



Licensing Local Television

How Ofcom would exercise its new powers and duties being proposed by Government

Consultation

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Section 1

Executive summary

Background

- 1.1 Following the Government's statements of policy in *A new framework for local TV in the UK*, *Local TV: Pioneer locations*, and *Local TV: Making the vision happen*, it has laid three Orders before Parliament that, if they enter into force, would create a statutory framework for local television. These are 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').
- 1.2 Respectively, the Orders would create a framework for licensing a new class of television services; direct Ofcom to reserve spectrum for these services; and establish the status of these services in relation to Electronic Programme Guides (EPGs).
- 1.3 Ofcom is consulting now so that we can advertise licences as soon as possible. The proposals in this document are based on the Orders being passed by Parliament, and all are conditional on that happening. If the Orders were not passed, Ofcom would withdraw this consultation and give notice to this effect.

Structure of the licensing process

- 1.4 The s.244 Order creates a class of licences called 'local digital television programme service' (L-DTPS) licences. It also modifies the statutory framework relating to the licensing of television multiplex services, to create a new type of multiplex service (a 'local multiplex service') which is licensed specifically for the purpose of carrying local digital television programme services. These two new types of service (and the licences which are required to provide them) are complementary, with the multiplex required to carry the local digital television programme service, and the L-DTPS licensee required to offer it to the local multiplex licensee, respectively.
- 1.5 Ofcom's previous technical report for Government identified 65 different locations where a local TV multiplex would be technically possible. It is necessary that a location should be economically viable, and that there should be demand there for a local service, if it is to be licensed and built-out.
- 1.6 We propose a minimum coverage requirement of any multiplex operator, and that potential multiplex operators should propose what additional areas they will cover, above that minimum.
- 1.7 This will allow us to advertise the local multiplex licence simultaneously with the first tranche of local area licences, as soon as this consultation is concluded, assuming the Orders are passed. This will be the first phase of licensing.
- 1.8 Any further locations proposed by the successful multiplex licensee will then form the second phase of local service licensing. We anticipate advertising these local service licenses soon after concluding the first round of awards.
- 1.9 There will be a number of concurrent processes relevant to the licensing processes described in this consultation, including the BBC's administration of its funding for

transmission build-out, and an Ofcom review of the rules around Party Political Broadcasts. These are out of scope of this document.

Local multiplex licence conditions and requirements – areas to cover

- 1.10 Our financial modelling suggests that a minimum rollout of 20 locations will be viable in most scenarios, and so we are proposing 20 sites as a minimum coverage requirement. (In some scenarios a far larger number is possible, but these scenarios assume the multiplex operator being run as a non-profit business, which cannot be taken for granted, so we are proposing a minimum that we consider can be commercially viable.)
- 1.11 We are proposing 20 specific sites for the minimum rollout. These are selected from the sites where local TV is technically possible and we consider there is a potential local service operator, to achieve a range of locations across the UK, and a range of scales of operation. We also take into account evidence of strong local demand.
- 1.12 The 20 sites are: Belfast, Birmingham, Brighton & Hove, Bristol, Cardiff, Edinburgh, Glasgow, Grimsby, Leeds, Liverpool, London, Manchester, Newcastle, Norwich, Nottingham, Oxford, Plymouth, Preston, Southampton and Swansea. We are consulting on this list.
- 1.13 We are proposing that applicants for the multiplex licence should specify how many sites they will build out to on top of this minimum, and that the number of additional sites covered should be a criterion used to distinguish between applicants for the multiplex licence.
- 1.14 The sites to be covered in addition to this minimum should be sites where there is interest from a potential local service licensee. Based on responses to the DCMS consultation we believe there are 24 of these: Aberdeen, Ayr, Bangor, Barnstable, Basingstoke, Bedford, Cambridge, Carlisle, Derry/Londonderry, Dundee, Guildford, Hereford, Inverness, Kidderminster, Limerick, Luton, Maidstone, Malvern, Mold, Salisbury, Sheffield, Stoke on Trent, Stratford upon Avon and York. We are consulting on this list too, so any potential local service operators should respond to this consultation.
- 1.15 We expect coverage at any site that the multiplex operator is required to cover to be at least as good as that predicted by our modelling. We would consider requests to extend areas coming from the multiplex operator; and if local service operators wish to extend their areas, the multiplex operator must facilitate this, if the local service pays for the increased cost.
- 1.16 Each of these areas is named for the principal conurbation within the technically-possible coverage area. Some transmission areas cover secondary conurbations too, and where coverage is good enough, we will consider applications for local services targeted at these.

Local multiplex licence conditions and requirements – other terms

- 1.17 We will seek to ensure that coverage is built-out to the 20 sites in the minimum requirement as soon as possible. Additional sites covered should be built-out as soon as these first 20 are complete.
- 1.18 The local multiplex licence will need to terminate simultaneously with the L-DTPS licences, because of their mutual obligations. It is plausible that both the multiplex

operator and some local service operators could be at the margins of profitability, and therefore having the longest possible licence duration might be critical to their viability. We are therefore proposing to advertise the local multiplex licence for the maximum duration of 12 years. However we are open to other models that can deliver certainty for local services and secure a viable build out of the multiplex.

- 1.19 There may be wider spectrum developments that affect not only local TV but the whole DTT platform. If re-assignment of the frequencies assigned to local TV is proposed during the term of the multiplex licence then Ofcom would consult on that policy. The licence (and other DTT broadcasting licences that are affected) may be varied or terminated with no less than five years notice.
- 1.20 The local multiplex must reserve capacity for the local services at each site. There is additional capacity sufficient to carry two other standard definition video streams, and this is for the multiplex operator to use as they wish. Any other services broadcast using this capacity would need to be licensed by Ofcom.
- 1.21 The multiplex licensee is required to co-operate with the individual service licensees, and with a body consisting of all local service licensees.
- 1.22 The local service licensees should pay no more to the multiplex operator than the cost of their service being carried. Ofcom has a role resolving any disputes that arise as to this cost. We have set out a broad approach to resolving such disputes, based on cost orientation.
- 1.23 Following previous findings by Ofcom and by the Competