multiplex licence: licensing process

Application form

- 4.1 Alongside our December consultation, we published a draft *Invitation to Apply* (ITA) for a local multiplex licence. This provided details of how applications for the local multiplex licence should be presented.
- 4.2 A final *Invitation to Apply for a Local Multiplex Licence* has been published in parallel with this document.
- 4.3 This section discusses views expressed by consultation respondents on our proposed criteria for the assessment of local multiplex licence applications and our proposed approach to licence fees.

Approach to assessment

- 4.4 In our consultation we explained that we will assess the local multiplex licence applicants' proposals against the following assessment criteria:
 - 4.4.1 A technical plan including details of the extent of the locations to be served and the coverage in those locations, the timetable for achieving this coverage and the technical means for delivering the coverage;
 - 4.4.2 The applicant's proposals for supporting local digital television services; and
 - 4.4.3 The financial position of the applicant and the ability of the applicant to establish the service, and to maintain it for the duration of the licence period.
- 4.5 These assessment criteria have been specifically derived from the s.244 Order which, together with the s.5 Order and associated legislation, sets out Ofcom's duties in relation to licensing local television services.
- 4.6 The decision to make an award, or not to make an award to an applicant, will be considered with regard to how far proposals satisfy the assessment criteria.
- 4.7 Most respondents were in favour of our selection criteria and simply submitted a response in the affirmative. Views from stakeholders that commented further are summarised below.

Technical plan

- 4.8 One respondent that felt that insufficient emphasis was placed on the timetable, the technical capacity and industry experience of the potential local multiplex licensee. They emphasised that failure of the multiplex operator could be disastrous for L-DTPS licensees.
- 4.9 We believe that we have set out clear guidelines for the timetable and the constraints of which applicants need to be mindful. We expect local multiplex licence applicants

to make an appropriate submission in light of these constraints. There are penalties for failure to provide the service.

- 4.10 The desire from many stakeholders for a speedy build-out does have to be balanced against the potential for applicants to over-promise. Our assessment criteria and experience of assessing broadcast licence applications means that we will be able to identify situations where this may be a risk.
- 4.11 Ultimately, if Ofcom is not satisfied that any applicant meets the required criteria, then it can decide **not** to award the local multiplex licence. In such a circumstance, we would re-advertise the licence if we thought we could make an award and would consider whether it would be appropriate to make any policy changes that would make it more likely for there to be a successful applicant.

Financial position

- 4.12 A number of stakeholders commented on the criterion assessing the financial position of applicants. One respondent warned against placing too much emphasis on potentially speculative business models for the local multiplex service and suggested that consideration should be given to the structure and ownership of the operator. Another respondent urged that applicants be required to provide information and evidence on the identity or source of their funds and investment.
- 4.13 In addition, one respondent felt that in considering applications against this selection criterion, Ofcom should give greater prominence to the value delivered by the applicant's proposed use of the other two video streams.
- 4.14 The legislative framework is clear on the criteria that Ofcom must apply when awarding the local multiplex licence. Ofcom is required to have regard to the applicant's ability to establish and maintain the service for the duration of the licence term (s.8(2)(c) of the Broadcasting Act 1996). The information that applicants will be expected to submit includes financial information projected up to the full licence term, information on key staff and management structure (further details are provided in the *Invitation to Apply for a Local Multiplex Licence* published alongside this statement). We are satisfied that this provides us with an effective framework to attain a true picture of the financial position of potential multiplex licensees.
- 4.15 In relation to the use of the other two video streams, the legislative framework is clear that Ofcom may not take into account uses of the additional capacity, other than the extent to which those uses make the local multiplex business sustainable.

Proposals to support local TV

- 4.16 One respondent noted the interdependencies between the criteria and felt that BBC funding should be available for promotional work for at least the first three years.
- 4.17 The selection criterion relating to promoting and supporting L-DTPS services is the least prescriptive of all three criteria. We have made it clear that we are open to applicants being creative with their proposals, the only requirement being that the proposals have measureable outcomes.
- 4.18 It is worth noting that in its funding statement the BBC Trust has set out its own conditions regarding the other services which can be carried if the local multiplex is to be eligible for BBC funding. These conditions are a matter for the BBC Trust, not for Ofcom.

- 4.19 One other respondent suggested that the proposed L-DTPS operators should assess the potential local multiplex licensee's proposals for promoting and supporting local TV through an industry body. Their view was that this approach would extract real investment from the local multiplex licensee in local TV.
- 4.20 We recognise that there are merits to an industry body. However, one has yet to be formed and so there is no basis for considering the input from such a body as part of Ofcom's assessment. This process also suggests that the L-DTPS licences will have been awarded ahead of the local multiplex licence. We have already stated that this will be a simultaneous award and our reasons for this.
- 4.21 It is worth noting, however, that any commitments made by a local multiplex licence applicant in relation to the promotional assistance it will give to the L-DTPS licensees will be written into the licence as a licence condition and therefore the local multiplex licensee will be bound by it. In reaching its decision, Ofcom will want to see meaningful commitments from applicants. We have placed no weighting on any particular criterion and proposals for the support of local TV services are only one criterion against which the local multiplex licence applicants will be assessed.
- 4.22 We appreciate the concerns from stakeholders that the local multiplex licensee should be a robust organisation, committed to delivering a service that many L-DTPS licensees will be placing significant amount of reliance upon. We consider that the detail of what is required under each selection criterion (as set out in the draft ITA) is sufficient to extract the information that potential L-DTPS licence applicants are concerned about, to appropriately inform the Committee as to the appropriateness of each bid, and to ensure we are fulfilling our statutory duty.
- 4.23 Where these commitments become licence conditions, the local multiplex licensee will be obliged to comply with the requirements. Failure to do so could result in sanctions. In advance of that, although some confidentiality restrictions might apply, applications for the local multiplex licence will be published on the Ofcom website.
- 4.24 One respondent suggested that Ofcom should not allow any existing dominant holder of DTT multiplex capacity to hold the local multiplex licence. The response highlights concerns that this respondent has previously raised with Ofcom which have been considered and addressed through a separate process. There are no ownership rules in place that would prevent existing DTT multiplex operators from applying for this local multiplex licence. The eventual local multiplex licensee will however be bound by a licence condition preventing them from engaging in any activity that is prejudicial to fair and effective competition and they will also need to comply with the requirements of general competition law.

Local multiplex licence fees

- 4.25 The consultation outlined our proposal to levy an application fee of £10,000 and an annual fee of £5,000 for the local multiplex licence. We also proposed that any transfer of the local multiplex licence would incur an additional fee equivalent to the annual fee, of £5,000.
- 4.26 One respondent suggested that the application fee, annual fee and licence transfer fee should be reduced so as not to discourage competition for the local multiplex licence or incentivise the local multiplex licensee to pass on onerous fees to L-DTPS licensees.

- 4.27 We have proposed that fees should be set at a level that is consistent with existing multiplex licences and we do not consider that the application and annual fees we have proposed will have a detrimental impact on competition for the local multiplex licence. Given this, we do not propose to alter the level of these fees.
- 4.28 However, with regard to the transfer fee, we recognise that the most likely scenario for the multiplex licence being transferred is that the mutual entity consisting of L-DTPS licensees would negotiate to take it on, following the requirement for this in the s.244 Order. In this scenario, we would want any barriers to transferring the multiplex licence to be as low as possible, and we would not want an additional burden on the L-DTPS shareholders. Therefore there will be no fee for transferring the multiplex licence.

Section 5

L-DTPS licences: conditions and requirements

- 5.1 This section sets out Ofcom's final position on the conditions and requirements that will be placed upon any L-DTPS licensee. These include content obligations that are specific to local television and general obligations that apply across television broadcasters. This section also describes obligations not directly related to the programme content of a service, for example, the retention of recordings.
- 5.2 The *Invitation to Apply for an L-DTPS Licence* describes the content requirements that L-DTPS licensees will have to fulfil, but this section gives a fuller rationale for each in the light of responses that we have received to our consultation questions.

Specific content requirements

Localness requirement

- 5.3 We proposed a localness requirement: in usual circumstances the studio from which the service will be broadcast, and/or the main production base of the service, should be located within the licensed area. Although the statutory framework requires that the L-DTPS service carries local content, we considered it necessary to have this production requirement in addition, in order to ensure that a local service is sufficiently targeted at the particular needs of the location it seeks to serve.
- 5.4 We proposed that we would be open to representations making the case otherwise, and would enter into written agreements to exempt local services from this requirement, if a good case were made.
- 5.5 Many stakeholders agreed with our proposed localness requirement and thought that it would be necessary to ensure locally-relevant programming. Most of these thought it sufficient to have a requirement in terms of location of production (rather than any more onerous requirement such as local ownership).
- 5.6 However some potential L-DTPS licence applicants expressed concern over this proposed requirement on the grounds that it may make it difficult for L-DTPS licensees to develop local partnerships that provide cost-effective services to smaller locations, or to exploit synergies and economies of scale possible if a single organisation bids successfully for multiple L-DTPS licences. Most stakeholders responding with this view were content that it is a reasonable expectation for local programming to be sourced and produced at a local level.
- 5.7 On the other hand, a number of other potential L-DTPS licence applicants responded that a localness requirement purely in terms of studio or production base was insufficient, and that it should include local ownership or staffing requirements. Several stakeholders also suggested that there should be questions in the L-DTPS application form for applicants to 'detail their connections with their local communities' or that the Programming Commitments should include commitments to the local community.

- 5.8 We anticipate that applications for L-DTPS licences will put forward a range of models for how a local television service might be run. The localness requirement is intended to ensure locally-produced programming without constraining commercial viability, or limiting the range of business models, more than necessary. The emphasis of the s.244 Order and the Government's policy is on the output of each local service. We are content that this localness requirement is necessary, and not unduly constraining.

Service description

- 5.9 Following the licence criteria set out in the s.244 Order, we proposed to invite applicants for an L-DTPS licence to describe their proposed programming output in the terms set out in the Order.
- 5.10 As part of the application process, we proposed that applicants would draft their own Programming Commitments, and that these would be appended to the licence of the successful applicant as a binding licence condition. In the event that a broadcast licensee does not comply with its licence conditions, it can be subject to regulatory sanction, including licence revocation.
- 5.11 In the consultation we asked whether respondents agreed with the approach of inviting applicants to draft Programming Commitments to be written into licences, in order to secure programming output that meets the statutory requirements.
- 5.12 Many stakeholders agreed with this proposed requirement, responding only in the affirmative.
- 5.13 Some stakeholders expressed concern that this approach could limit the proposals applicants are prepared to make because they do not want to over-commit in binding licence conditions over a period of up to 12 years.
- 5.14 A number of stakeholders broadly agreed with the proposal, but suggested that the Programming Commitments should reflect the potential for changes in content production and delivery as each service develops, rather than binding licensees to a rigid set of commitments for the entire licence duration. It was suggested that the Programming Commitments should reflect in detail the first three years of broadcasting, and demonstrate the scope for development in the service after that period.
- 5.15 As regards the former point, we do not want L-DTPS licence applicants to over-promise in their applications, and we encourage them to put forward realistic proposals based on their available resources. The application assessment will include Ofcom taking a view of whether Programming Commitments are realistic, given the proposed business plan.
- 5.16 Concerning the latter point, again we feel that there is scope within the proposed Programming Commitments for L-DTPS licence applicants to set out realistic proposals for the duration of the licence. However, in response to stakeholder comments on our draft L-DTPS application form, we have modified the guidance accompanying the L-DTPS application form, as well as some of the questions, to allow applicants the opportunity to describe how they see the service developing over the duration of the licence. We expect that there will have to be some flexibility with regard to emerging sector but it is important given that licences are awarded by 'beauty parade' to have a clear and binding set of proposals from applicants from the outset.

- 5.17 We also note that Ofcom has a statutory obligation to ensure that the character of the licensed service is maintained, and it is important for us to have clear commitments from applicants to enable us to fulfil this obligation.

Party Political Broadcasts and local political coverage

- 5.18 The statutory framework requires L-DTPS licensees to carry Party Political Broadcasts (PPBs). During 2012, Ofcom will be consulting on revisions to the Ofcom rules on Party Political and Referendum Broadcasts. As part of this consultation, we will lay out proposals for how the obligations placed on L-DTPS licensees to carry party political broadcasts should be delivered. We envisage that any such proposals will be proportionate and commensurate to the overall content obligations that we envisage being applied to the local television sector.
- 5.19 The L-DTPS licence *Application Form* invites applicants to provide their proposals to facilitate ‘civic understanding and fair and well-informed debate through coverage of local news and current affairs’. Like all content, this must comply with the Ofcom Broadcasting Code, including a requirement for due impartiality.
- 5.20 Only two responses specifically commented on PPBs, both questioning the need for local services to carry for them. This is not a decision within Ofcom’s discretion (see *Rules on Party Political Broadcasts* section above starting at 2.72). Most other stakeholders who commented on these proposals were in favour of local television services engaging with local politics.

General content regulation

- 5.21 All television broadcast services are subject to general rules specified by UK broadcasting legislation, in some cases derived from the European framework for broadcasting (the AVMS Directive). There are also some specific provisions for L-DTPS services made in the s.244 Order.

Standards

- 5.22 In addition to compliance with the Ofcom Broadcasting Code and the UK Code of Broadcast Advertising, L-DTPS licensees are subject to two specific prohibitions set out in the s.244 Order.³⁰ These are:
- 5.22.1 pornographic material; and
 - 5.22.2 longer advertisements for chat services made available for purchase by means of a premium rate service.

Commercial content

Advertising minutage

- 5.23 Consistent with Article 18 of the AVMS Directive, we will exempt all L-DTPS services that are not receivable outside the UK from the advertising minutage restrictions set out in the Code on the Scheduling of Television Advertising (COSTA). However, if a

³⁰ Any other Ofcom-licensed service carried using the additional multiplex capacity would also have to comply with the Broadcasting Code and the UK Code of Broadcast Advertising. A service need not be licensed by Ofcom in order for it to be broadcast; the European framework allows services licensed in other European countries to be carried.

service is receivable outside the UK, for example, because it is broadcast via satellite or the internet, or its terrestrial signal is receivable in another member state (as it could be for example in the case of a service for Derry/Londonderry) it will not benefit from this exemption.

- 5.24 Regardless of where an L-DTPS is receivable, there will be no limit to the amount of teleshopping it may schedule, provided it is able to meet its Programming Commitments.
- 5.25 Only one respondent disagreed with our proposal to apply this exemption to L-DTPSs. Most other respondents on this point welcomed the flexibility this could offer to L-DTPS licensees and the possibility of maximising revenue.

Advertising scheduling

- 5.26 In our consultation we proposed that L-DTPSs should be subject to the advertising scheduling restrictions set out in COSTA.
- 5.27 Following our proposal to waive advertising minutage restrictions two respondents also raised the issue of relaxing restrictions on the scheduling of advertising for L-DTPS services, i.e., having certain exemptions from COSTA.
- 5.28 As no proposal for this was made in the local TV licensing consultation, Ofcom would need to consult on any proposals to change the current rules on advertising scheduling.
- 5.29 Ofcom would need sufficient evidence to propose a new consultation. Relevant evidence would be of two types:
- 5.29.1 evidence of impact on audiences; and
 - 5.29.2 evidence of impact on revenues/sustainability of licensed services.
- 5.30 We would also need to take into account a wider consideration of the policy objectives of the rules, and the impact on other licensed services.
- 5.31 We do not currently have sufficient evidence to make any proposals for consultation, but we are open to further submissions on this question.
- 5.32 We are also mindful that to consult on such changes now, during the period when Ofcom is inviting applications from interested parties for L-DTPS licences, may create uncertainty for applicants and divert limited resources from preparing licence applications.

Access service requirements

- 5.33 Ofcom's Code on Television Access Services deals with requirements for subtitling, signing and audio description, and applies to all broadcasters. However, television services achieving an average audience share of all UK households over a 12 month period of 0.05% or less or which could not afford to meet the cost of providing access services by spending no more than 1% of their relevant turnover are excluded from providing television access services. We anticipate that many, if not all, local TV services will be exempt under this rule as a result of these criteria.

- 5.34 Ofcom's Advisory Committee for Older and Disabled people (ACOD) highlighted that 'older and disabled people are often amongst the highest consumers of local news, across all platforms' and expressed the hope that local TV services might be encouraged to consider how they might voluntarily provide access services. ACOD also encouraged Ofcom to consider the presentation mix of a channel, as well as its content.
- 5.35 We have considered these points carefully but have concluded that it would not be appropriate to require L-DTPS licensees to provide access services where they are presently exempt on the basis of criteria relating to affordability and audience share. To do so could result in a significant burden on local TV services without commensurate audience benefit; indeed, the need to pay for access services could have an adverse effect on the range and quality of programming that licensees could afford to make available to consumers. That said, any licensees that do meet the criteria would be required to provide access services, and we would encourage others to consider whether they could do so on a voluntary basis. In this connection, we note one potential L-DTPS licence applicant's declared intention to offer some access services.

Production requirements

- 5.36 There is a requirement³¹ for digital programme service licensees, which will include L-DTPS licensees, to fulfil a 10% independent production quota. Following the DCMS consultation on the role of independent producers and independent production quotas in local TV,³² the Secretary of State has indicated that he is minded to remove this quota in relation to local TV. This will require a new Order to be passed by Parliament. If such an Order is made, it could be in force by the end of July. However, until such time as the law is changed, L-DTPS licensees will be required to comply with this quota.
- 5.37 The AVMS Directive also includes quotas on European works and European independent works, but allows the UK (like any other EU member state) to exempt local TV channels that do not form part of a national network from these obligations. Ofcom will apply this exemption to local TV services.
- 5.38 A very small number of respondents commented on production quotas. One group declared their readiness to comply with the 10% independent production quota when commissioning programming. On the other hand, one potential L-DTPS licence applicant argued that the 10% quota should be an aspiration, not a requirement, for local TV services.
- 5.39 One respondent argued for a 75% independent producer quota to be applied to local TV services. No one else suggested increasing the 10% independent producer quota, and we think that this suggestion would significantly reduce the operational flexibility of licensees, and could place a heavy burden on local TV services, especially smaller operations.
- 5.40 Several respondents commented that local production quotas should be included in the localness requirement. Although we do not intend to require this, we will take into account any such proposals when assessing L-DTPS applications.

³¹ s.309 of the Communications Act.

³² See <http://www.culture.gov.uk/consultations/8840.aspx>.

Technical licence terms

Obligation to provide service

- 5.41 Each L-DTPS licensee will be required to make the service available to be broadcast on the local multiplex at all times, and in the technical format specified by Ofcom. The technical details of this are made clear in the *Invitation to Apply*.
- 5.42 The interface point will be at the relevant transmitter site and delivery to that point is the responsibility of the L-DTPS licensee.
- 5.43 Several potential L-DTPS licensees responded with concerns that the cost of delivery of service to the interface point would be prohibitively expensive for smaller stations. There are a number of different ways in which the L-DTPS licensee can deliver their service to the local multiplex, some of which may be more cost-effective for smaller stations. We will not specify the nature of the link to the interface point, only the technical format as received by the local multiplex.
- 5.44 One potential L-DTPS licence applicant suggested that the delivery of service should be paid for using the BBC funding for the local multiplex. This would not be a matter for Ofcom. However, we observe that if the BBC funding for the local multiplex were to be used in this way, there would be a knock-on effect on the financial capacity of the local multiplex to build out to more locations. It is not clear from any of the responses that reduction of the overall coverage of the local television network would be an acceptable trade-off for covering the cost of signal delivery.

Costs of transmission

- 5.45 Paragraphs 3.143 to 3.149 above set out our position on transmission costs for the multiplex licence.
- 5.46 The legislation stipulates that the local multiplex licensee cannot charge the L-DTPS licensee a carriage cost that exceeds the net operating costs to the local multiplex licensee of providing that facility, and in paragraphs 3.148.1 to 3.148.6 we have set out our approach to determining the sum of carriage cost in the event of a dispute regarding this cost between the local multiplex licensee and the L-DTPS licensee.

Arqiva Reference Offers

- 5.47 We noted that Arqiva has published Reference Offers which provide an indication of the price that Arqiva would charge for transmitting the local multiplex. These Reference Offers are aimed at potential local multiplex licence applicants, but as they specify the operating cost at 49 locations, they also give a guide to potential L-DTPS licence applicants of the likely costs of transmission.
- 5.48 This is not a guarantee of the price charged by the local multiplex licensee, or of the price determined by Ofcom, if required, in the event of a dispute.
- 5.49 The remaining uncertainty for L-DTPS licence applicants is whether the local multiplex licensee will make commercial use of the spare multiplex capacity at each site. If it does, then it would be reasonable for L-DTPS licence applicants to assume that they will pay approximately one third of the local operating costs in the Reference Offer.

- 5.50 Given this uncertainty, our approach to this cost in our assessment of L-DTPS licence applicants' business plans will be that applicants should plan on covering approximately one third of the local operating costs in the Reference Offer. However, we will also expect applicants' business plans to take into account the possibility that this cost could be higher, and display some contingency for this eventuality.

Timetable of service launch

- 5.51 In relation to the timetable of service launch, we proposed that licensed local services should aim to commence broadcasting within two years of licence award. We also proposed to make it a condition of each award of an L-DTPS licence that the service *must* begin broadcasting within three years, unless by that time the local multiplex licensee has not built out coverage at the relevant location. This was intended as a backstop, to allow us to re-advertise a licence where a service appears unable to launch.
- 5.52 We hope that there is scope at some locations to begin broadcasting earlier than two years following licence award, if the L-DTPS licensee and the local multiplex licensee are both ready to do so at an earlier date. We anticipate that the launch dates specified by the multiplex licensee in their technical plan will then be subject to a further round of discussion with the L-DTPS licensees. We do not intend to take a regulatory role in this process, but will confirm any revisions to the technical plan of the successful local multiplex licensee (as this will be a change to their licence) that are made to accommodate the preferred launch dates of the L-DTPS licensees.
- 5.53 In the consultation we asked if our proposed approach to build-out timetable is the right one.
- 5.54 Most respondents agreed that this is the right approach to take towards the service build-out timetable, and several highlighted the need for a swift and clear build-out timetable so that L-DTPS licensees are able to build an accurate business plan.
- 5.55 Several potential L-DTPS licence applicants expressed concern about the process by which the build-out timetable will be decided by the local multiplex licensee, especially as the final build-out date will affect the L-DTPS licence applicants' business plans but will not be finalised until after the award of local multiplex licence. Two potential L-DTPS licence applicants emphasised the need for a swift build-out timetable, as they believe it will affect the viability of L-DTPS licence applicants' business plans.
- 5.56 Two respondents suggested that Ofcom should take a more active role in monitoring the relationship between the local multiplex licensee and the L-DTPS licensees, especially in relation to disputes over launch timetable. They proposed that Ofcom should give itself powers to investigate the local multiplex licensee, even in the absence of complaints or disputes. We do not consider that we have any statutory basis for this and it would not be consistent with our general approach, which is to investigate where there is a complaint or evidence of a problem. We hope that, in the event of any disputes over the launch timetable, L-DTPS licensees will feel able to make representations to Ofcom if they wish to involve us. A potential L-DTPS licence applicant did comment that they have confidence in Ofcom's supervisory role.
- 5.57 Several potential L-DTPS licence applicants responded that the proposed limit of three years in which to begin broadcasting is too long and that this should be reduced. No potential L-DTPS licensee indicated that they would need longer than two years after the time of licence award to begin broadcasting.

- 5.58 Some responses from potential local multiplex licence applicants, and from Arqiva 'TransCo', indicated a desire for a faster build-out than we had speculated in our consultation. The TransCo response suggested the Phase 1 and Phase 2 sites might be delivered in parallel across a two year period, and the Reference Offer published by Arqiva reflected this.
- 5.59 In the light of these responses, and the general public policy imperative of local TV services commencing broadcasting as soon as possible, we will decrease the upper limit from three years to two years. We will expect L-DTPS licensees to begin broadcasting within two years of licence award, unless build-out has not been completed by the local multiplex licensee, or unless Ofcom gives permission for a later launch if there are unforeseen circumstances. In the period after licence award a launch date within this two year period will be agreed.

Licence duration and termination

- 5.60 The s.244 Order gives Ofcom the power to grant an L-DTPS licence for a period of up to 12 years. We have proposed to grant L-DTPS licences for a period up to 12 years that would ensure each licence is coterminous with the local multiplex licence, which we intend to award for the full 12 years. This means that the first services to launch will have up to 12 year licences, and services launching subsequently will have correspondingly shorter licences.
- 5.61 Several respondents have expressed dissatisfaction that this arrangement will not allow any Phase 2 licensees, and possibly some Phase 1 licensees, to be licensed for the full 12 years. One potential L-DTPS licence applicant has proposed a model in which a single entity would hold separate 12-year multiplex licences for each location, allowing the L-DTPS licence for each to end at the same time as the multiplex licence for each location. Two other potential L-DTPS licence applicants have supported this position.
- 5.62 This proposed approach has been addressed in Section 2. We do not consider it possible, and we will continue with our proposed approach of ensuring all L-DTPS licences are coterminous with a single local multiplex licence.
- 5.63 Most respondents agreed that it is important for both the local multiplex and the L-DTPS licensees to have as long a licence as possible in order to give security to this emerging sector.
- 5.64 There is no statutory provision for the renewal or extension of the local multiplex licence or the L-DTPS licences, although we would anticipate that Government will have the opportunity to make provisions during the next 12 years for the renewal of both L-DTPS and local multiplex licences. However, Government has indicated that it sees the next generation of local TV services operating via IPTV rather than DTT, and it may be too early to say what the most appropriate distribution platform will be, more than 12 years in the future.
- 5.65 Some respondents to the consultation commented on recent developments at the World Radio Conference in February 2012 that may lead to a future reorganisation of the frequencies used by TV broadcasting. They urged that Ofcom ensures that the current plans for local TV neither cause a problem in any future re-allocation of spectrum or that local TV services are planned so as not to be unnecessarily affected by any future changes to reallocation of spectrum.

- 5.66 Our position on this has been discussed above at 3.102 in more detail. However, as a general principle we would seek to allocate alternative frequencies for the local multiplex in those parts of the spectrum affected by any changes. As the local services generally target specific locations rather than the more extensive coverage achieved by the UK-wide multiplexes, we are reasonably confident that it will be possible to identify alternative frequencies for most local services. Should this be the case, then the local multiplex would need to change frequency in those locations, but it would be able to achieve continuity of service. It is, however, conceivable that it may not be possible to find viable replacement frequencies in all locations.

Retention of recordings

- 5.67 All licensed television broadcasters are required to retain recordings of their output under the Broadcasting Act 1990. Existing policy for DTPS licences requires retention of recordings for 90 days.
- 5.68 We are conscious of the burden retention of recordings could place on smaller television stations, and will require recordings to be kept for 60 days.
- 5.69 This requirement applies to all broadcast output, and not just to certain types of programming.

Eligibility

- 5.70 An L-DTPS licence should be held by the entity which legally will be deemed the provider of the service: 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)'.³³
- 5.71 There are no specific restrictions in the s.244 Order on who may hold an L-DTPS licence; the general statutory framework applies. This specifies that the following are disqualified from holding a licence or from controlling a licensee:
- 5.71.1 a local authority (other than in specific circumstances);
 - 5.71.2 a political body;
 - 5.71.3 a religious body (except by specific Ofcom determination);
 - 5.71.4 an advertising agency or any company controlled by one.
- 5.72 In particular, there are no restrictions on other local media companies holding an L-DTPS licence.³⁴
- 5.73 There are also no restrictions on consortia holding an L-DTPS licence provided the licence is awarded to a single body corporate.
- 5.74 Following its consultation on independent producers and their role in local television, the Secretary of State has indicated that he is minded to lay an Order before Parliament to remove the ownership ceiling for independent producers. The proposal

³³ See <http://licensing.ofcom.org.uk/binaries/tv/service-provider.pdf>

³⁴ The Media Ownership (Radio and Cross Media) Order 2011, which removed all local cross-media ownership rules, came into effect on 15 June 2011. See <http://www.legislation.gov.uk/ukxi/2011/1503/contents/made>

is to allow independent producers to apply for L-DTPS licences without losing their independent status, so long as their income from the broadcasting side of their business does not exceed the income from the production side. This Order could be made by the end of July, but until such a time as this ownership ceiling is removed, independent producers will have to comply with the existing ownership restrictions.

Other obligations

Annual returns

- 5.75 We proposed that L-DTPS licensees should complete a short annual return reporting on their programming output during the last year. This is so that Ofcom can fulfil its statutory obligations under section 358 of the Communications Act 2003 to report on this emerging sector, and to minimise the compliance work Ofcom will have to do, along with its attendant burdens on licensees. We will also collect information on licensees' relevant turnover in order to calculate annual fees.
- 5.76 Most respondents agreed with this approach, responding only in the affirmative. One potential L-DTPS licence applicant said that more detail on the format of the annual return should be provided so that L-DTPS licensees can set up suitable systems. Another potential L-DTPS licence applicant expressed concern that the information provided in these annual returns, such as programming spend, would be used to assess the performance of the L-DTPS licensee against their programming commitments.
- 5.77 The purpose of the annual return is so that Ofcom can report on this sector and ensure compliance with licence conditions. We do not intend to use the information provided, such as programming spend, for purposes other than reporting or compliance. For clarity, we do not intend to prescribe any minimum spending requirements through the annual returns. The scope of the annual return is set out in Table 3 below, but Ofcom will confirm the format and process for this when licences have been awarded, as the first annual return will only need to be completed one year after the first service begins broadcasting.

Table 3: Scope of annual return by L-DTPS licensees

Average daily hours of transmission:
- Weekdays
- Weekends
Average daily hours of editorial programming (by slot time):
- Weekdays
- Weekends
Average daily hours of teleshopping and long form advertising content (by slot time)
Average hourly advertising minutage in:
- peak (6pm to 11pm)
- off-peak (11pm to 6pm)
Average daily hours (and spending) of local programming (by slot time):
- first run originations
- first-run acquisitions
- repeats (broken down into originations and acquisitions)
Proportion of first-run hours/spend on programmes that are produced within licensed area
Average number of live hours (and spend) per week (by slot time) (and % that are news)
Average hours (and spend) of news programming per week (by slot time)
Average hours (and spend) of current affairs per week (by slot time) – first-runs and repeats
Licence commitments, and performance against them:
- licence commitment 1

- licence commitment 2 - licence commitment 3 etc
Description of type and amount of local programming not comprised within news and current affairs
Relevant turnover

Promotion of equal opportunities and training

5.78 If the licensee (and any other companies within the same group) has more than 20 employees, then Ofcom has an obligation under the Communications Act 2003 to require it to make arrangements to promote equal opportunities and training, and to report annually. However, the Government has announced its intention to examine the framework surrounding our duties to promote training and equal opportunities in the broadcasting sector. At this time, no specific changes to the existing regime have been made and accordingly these obligations would apply to L-DTPS licence holders. Nevertheless, it remains possible that this requirement will have ceased to apply before L-DTPS licences commence.

Provision of service 'free-to-air'

5.79 The statutory framework requires that L-DTPS services must be provided without charge on any persons in respect of reception in the UK, i.e., free-to-air, not pay-per-view.

5.80 Licensees may not enter into any contractual or technical arrangements that would require UK viewers to pay to receive their services on DTT.

Interaction between L-DTPS licensees and a mutual entity

5.81 The s.244 Order requires that L-DTPS licence holders must co-operate with other L-DTPS licence holders and with the local multiplex licensee, to facilitate the provision of local TV.

5.82 They are also required, if notified by Ofcom, to participate in the formation of an entity intended to facilitate the provision of local TV services. The Government's vision for an organisation comprising all local TV operators is set out in the DCMS publication *Local TV: Making the Vision Happen*.

5.83 We said in our Consultation that Ofcom will interpret this requirement in line with that vision, and will notify L-DTPS licence holders to that effect. We further said that it is not for Ofcom to mandate the form this mutual entity may take, and that licensees should come together to form a body best suited to the demands of this sector.

5.84 We are not expecting any applicants for the local multiplex licence or L-DTPS licences to make suggestions for the formation of this entity in their applications, as it is not until licences have been awarded that the relevant parties will have been identified.

5.85 However, without being prescriptive about the constitution of the entity, so as to facilitate matters, Ofcom intends to make arrangements to incorporate the entity (a company limited by guarantee) for the purposes of furthering the provision of local digital television services.

- 5.85.1 It will be a licence condition that a licensee will be granted ownership of one share in the entity (one share per licence).
 - 5.85.2 When we grant the final L-DTPS licence in Phase 1,³⁵ we intend to transfer the share(s) in the newly formed entity to each Phase 1 L-DTPS licensee.
 - 5.85.3 As we grant further L-DTPS licences after Phase 1, it is intended that those licensees will also be granted ownership of one share (per licence) in the entity.
- 5.86 L-DTPS licensees will be required, in co-operation with that entity, to seek to measure the number of viewers of the service. A couple of respondents commented on the need to measure audience ratings in order to facilitate advertising sales, and some proposed that Ofcom should consult with audience ratings agencies and/or media buying specialists on how audience measurement might take place. However, it is not for Ofcom to initiate this process, and we believe the legal entity will be best placed to represent the needs of L-DTPS licensees in this regard.
- 5.87 Finally, they are required to encourage that entity to apply or negotiate for a local multiplex licence, should one become available. We will insert a licence condition to secure this.

³⁵ The final licence that we are able to award out of the 21 that we will advertise.

Section 6

L-DTPS licences: licensing process

Application form and licence advertisement

- 6.1 In parallel with our consultation we published a draft L-DTPS application form to give potential applicants an idea of the sort of information we would be seeking in an application.
- 6.2 Alongside this statement, we have published
- 6.2.1 the *Application Form* for L-DTPS licences (there is no separate application form for the local multiplex licence); and
 - 6.2.2 separate *Invitations to Apply* for the first L-DTPS licences and the local multiplex licence.
- 6.3 The following section explains more about the application process. In this section we state our final position on the consultation questions we posed. Where appropriate, these are reflected in the L-DTPS licence *Application Form* and the *Invitation to Apply for an L-DTPS Licence*.

Application process

Drafting Programming Commitments

- 6.4 Our proposed approach to asking applicants to draft their Programming Commitments in the application form was to ask applicants to address each of the statutory criteria in turn, and then to summarise them in a statement of Programming Commitments, alongside some quantitative commitments. (We also proposed some possible guidance around definitions of news and current affairs; this is considered in the following sub-section).
- 6.5 Nearly all respondents who answered this question agreed with our approach towards drafting Programming Commitments, but some potential L-DTPS licence applicants had specific comments.
- 6.6 The previous section has already discussed stakeholders' responses in relation to our policy of securing content propositions via Programming Commitments, but in answers to this question we received some additional comments on this approach.
- 6.7 One potential L-DTPS licence applicant stressed that quality must be assessed with low budgets in mind. Another asked that applicants that 'go further' than the Programming Commitments and those who address this in their business plans should be given more consideration.
- 6.8 We reiterate that we propose to judge an applicant's entire content proposition in the context of their scale and resources. We are emphatically not proposing a 'one size fits all' approach, because there is a wide range of scale across the different locations we are proposing to advertise licences for. The Programming Commitments represent the ongoing regulatory requirement that licensees will be held to, but they

are not the only basis for the licence award: the entire application form will be taken into account, i.e., the entirety of the content proposition **and** the business plans.

- 6.9 Another potential applicant commented on the local content proposition as opposed to other content that the applicant may broadcast. They argued that the application process should focus on the local commitment and not on plans for what to broadcast outside those hours, as this may not be decided before licences are applied for. They noted that it is only when licences have been awarded that discussions can take place between licensees about what networking of content between services may be done.
- 6.10 We recognise this and intend for the application process to focus on the local content proposition. But we also consider that all elements of the proposed service, including 'non local' content, may be relevant in deciding whether applicants have met the statutory criteria. This may be because of the content itself, for example, if a programme that was not local in its subject matter was nonetheless relevant to a local community, such as an ethnic community, then it may be considered to 'cater for the tastes, interests and needs of people in the area'. It may also be because of the relationship between the proposed content and the business plan of the channel (for example, it will be important for us to know from the application form if buying in third party content represents a revenue stream or a cost for the business).
- 6.11 One potential applicant considered that the approach of having our questions reflect the statutory criteria in turn resulted in application questions that are repetitive and overlapping or un-illuminating. They wondered whether the statutory criteria could be reflected less directly, via questions relating more to the actual content, or perhaps by combining questions.
- 6.12 We appreciate that applicants will wish to present the best possible description of their proposed services and that there may be some overlap in their answers to the questions. We think, however, that asking applicants to address the statutory criteria directly is the most effective way for Ofcom to deliver on its statutory duties for licence award, and runs the lowest risk of us imposing an interpretation of the statutory criteria that is at odds with applicants' understanding. We will be sympathetic to applications that propose to address multiple statutory criteria in the same way; what is important is that the criteria are addressed, not any repetition in the application form.
- 6.13 One potential applicant asked that the definition of 'live' be reviewed: this relating to the description of programme service in which we ask applicants to tell us about their proposed service. The respondent argued that some elements may be pre-recorded but with live inserts.
- 6.14 We emphasise that there is no 'correct answer' when it comes to applicants describing their service. We do not ask for live output because it is necessarily better than pre-recorded output. It is for applicants to decide the best approach to content production for their service proposition and business plan.
- 6.15 Finally, one potential L-DTPS licence applicant questioned the merit of a 200 word limit in the Programming Commitments section of the L-DTPS *Application Form*, on the basis that this could lead to broad ideas that will make it difficult for Ofcom to judge between L-DTPS applications. No one else has disagreed with this proposed word limit.

- 6.16 The word limits on the application form are intended to ensure that applicants do not propose ‘standard and broad ideas’, but focus on the key aspects of their proposed service. This approach is successfully used in other areas of broadcast licensing. We are satisfied that most potential L-DTPS licence applicants do not foresee a problem with adhering to these word limits, but have adjusted our proposed word limit for the Programming Commitments to 250 words.

Guidance around news and current affairs

- 6.17 A significant number of responses commented on our draft guidance around news and current affairs. Generally, respondents were happy with the approach we suggested, but some had views on the detail of the guidance.
- 6.18 The most commonly-made point was that our definition of news was too narrow; specifically, that sport and entertainment news should be permitted as part of the news proposition. Some respondents also argued that ‘softer’ local news should be permitted as part of the news proposition, for example, representation of local culture, what’s-on stories, etc.
- 6.19 It was not our intention to prevent these types of content being broadcast as part of news programming, and we are happy to confirm that they are perfectly legitimate approaches to news content, alongside more traditional, ‘harder’, journalism. The guidance was drafted to make the point that these types of news content should not be the primary type of news programming. No response proposed that they should, but we consider there is a risk, if the guidance is ambiguous on this point, that commercial pressures (both in terms of revenues and production costs) might tend to favour a ‘softer’ approach to news over the duration of a licence, even where a service sets out with the best intentions in their application. We have taken on board the feedback about other types of news being acceptable as part of a news mix, but we have not changed the guidance that they must not be primary.
- 6.20 Of course, we anticipate that other types of content will be part of the content proposition for many applicants, outside their news programming.
- 6.21 One potential applicant also made a related point regarding our guidance on current affairs, arguing that it should be expanded to include local social issues such as health, crime, housing, court, religion, etc. It was not our intention that the current affairs guidance should be restrictive and we are happy to make it clear that these are perfectly acceptable subjects to cover.
- 6.22 Although some respondents were strongly in favour of our guidance regarding ‘localising UK-wide news’, where we said that ‘e.g. conducting vox pop interviews...or inserting local place names into UK-wide stories’ would not be regarded as fulfilling local news requirements, one potential applicant commented on this. They expressed concern, citing instances where a UK-wide story, for example on the changing nature of the high street, might be ‘localised’ with benefit to the community.
- 6.23 It was not our intention that national news stories could not be given a local perspective, particularly where those stories relate to phenomena that are local in nature, and we are happy to make this clear. Our concern would be if it was a regular approach by a local service simply to report the national news with a minimal local insertion, particularly if that appeared to be a cheap substitute for local reporting.

- 6.24 A couple of respondents challenged our focus on news generally, arguing for a content requirement that included entertainment and content from local partners, placing other types of content on an 'equal footing' to news. One potential applicant argued that in their area, existing broadcasting services focused on local news, but what had been lost was local representation and longer-form programming.
- 6.25 We accept that other types of local content are important, and that, in some locations, it will be particularly important, given the existing range of services available. The application form is intended to allow applicants to propose a service that addresses such gaps in local media provision. However, audience research consistently shows news as the most valued type of local content across the UK, and it is the clear policy priority of Government that this should be at the centre of local services.
- 6.26 Finally, some responses commented on the compliance of news and current affairs content with the Broadcasting Code ('the Code'), particularly with regard to accuracy and impartiality. One potential applicant argued that being accurate is more important than being first. Another wanted to be able to sell sponsorship of business news. One more argued for general commercial relaxation, for example, in the separation programming and advertising. Another suggested that impartiality rules should be as light touch as possible, with 'programme groups' requiring due impartiality rather than individual programmes.
- 6.27 The statutory framework for L-DTPS services requires that they comply with the Code. We made no proposals in our consultation for changing the Code, although Ofcom has a duty³⁶ from time to time to review and revise the Code, and we have no current plans to do so. As we made clear in the consultation, L-DTPS licensees will have to comply with all Code rules including the due impartiality rules, laid out in Section Five.³⁷
- 6.28 In relation to the specific points raised concerning the issue of accuracy in news, the Code is clear in that it requires all licensees to report the news with due accuracy. Concerning the point made by another respondent, who said that due impartiality should be applied to 'programme groups', the Code already has sufficient flexibility in this regard. For example, due impartiality in matters of political or industrial controversy and matters relating to current public policy can be achieved over a series of programmes taken as a whole. Business news is considered a subset of news, and so the full requirements of the Code apply to it.
- 6.29 We reviewed the Code rules for commercial references in television programming in 2010. A revised set of rules in Section Nine of the Code came into force on 28 February 2011. This included new rules permitting product placement on television, subject to certain safeguards.³⁸ Any further change to the Section Nine rules would require another review of the Code.
- 6.30 Our final guidance relating to news and current affairs is:

News: As the licence is for a local television service, the most important element of news provision should be local news. Local news should be high-quality, relevant, timely and accurate, as well as complying fully with the requirements of the Broadcasting Code, including due impartiality. A

³⁶ See Section 319(1) of the Communications Act 2003.

³⁷ See <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/impartiality/>

³⁸ See <http://stakeholders.ofcom.org.uk/consultations/bcrtv2010/statement/>

station should be able to react on-air to major local events in a timely manner. Bulletins should seek to reflect the interests and concerns of those living in the area. Local news stories should be up-to-date and regularly refreshed. Simply localising UK-wide news (e.g., by conducting vox pop interviews or inserting local place names into UK-wide stories) without local news/information generation would not be regarded as a valid approach to fulfilling local news requirements. Local news can contain local sports stories but these should not be the main component of news. Similarly, entertainment news or 'softer' local content such as 'what's-on' may be relevant locally but should not be the main ingredient of bulletins or replace local journalism.

Current affairs: A current affairs programme is one that contains explanation and/or analysis of current events and issues, including but not limited to material dealing with political or industrial controversy or with current public policy. Current affairs content is also required to be duly impartial.

Quantity and scheduling of news

- 6.31 We said in the consultation that we were not setting quantitative requirements for news content and that applicants should propose a reasonable provision of news and current affairs content, bearing in mind the public subsidy and public purposes of local TV. We did say, however, that we would be unlikely to consider less than one hour in total of broadcast news per day to be too burdensome for even the smallest licensee.
- 6.32 A few potential applicants commented on this paragraph, which appeared to be generally understood as a minimum requirement for one hour of novel video content. It was our intention to be less prescriptive than this, and several responses were helpful in shaping our thinking.
- 6.33 Several responses commented that news is expensive to produce and, moreover, unprofitable given the potential revenue generation from advertising around it. Some comparisons were drawn with the quantity of local news from other existing broadcasters: this being less than the one hour we raised. One potential applicant thought that it would be difficult to sustain news output when the BBC content funding is no longer available.
- 6.34 The one hour of broadcast news per day that we suggested was intended as total broadcast duration rather than total novel content, and we are happy to make this clearer. For example, four 15 minute bulletins, provided they were updated throughout the day, would constitute one hour of broadcast duration. One potential applicant explicitly made this point, arguing that it may be appropriate to schedule regular short-form news.
- 6.35 Additionally, and as we have said elsewhere, an applicant's content proposition, including their news proposition, will be considered in the context of their scale and resources. We do not wish to issue a licence to an applicant with an unsustainable content proposition, for example, one that relies on the BBC funding as a revenue stream and does not have a business plan to replace this with other sources of revenue after the initial start-up period. It is for applicants to propose a service that can be sustained.
- 6.36 There is a particular question here with regard to scheduling, and we received some comments on this. One potential applicant said that peak time should be from 6pm,

not from 6.30pm. Others said that the duration of broadcast news should be allowed to be different at weekends and that provision should be measured across a week rather than on a daily basis (e.g. 7 hrs/week rather than 1hr/day). One other response said that what constitutes 'peak' for local TV might be different to national TV channels, and it may be better to look across the whole day.

- 6.37 We consider that, given the untested nature of this new local television sector, a flexible approach by Ofcom is appropriate. We are content for a total commitment by an applicant in terms of hours of news to be a weekly rather than a daily commitment.
- 6.38 We did not propose to require that any quantity of news output should be broadcast during 'peak' time, but we did propose to ask applicants to state how much and which elements of their proposed local programming would be during 'peak'. This was because the primary purpose of these local services is to broadcast local programming, and it would be at odds with the public policy goal if most or all local programming was scheduled when viewing is at lower levels, and networked or national programming when viewing is higher levels. This remains our concern.
- 6.39 For the purposes of defining 'peak time', we agree with the comment that peak time should be from 6pm, as this results in a definition that is the same as Ofcom's current definition of 'peak time' for the national PSB channels.
- 6.40 However, we recognise that as these services have not yet launched, it is possible that their viewing patterns will not be the same as for existing channels. An applicant for an L-DTPS licence is welcome to make the case for scheduling local programming outside 'peak time' as defined here.
- 6.41 It is possible that when services have launched and measured their audiences across different times of day, there will be new data to inform a separate definition of 'peak time' for local television (for example, with a morning peak period, as can be observed in commercial radio listening). But for now, applicants should use the existing definition in setting out their plans.

Ability to maintain service

- 6.42 In the consultation we set out an approach to assessing applicants' ability to maintain their proposed service. We said we would ask for information about how broadcasting and other activities are planned, the cost and resources required, how the applicant intends to fund these, and what human resources are involved, as well as information on key staff and the management structure, including the group's and individual members' relevant experience.
- 6.43 We proposed requiring financial information – budgets and funding – for set-up and the first three years of operation only, but a clear strategy to sustain the service for the duration of the licence. We also set out our proposed approach to analysing these business plans, and discussed the difficulty of benchmarking against existing operations. We asked whether respondents agreed.
- 6.44 Most of the responses which commented on this question agreed with our proposed approach to assessing the ability to maintain service.
- 6.45 One potential applicant for the local multiplex licence emphasised the need for L-DTPS licence applicants to demonstrate that funding is in place. Some potential L-DTPS licence applicants commented on the demonstration of funding, though, with a

couple highlighting the difficulty of having funding conditional upon being awarded a licence. One asked whether a letter would be sufficient to demonstrate funding.

- 6.46 We are content to have a flexible position with regard to demonstration of funding, and understand that sometimes this will be conditional upon licence award. However, we are seeking credible evidence and there should be no further conditions on funding that are based on factors that the applicant cannot control.
- 6.47 A few potential L-DTPS licence applicants commented on our discussion of benchmarking, where we noted that this would be our usual approach where there is an established sector, but suggested that some combination of community and commercial radio, and local and national television businesses, might go some way towards providing benchmarks, but this would not be as reliable as in an established sector. One response was sceptical that local commercial radio would be an appropriate benchmark because it 'is no longer local'. One argued that it would be inappropriate to compare community radio with a commercial business. Another thought that because of these difficulties, benchmarking was not appropriate at all. However, others said that commercial and community radio was the closest analogy, and that commercial radio in particular would be a good guide.
- 6.48 These responses echo our discussion, and while we propose an approach of benchmarking where appropriate, we recognise the limitations of this exercise.
- 6.49 Other comments on this question focused on uncertainties around costs and revenues. One potential L-DTPS licence applicant commented that securing independent revenues after the initial start-up help would be essential. Another emphasised the difficulty of predicting revenues. One argued that because of uncertainty around revenues, it would be more important for the assessment to focus on a realistic understanding of costs than on revenue estimates, because they would necessarily be unproven. We understand these points and while there must be some uncertainty around revenues, particularly those derived from viewing metrics, we will be looking for applicants to show that they have given full consideration to different revenue streams. We will also be looking for applicants to demonstrate that they have made realistic assumptions and tested their predictions against some plausible scenarios to make sure that their projections are as robust as they can be.
- 6.50 In relation to costs, a couple of potential L-DTPS licence applicants commented that there are some key uncertainties, particularly around the cost of transmission. In the previous section of this document we have discussed the Reference Offers from Arqiva in relation to the costs of local transmission, and we set out our proposed approach to applicants using those figures in their planning.
- 6.51 One response argued there should be an assessment of five year business plans rather than three year plans. We consider that given the lack of visibility of revenues, three years is the right duration to be asking for specific figures and forecasting any further forward would give diminishing value.
- 6.52 Other comments on this question raised different aspects and assumptions of our approach. One potential applicant said there was a risk of favouring non-local, established, businesses over local start-ups because they look more appealing financially. Another suggested that as it is likely that all bidders will want to run their L-DTPS service alongside an IPTV service, we should give applicants scope to discuss how these may work together. One said that responsibility for sustaining the service should not rest solely on the licensee and there should be Government assistance, for example, in a location where technical expertise was lacking.

- 6.53 Ofcom is required to assess the ability of the applicant to maintain the proposed service (including maintaining the character of the service) and the licensee will be required to provide the service for the duration of the licence. This is the licensed service to be broadcast on the local multiplex, and we cannot assess the ability to maintain any other service as part of the licence application. Applicants are welcome to explain their wider plans, particularly where these mean either additional costs or additional revenue sources for the licensed entity when compared to the DTT service standing alone. In relation to localness, we have set out our requirement for local production above, and so long as this is met, any bidder will be compared to another on equal terms.

BBC funding

- 6.54 The BBC has committed to providing £15 million of content funding to L-DTPS services, until the end of March 2017. This money will be provided from the BBC's television licence fee income.
- 6.55 All L-DTPS licensees are eligible for this funding, and the BBC has published a set of high-level principles about how it intends to disburse this funding to L-DTPS licensees. This document can be found here:
<http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/localtv.html>.
- 6.56 Following the BBC agreement, the BBC will disburse this funding primarily through buying news stories from L-DTPS services. This funding is only available for stories suitable for inclusion in the BBC's regional and national news programming and services and is weighted towards the first year of L-DTPS services' operation. This is in order to provide more guaranteed funding in the start-up period when it is most needed.
- 6.57 The BBC will:
- 6.57.1 make payment through a combination of a fixed fee for each L-DTPS licensee and a variable component that licensees have the opportunity to access;
 - 6.57.2 select from the available material produced by licensees to meet its editorial needs; and
 - 6.57.3 require third party exclusivity over acquired content within the UK if the content is used on its public services.
- 6.58 This funding may be included in business plans, but applicants should also be able to demonstrate how they will replace this revenue stream as it decreases over the first three years, and once it has been exhausted after the end of March 2017.
- 6.59 This funding is not regulated by Ofcom and we have no responsibility for it. The terms are a matter for the BBC and any contract will be between L-DTPS licensees and the BBC. We have made the BBC and DCMS aware of comments that respondents made on this matter.

Contingent applications

- 6.60 We said that any application for a specific L-DTPS licence must be considered on its own merits, with reference to the statutory criteria for licence award. Ofcom will not

advertise licences for multiple locations, and cannot accept applications for specific locations that are contingent upon the outcome of other applications.

- 6.61 Some respondents asked whether this is something we could consider changing our position on. Additionally, other responses implied that the potential L-DTPS licence applicant considered their business plans for a given location would be contingent upon their holding a licence for another.
- 6.62 We did not ask a consultation question on this matter because we do not consider that we have any discretion to do otherwise. The statutory framework is clear about the criteria by which each L-DTPS licence must be awarded, and contingent bids is not one such criterion. It is not consistent with a 'beauty contest' approach to licence award: it would not be fair to one party who applied for a single licence if another party who applied for that licence, and also others, were judged by a different measure. It would also make the approach to assessing applications exponentially more complex.
- 6.63 However, we recognise that businesses will seek to exploit synergies, and this can be to the benefit of local television. We recognised in our consultation that for any applicant seeking an L-DTPS licence in any further phases of licensing, any licences that they held from a first phase would inevitably be part of their business plan.

Licence fees

- 6.64 Many respondents agreed with our approach to fees.
- 6.65 However, a significant number of respondents disagreed with our approach to fees. Many of these made suggestions for a different approach to fees that would result in lower charges made to applicants, although no one suggestion emerged significantly more often than any other.
- 6.66 Suggestions included that there should be no application or annual fees for L-DTPS licences; lower/capped application or annual fees for both types of licence; annual fees should be calculated on a different basis; fees for L-DTPS licence should include other licences that licensees might want, for example, a TLCS licence; there should be no duplication of fees for applicants for multiple L-DTPS licences.
- 6.67 Although we understand the impact our proposed fees could have on some businesses, these fees were proposed because they are in line with the fees charged in other areas of broadcast licensing and are designed to cover Ofcom's costs in regulating the sector.
- 6.68 Ofcom does not have the scope to subsidise a certain subset of our stakeholders, because this would be reflected in higher charges to other stakeholders.
- 6.69 With regard to including other licence fees, such as that for a TLCS licence, in the L-DTPS licence fee if the licensee so wished, we do not think this is in line with our existing policy as applied to applicants for other types of licences, such as DTPS licensees. It would not be consistent or fair to holders of other types of broadcast licences to exempt L-DTPS licensees from the application and annual fees of licences for other types of services.
- 6.70 We will continue with our proposed approach to application and annual L-DTPS fees as set out in the tables below.

Table 4: Application fees

	Tariff for 2011/12 (£)	Transfers/Variations (£)
L-DTPS licence	2,500	1,000

Table 5: Category A – PSB licence fees (2011/12 tariff tables)

Relevant Turnover			% of revenue payable as annual fee
£0m	-	£10m	0.12326%
£10m	-	£35m	0.18489%
£35m	-	£75m	0.27733%
£75m	-	£300m	0.41600%
Over		£300m	0.0%

Section 7

Next steps

Inviting applications

- 7.1 This statement is published simultaneously with our *Invitations to Apply* for the first 21 L-DTPS licences and the local multiplex licence. Each *Invitation to Apply* is a self-contained document that will guide potential applicants through the process.
- 7.2 For the L-DTPS licences we have published an *Application Form* that applicants should complete and return to us with any accompanying information. For the local multiplex licence, the *Invitation to Apply* contains instructions on how to apply but there is no equivalent application form.
- 7.3 Shortly after the closing date for applications, all applications will be published on the Ofcom website, minus any sections that are redacted at applicants' request due to commercial confidentiality.
- 7.4 The deadline for applications for both the local multiplex licence and for L-DTPS licences will be 13 August 2012.

Licence processes

Assessment and award of the local multiplex and L-DTPS licences

- 7.5 Ofcom will make decisions on licence award as soon as practically possible.
- 7.6 We will assess applications according to the statutory criteria and the policy approach set out in this Statement. During this time we may also ask applicants for clarification/amplification of their proposals.
- 7.7 Licence awards will then be decided by a Broadcast Licensing Committee, which will be a sub-committee of the main Ofcom Board, with delegated authority.
- 7.8 All decisions and the reasons for those decisions will be published on the Ofcom website.

After licence award

- 7.9 Licence award is not the formal beginning of a licence; it is Ofcom's decision about which of the applicants should hold the licence. We will notify successful applicants in writing that they have been awarded a licence.
- 7.10 When we write to successful L-DTPS licence applicants we will give them notice that a condition of the licence award is that they must launch a service within two years of the award date; otherwise we reserve the right to withdraw the award, and re-advertise the licence.
- 7.11 After we have written to the successful applicant for the local multiplex licence, and the successful applicants for every L-DTPS licence that we were able to award, we will expect a dialogue between them regarding the dates on which coverage will be built out to the locations, and the dates when the L-DTPS licensees will begin

broadcasting their service. Ofcom will take no formal regulatory role in this process but we would anticipate that there may be some revision of the local multiplex licensee's Technical Plan where it is possible to accommodate the desired launch dates of L-DTPS licensees.

- 7.12 If the successful local multiplex licence applicant wishes to revise their Technical Plan they will need to submit it to Ofcom no later than two months after this 'adjustment period' begins (which is when the final L-DTPS licence of Phase 1 is awarded). Ofcom will approve the Technical Plan in the application if no adjusted plan is received. We anticipate that any revisions would be to the sequencing of locations, not to the speed of rollout or to the number of locations covered, as these will have been considerations for the local multiplex licence award decision.
- 7.13 The final Technical Plan, if approved by Ofcom, will become a binding commitment via the local multiplex licence. From the point of approval onwards, the commencement date for broadcasting in each location will be specified by the local multiplex licensee's Technical Plan.

Granting and commencement of the licences

- 7.1 For each licence awarded, a licence will be prepared by Ofcom and issued to the licensee, signed by Ofcom. This is licence 'granting'.
- 7.2 In both types of licence, the licence will specify the commencement date of the licence. This is when the service will begin broadcasting, the licence conditions will apply and the duration of the licence begins.
- 7.3 We will aim to grant the local multiplex licence as soon as practicable after it has been awarded. The commencement date in the licence will be shortly before the date when the multiplex service will commence broadcasting at the first location to be built-out.
- 7.4 We will also aim to grant all the Phase 1 L-DTPS licences as soon as practicable after they have been awarded, with a commencement date tied to the launch of the service.
- 7.5 If a prospective launch date is agreed between the successful L-DTPS licence applicant and the successful local multiplex licence applicant during the adjustment period, then that will be the commencement date of the L-DTPS licence. Otherwise, the commencement date in each L-DTPS licence will be the later of:
- 7.5.1 the launch date for the local site, in the final Technical Plan approved by Ofcom; or
 - 7.5.2 the launch date proposed by the L-DTPS licence applicant in his application.

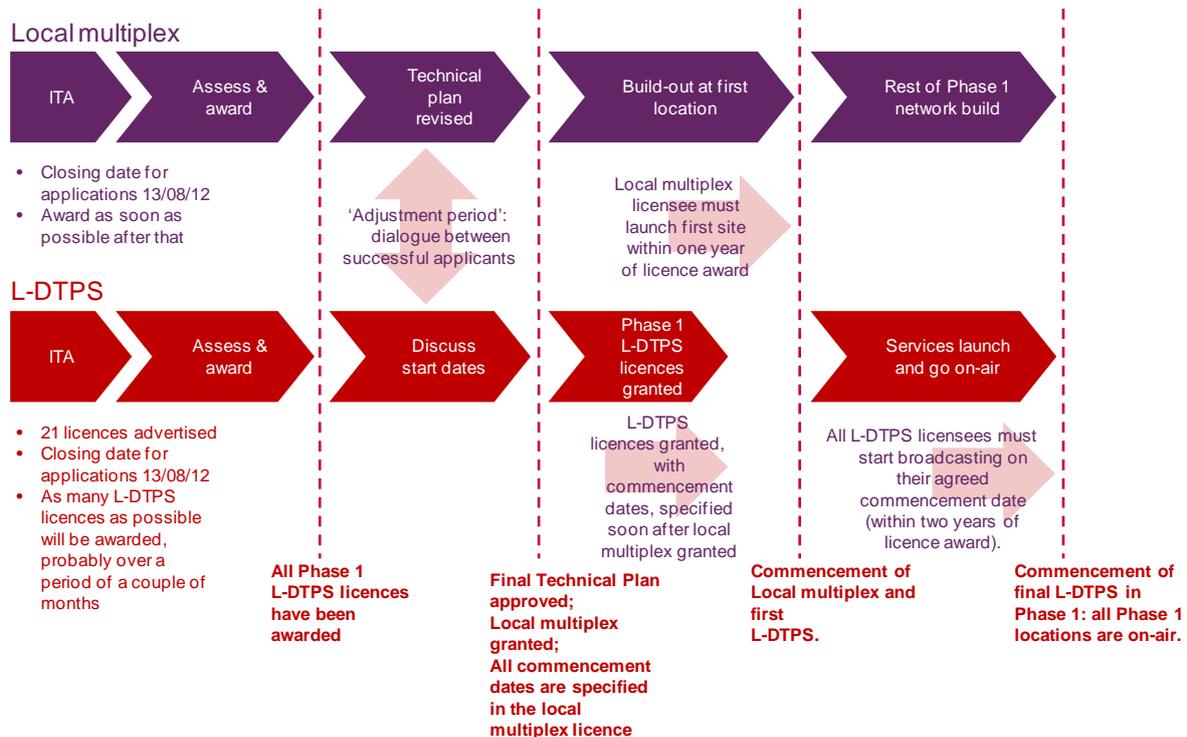
In other words, no L-DTPS licence applicant will be required to launch their service before the date they specify in their application, unless they agree to do so with the successful local multiplex licence applicant.

- 7.6 The local multiplex service may however begin broadcasting at a specific location earlier than the L-DTPS launch date, but it may not begin charging carriage costs to the L-DTPS licensee until their commencement date.

7.7 In between the date of licence award and the date of licence granting for each successful L-DTPS licence applicant, we will confirm the Programming Commitments proposed during the application process so that we can include them in the licence.

7.8 Figure 2 shows the timetable described in this section.

Figure 2: Anticipated sequence of events for the launch of local TV services (Phase 1), following licence awards



Other types of content licence

7.9 This statement and the consultation have related to the two new types of broadcasting licence, the local multiplex licence and L-DTPS licence.

7.10 The L-DTPS licence requires a local TV service provider to broadcast on DTT and confers certain privileges and expectations as set out here. However, further types of licence are required to distribute audio-visual content via other platforms.

7.11 None of these other types of licence is awarded in a competitive process; applicants must meet eligibility criteria. All carry an application fee which would be non-refundable. Unless applicants for L-DTPS licences intend to provide other licensed services regardless of whether they are awarded the L-DTPS licence or not, we suggest that they wait until being awarded a licence before applying for these other types of licence.

TLCS for internet distribution of a television service

7.12 A TLCS licence is required for internet distribution of a television service: for example, the simulcasting of a live television stream. A TLCS licence award is not a competitive process, and carries an application fee. Any live television service distributed via the internet and accessible outside the UK will be subject to the advertising minutage restrictions of the AVMS directive.

DTPS for use of other channels carried by multiplex

- 7.13 If the local multiplex licensee chooses to make available the remaining video streams to other service operators, including L-DTPS licensees, then a DTPS licence will be required to broadcast on the DTT platform using these channels.

ATVOD registration for a video-on-demand service

- 7.14 Video-on-demand services are regulated by our co-regulator, the Authority for Television On Demand (ATVOD). Applicants should notify ATVOD of their proposed service. This carries an application fee for each On Demand Programme Service (ODPS) registered with ATVOD. For guidance on what constitutes an ODPS and on fees, see the ATVOD website (www.atvod.co.uk).

Annex 1

Summary of responses relating to coverage and location

A1.1 For all locations not included in the following tables, we received no comments or feedback on the coverage area. This does not change the position we have taken on the roll-out of phase 1 and phase 2 locations in previous sections of this document.

Table A1.1: Responses to coverage of Phase 1 locations

Phase 1 locations	Comments on coverage made by respondents to the consultation	Ofcom response
Brighton & Hove	Coverage needs to be extended into the east of Brighton and include Lewes if possible.	Coverage to the east is limited by international restrictions. There is scope within the permitted power template to increase coverage to the east of Brighton at a lower power. Lewes is served by a separate relay transmitter that could carry the local service. Ofcom would consider proposals from multiplex applicants.
Cardiff	Coverage to the west needs to be limited to avoid encroaching upon Swansea service.	It would be possible to reduce the coverage of the Cardiff service to the west or to broadcast a separate petal of coverage towards Swansea carrying a Swansea service.
Edinburgh	Suggest that channel 30 would be more compatible with existing aerials than the proposed channel 52.	Ofcom would consider proposals from multiplex applicants. Frequency allocations can be reviewed depending upon the desired coverage from transmitters in the network.
Grimsby	Needs to formally include Hull and as much of Humberside as possible.	Ofcom would consider proposals from multiplex applicants. It may be possible to improve coverage in Hull by employing an antenna higher on the Belmont transmitter.
Leeds	The proposed service from the Emley Moor transmitter covers too large an area – Huddersfield, Halifax, Dewsbury should have their own services from smaller transmitters.	Ofcom's indicative coverage data is based upon use of existing broadcast structures. Ofcom would consider proposals for an alternative approach from multiplex applicants.
London	Coverage needs to be extended to the south and north west.	It has been possible to extend the coverage area of London to increase the population total of the DPSA from 3 million to 4.1 million. This is based on proposals for positioning the antenna higher up the mast and using a maximum power of 20kW. This coverage is indicative and the actual coverage area will depend on the transmission arrangements agreed by the successful multiplex licence applicant.
Norwich	Would like to extend coverage towards the north Norfolk coast.	Using a higher power or transmitting antenna would increase the need for international coordination. Ofcom would consider proposals from multiplex applicants but could not guarantee that these would be acceptable internationally.

Oxford	More extensive coverage is needed – the whole county of Oxfordshire rather than just the city. Need to swap the frequencies proposed for Hannington and Oxford.	Ofcom would consider proposals from multiplex applicants. Frequency allocations can be reviewed depending upon the desired coverage from transmitters in the network.
Sheffield	City will not be well served from the relay only as most viewers are watching Emley Moor. Relays at Chesterfield and Conisborough also needed.	There is no transmission frequency available that would allow Sheffield to be reached by signals from Emley Moor. It may be possible to find an alternative transmission site that closer to Sheffield that lies in line with aerials pointing at Emley Moor. Ofcom would consider proposals for use of an alternative site from a multiplex applicant.
Swansea	Coverage of the Gower area is needed.	The indicative coverage is based upon use of the Kilvey Hill relay transmitter. Households in the Gower are served by signals from the Carmel transmitter. Limitations on the frequencies available mean that a service from Carmel is unlikely to reach the Gower. Ofcom would consider proposals from multiplex applicants for an alternative transmitter location.

Table A1.2: Responses to coverage of phase 2 locations

Possible phase 2 locations	Comments on coverage made by respondents to the consultation	Ofcom response
Basingstoke	Basingstoke should only be targeted separately to Reading and Newbury if this is not to the detriment of overall coverage achieved by the Hannington transmitter.	Ofcom would consider proposals from multiplex applicants. Frequency allocations can be reviewed depending upon the desired coverage from transmitters in the network.
Luton	Need main Sandy Heath transmitter to serve Luton and surrounds. Coverage should also include Dunstable and Houghton Regis.	Power limitations on the available frequencies mean that the Sandy Heath transmitter cannot reach Luton. An alternative approach would be to use a transmitter site closer to Luton and in line with aerials there. Ofcom does not have information about possible sites in that area but would consider proposals from multiplex applicants.

Table A1.3: Responses concerning coverage of additional locations

Additional locations	Comments on coverage made by respondents to the consultation	Ofcom response
Chichester area	Need a service covering Chichester, Arundel, Midhurst, Petworth.	A multiplex operator is able to propose any locations not on the list supported by evidence of technical feasibility and of a potential local operator in those locations.
Fife	Fife should be served by three transmitters – north beam from Craigkelly, south from Angus and also from Black Hill.	Serving Fife is likely to be technically difficult as three transmitters are required and overlaps with the Edinburgh service from Craigkelly would need to be managed. Ofcom would consider proposals for alternative technical arrangements from multiplex applicants.

Highland & Islands	All of the main transmitters in Scotland should be included.	A multiplex operator is able to propose any locations not on the list supported by evidence of technical feasibility and of potential local operators in those locations.
Leicester		It is not possible to serve Leicester from the existing broadcast transmitters without causing interference to other DTT services. A multiplex operator is able to propose the use of alternative transmitter locations.
Solihull	Need a service for Solihull.	Solihull is partially served by the Birmingham service. It is not feasible to separately target Solihull from the main Sutton Coldfield transmitter. An alternative transmitter location would be required. Ofcom would consider proposals from a multiplex applicant.
South Wales	More locations in South Wales are needed – e.g. Pembrokeshire, Carmarthen and Ceredigion.	The list of locations is not exclusive and multiplex operators can propose additional locations.

Annex 2

Reference Offer explanatory notes

A2.1 Arqiva is under an obligation to produce Reference Offers in relation to certain aspects of broadcast transmission as a result of a review of the market for broadcast transmission services³⁹ carried out by Ofcom in 2003, and also as a result of subsequent Undertakings⁴⁰ given to the Competition Commission in 2008 following the acquisition of National Grid Wireless by Arqiva's parent company, Macquarie UK Broadcast Holdings Ltd. Arqiva's compliance with the terms of the Undertakings is monitored by the Office of the Adjudicator, Broadcast Transmission Services.⁴¹

A2.2 On 9 March 2012, Ofcom's Broadcast Transmission Services and Network Access Review (the Review) technical specifications for the Review, including the costs of the revised Reference Offer. The Reference Offer is set out in the Reference Offer for each mast for a baseline arrangement of coverage at any one time.

SUPERSEDED

Annex 2 has been superseded.

Updated information can be found in our published document: *Transmission Reference Offers for Local Television: Guidance and Summary*.

This document can be found here:
http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference_Offer_Guidance.pdf

both Transmission Services and Network Access Review. Ofcom recently reviewed the Review with a view to reducing the costs of the 2012 Arqiva published Reference Offer. The Review contains information on what these Reference Offers contained in them. The Review also contains information on the availability of space on the Review in relation to the Review and not enhanced.

A2.3 The basis for the Review is set out in the Review. Ofcom attempted to identify the main transmitter for each mast for a baseline arrangement of coverage at any one time.

- A2.4 Two reference offers have been produced:
- 2.4.1 **Network Access** – provides a price for access to the Arqiva sites and facilities such as buildings, power and antenna systems. Network Access prices are relevant to third-party organisations that may wish to provide transmission services in competition with Arqiva.
 - 2.4.2 **Transmission Services** – provides a price for a customer that wishes Arqiva to provide all of the hill-top transmission system to broadcast a local TV service. Transmission Services comprise the Network Access components plus additional equipment such as the transmitter which together enable the local multiplex to be broadcast.

A2.5 The Reference Offers set out indicative prices for potential customers of Network Access or Transmission Services along with indicative commercial terms.

³⁹ Broadcast transmission services market review: http://stakeholders.ofcom.org.uk/consultations/bcast_trans_serv/?a=0
⁴⁰ Arqiva Undertakings: <http://www.adjudicator-bts.org.uk/documents/Undertakings%20-%20Non-confidential%20version.pdf>
⁴¹ Office of the Adjudicator, Broadcast Transmission Services: <http://www.adjudicator-bts.org.uk>
⁴² Local TV spectrum planning study: <http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/arqiva/>

- A2.6 Ofcom is providing high-level guidance to readers that are unfamiliar with Reference Offers with a view to helping them to understand some of the information contained in the publications.
- A2.7 Organisations that intend to rely upon information contained in the Reference Offers (for example, to participate in the licence awards) should seek independent legal and commercial advice, and engage with Arqiva to discuss specific terms. There are many situations under which actual prices for providing the services could vary from those quoted.
- A2.8 Reference Offers provide benchmark prices for the services offered against a notional specification. Potential local multiplex licensees are not obliged to accept the arrangements set out in the Offers and are free to negotiate alternative technical and commercial arrangements with Arqiva.
- A2.9 Alternatively, potential services who may be affected by the Reference Offers. A fair and non-discriminatory access.
- A2.10 Local multiplex licensees which they are able to consider proposals it is not possible to consider proposals.
- A2.11 Applicants should be located where viewers of local multiplex will be the location of the local multiplex nearby households (or 'hole punching').
- SUPERSEDED**

Annex 2 has been superseded.

Updated information can be found in our published document: *Transmission Reference Offers for Local Television: Guidance and Summary*.

This document can be found here:
http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference_Offer_Guidance.pdf

Important note to stakeholders wishing to contact Arqiva

- A2.12 Arqiva is required to maintain strict procedures concerning the flow of information between certain of its business units to ensure that it does not gain any unfair commercial advantage and that customer confidentiality is respected. Therefore, organisations wishing to contact Arqiva in relation to Local TV should ensure that they contact only people in the appropriate part of the organisation. Arqiva has published on its website details of the most appropriate person to contact in the relevant business units.⁴³

⁴³ Guidance on who to contact within Arqiva in relation to Local TV:
http://www.arqiva.com/corporate/pdf/ReferenceOffers/Local%20TV%20Reference%20Offers%20-%20Communication%20Guidance%20for%203rd%20parties%20v3_58205.pdf

Interpreting Reference Offer price information –Transmission Services

A2.13 Costs for Transmission Services are set out in Schedules 4A, 4B and 16 of the Transmission Services Reference Offer. Prices are set out under various headings and a brief explanation is provided in Table A2-1 below.

Table A2.1: Transmission services price information

Table A2.1	Expenditure type	Summary of what it pays for
<i>Network Access Initial Fee</i>	One-off capital	<ul style="list-style-type: none"> Detailed design of site Submission of planning applications (if necessary) Preparation of accommodation in
<p>SUPERSEDED</p> <p>Annex 2 has been superseded.</p> <p>Updated information can be found in our published document: <i>Transmission Reference Offers for Local Television: Guidance and Summary</i>.</p>		
<i>MTS Initial Fee</i>		<p>This document can be found here: http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference_Offer_Guidance.pdf</p> <ul style="list-style-type: none"> Design of transmitter Installation and Commissioning of transmitter including Structure and ventilation
		<ul style="list-style-type: none"> Connection to power supply and to antenna system Supply, installation and commissioning of a local re-multiplexer for insertion of the local TV service
<i>Network Access Annual Fee</i>	Ongoing operational	<ul style="list-style-type: none"> Rental of space on the broadcast structure for the antenna Maintenance of facilities provided under Network Access above
<i>Managed Transmission Annual Fee</i>	Ongoing operational	<ul style="list-style-type: none"> Maintenance of facilities provided under MTS above
<i>Indicative Pass-Through Costs</i>	Ongoing operational	<ul style="list-style-type: none"> Rent Light and heating
<i>Electricity (Schedule 16)</i>	Ongoing operational	<ul style="list-style-type: none"> Estimated cost for electricity to power the transmitter

- A2.14 The total Capital Expenditure can be obtained by adding the *Network Access Initial Fee* and the *MTS Initial Fee* set out in Schedule 4 of the Managed Transmission Services Reference Offer. Arqiva has produced two schedules; Schedule 4A is for a resilient system to maintain service in case of failure. Schedule 4B is for a system with less duplication of equipment which can lead to longer interruptions to service under failure conditions.
- A2.15 Total Operating Expenditure can be obtained by adding the *Network Access Annual Fee*, *MTS Annual Fee* and *Indicative Pass-Through Costs* in Schedule 4 together with the estimated *Electricity* costs set out in Schedule 16.

Interpreting Reference Offer price information – Network Access

A2.16 Prices for Network Access Reference Offer Managed Transmission

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Annex 2 has been superseded.

Updated information can be found in our published document: *Transmission Reference Offers for Local Television: Guidance and Summary*.

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of the Network Access Reference Offer with those in the Reference Offer set out in Table A2-2 below.

Table A2.2: Network Access

Table A2.2		it pays for
<i>Network Access Initial Fee</i>		<ul style="list-style-type: none"> • Procurement of electricity supply • Supply, installation and commissioning of electrical connection • Supply, installation and commissioning of antenna and feeders
<i>Network Access Annual Fee</i>	Ongoing operational	<ul style="list-style-type: none"> • Rental of space on the broadcast structure for the antenna • Maintenance of facilities provided under Network Access above
<i>Indicative Pass-Through Costs</i>	Ongoing operational	<ul style="list-style-type: none"> • Rent • Light and heating

- A2.17 Total Capital Expenditure for Transmission Services would be obtained by adding the *Network Access Initial Fee* figures in Schedule 12 with the capital costs provided by an alternative transmission company.
- A2.18 Total Operating Expenditure for Transmission Services would be obtained by adding the *Network Access Annual Fee* and *Indicative Pass-Through Costs* in Schedule 12 with the operating expenditure costs (including electricity) provided by an alternative transmission company.

A2.19 A summary of the Reference Offer pricing is given in Table A2-3 at the end of this Annex.

Scope of the Reference Offers

A2.20 The Transmission Services allowed for in the Reference Offers do not account for all of the broadcast chain - Figure 1 illustrates the relationship with the wider system.

A2.21 Potential local multiplex licensees should be aware that the costs of encoding and distributing the services that might make use of the multiplex capacity not required for local TV services are not included in the Reference Offers and they will need to make separate provisions for these.

A2.22 L-DTPS licensees should be aware that their Reference Offer prices do not include any allowance for the costs of delivering their local content from their studios to the local transmitter.

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Annex 2 has been superseded.

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Figure A2.1: Local TV Reference Offer

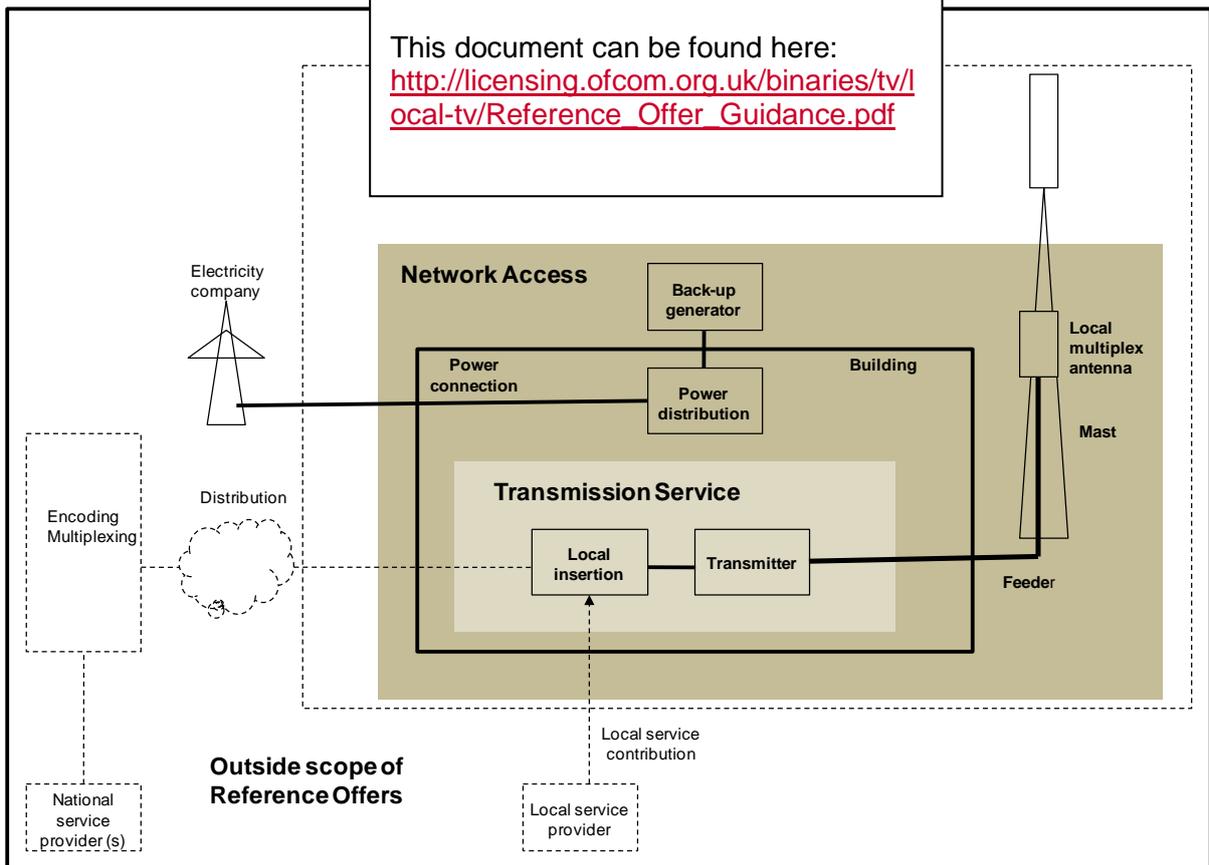


Table A2.3: Summary of Reference Offer prices**Local TV reference offer summary**

Based upon Arqiva TS and NA offers published 4 May 2012

Phase 1	Single - Option 2		Network Access only	
	Capex (£)	Opex (£ p.a.)	NA capex (£)	NA Opex (£ p.a.)
Belfast	489,807	67,592	376,337	36,033
Birmingham	698,755	75,570	542,256	40,571
Brighton	162,031	20,152	93,754	10,898
Bristol	892,681	84,038	534,209	47,098
Cardiff	SUPERSEDED Annex 2 has been superseded. Updated information can be found in our published document: <i>Transmission Reference Offers for Local Television: Guidance and Summary</i> . This document can be found here: http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference Offer Guidance.pdf			35,701
Edinburgh				31,239
Glasgow				30,890
Grimsby				25,833
Leeds				49,024
Liverpool				28,113
London				32,292
Manchester				17,735
Newcastle				31,793
Norwich				27,719
Nottingham				44,735
Oxford				29,110
Plymouth				35,967
Preston				17,741
Sheffield				9,294
Southampton	22,304			
Swansea	11,788			
Total	9,423,818	1,133,535	6,582,380	615,878

Local TV reference offer summary

Based upon Arqiva TS and NA offers published 4 May 2012

	Single - Option 2		Network Access only	
Phase 2	Capex (£)	Opex (£ p.a.)	NA capex (£)	NA Opex (£ p.a.)
Aberdeen	285,775	54,865	217,737	28,057
Ayr	370,854	41,337	308,875	25,138
Bangor	204,036	22,311	121,944	12,653
Barnstaple	567,374	53,012	403,867	29,698
Basingstoke	294,543	31,310	228,677	17,418
Bedford	312,308	33,714	212,003	19,022
Bromsgrove	146,117	18,446	82,772	10,316
Cambridge				12,192
Carlisle				32,981
Derry/Londonderry				13,819
Dundee				34,186
Guildford				9,595
Hereford				18,605
Inverness				28,861
Kidderminster				10,423
Limavady				23,462
Luton				9,357
Maidstone				17,631
Malvern				10,184
Middlesbrough				21,439
Mold	333,272	51,336	219,174	27,969
Reading	284,175	38,363	218,309	17,217
Salisbury	168,196	20,721	104,113	11,370
Scarborough	205,858	23,521	137,513	13,642
Stoke on Trent	135,022	18,050	70,939	9,551
Stratford Upon Avon	171,765	15,795	72,629	7,440
Tunbridge Wells	202,601	23,434	102,487	11,936
York	333,976	43,682	271,997	23,632
Total	7,559,264	929,674	5,135,129	507,794

SUPERSEDED

Annex 2 has been superseded.

Updated information can be found in our published document: *Transmission Reference Offers for Local Television: Guidance and Summary*.

This document can be found here:

http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference_Offer_Guidance.pdf

Annex 3

Glossary

Expression	Meaning
1990 Act	Broadcasting Act 1990 (1990 c 42)
1996 Act	Broadcasting Act 1996 (1996 c 55)
2003 Act	Communications Act 2003 (2003 c 21)
s.5 Order 2011	The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2012 Now UK statutory instrument no.293 See http://www.legislation.gov.uk/uksi/2012/293/contents/made
s.244 Order 2011	The Local Digital Television Programme Services Order 2012 Now UK statutory instrument no. 292 See http://www.legislation.gov.uk/uksi/2012/292/contents/made
s.310 Order 2011	Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order 2011 Now UK statutory instrument no. 3003 See http://www.legislation.gov.uk/uksi/2011/3003/contents/made
600 MHz band	A range of frequencies being cleared by digital switchover between 550 MHz and 606 MHz.
800 MHz band	A range of frequencies being cleared by switchover between 790 MHz and 865 MHz that is expected to be used by mobile broadband services.
AVMS	Audio Visual Media Services directive
Committee	The Broadcast Licensing Committee to whom the Ofcom Board has delegated authority to discharge our functions in relation to matters covered by this Notice: the Terms of Reference for this Committee will be published on our website.
dBuV/m	A measure of field strength.
DMOL	DTT Multiplex Operators Ltd A company owned by the operators of the six UK-wide DTT multiplexes which exists to ensure consistency and interoperability across the DTT platform. DMOL manages the infrastructure that collates the DTT EPG.
DPSA	Digital Preferred Service Area A prediction of the areas where viewers are expected to be watching a particular transmitter.
DSO	Digital Switchover Details of the DSO process and timing are available on our website (see http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/dso/ in relation to transmission details) and certain other DSO related websites, such as www.digitaluk.co.uk and www.digitaltelevision.gov.uk .

DTG	Digital Television Group www.dtg.org.uk
DTT	Digital Terrestrial Television
DVB-T	Digital Video Broadcasting – Terrestrial. A digital television standard developed for terrestrial transmission.
DVB-T2	Digital Video Broadcasting – Terrestrial 2. An updated version of the DVB standard for terrestrial transmission that offers greater capacity than DVB-T for equivalent transmitter powers and coverage.
EPG	Electronic Programme Guide
GE-06	The last regional Radio Conference held in Geneva in 2006 to agree frequency plans for digital switchover across Europe and North Africa.
GI Spectrum	Geographically Interleaved Spectrum Spectrum that is unused by the national DTT broadcasters and does not cause interference to the neighbouring signal.
Gross coverage	The area over which the signals from a transmitter are predicted to be above the planning threshold and sufficiently free from interference for good reception to be possible.
ITU	International Telecommunications Union
LCN	Logical Channel Number as displayed within electronic programme guides.
L- DTPS	Local Digital Television Programme Service A digital programme service broadcast by the local multiplex that is intended for reception only within a particular locality and caters for the interests and needs of some or all people living in that locality.
MHz	Mega Hertz A measurement of frequency equal to one million oscillations per second.
MPEG-2	A standard for encoding video in a digital form that reduces the bitrate required to broadcast the video while substantially maintaining the picture quality. MPEG-2 is widely used for encoding standard definition digital TV services on the DTT platform.
MPEG-4	A newer standard than MPEG-2 that achieves greater reductions in the bitrate needed to broadcast video content. The HD services on the DTT platform are MPEG-4 encoded.
Multiplex	A bundle of programme services and Service Information that is transmitted together.
Notice	The Statutory Notice of the Invitation to Apply published in accordance with the s.244 Order 2011.
Ofcom	Office of Communications
Petalling	Targeting coverage towards specific locations from a transmitter rather than in all directions. Petalling can enable separate local services to target different towns that are served by the same transmitter.
PMR	Percentage Multiplex Revenue – defined as: <i>“all payments or other financial benefit received... in consideration of the</i>

	<p><i>inclusion in the services carried on the multiplex of advertisements or other programmes, or from charges for the reception of programmes included in those services. It also includes all payments received by the television multiplex licensee, or any connected person, in respect of the broadcasting of any qualifying service by means of the television multiplex licence licensee, or any connected person, in respect of the broadcasting of any qualifying service by means of the television multiplex licence or payments made to enable the television multiplex licence holder to meet its additional payments.”</i></p> <p>http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying_revenue.pdf - pg 6</p>
PPB	Party Political Broadcast
Programming Commitments	A 250 word summary of the content proposition drafted by L-DTPS applicants as part of their application for an L-DTPS licence.
Public service broadcasting purposes	Meaning the remit given to local TV services under the s.244 Order 2011 to provide a television service that will bring social or economic benefits to an area.
RBL	<p>Re-Broadcast Link</p> <p>The means by which many of the PSB multiplex operators' relay transmitters receive their programme feed.</p>
Reference Offer	The document produced by Arqiva to help applicants assess the level of costs they may incur.
RRC	<p>Regional Radio Conference</p> <p>A meeting between several nations held when agreement is needed over significant changes to the use of frequencies in those countries. The last RRC was held in Geneva in 2006 to agree plans for digital switchover.</p>
SI	<p>Service Information</p> <p>Data that is carried within a DTT multiplex that allows receivers to function correctly. Data to populate the EPG is carried within the SI.</p>
Standard definition television service	The expression is defined in [Article 2] of the 2008 Order as "...a television service which is broadcast in a format designed to display the images comprising a television programme by employing 576 active lines of pixels per frame."
QPSK	<p>Quadrature Phase Shift Keying</p> <p>A type of robust signal used by digital television.</p>
UHF	<p>Ultra High Frequency</p> <p>A part of the spectrum a portion of which between 470 MHz to 854 MHz is used for television broadcasting.</p>
WRC	The World Radio Conference (WRC) is an international forum that takes place every 3-4 years where matters relating to the use of the spectrum are discussed.

Annex 4

Document history

Version	Date	Details
1.0	10 May 2012	Document published
2.0	15 May 2012	Clarification of enhanced London coverage at paragraph 3.26 and Annex 1. Clarification in relation to revised Reference Offer in Annex 2. Other minor amendments.
3.0	28 June 2012	Information in Annex 2 Superseded. Updated information contained in the <i>Transmission Reference Offers for Local Television: Guidance and Summary</i> , published at: http://licensing.ofcom.org.uk/binaries/tv/local-tv/Reference Offer Guidance.pdf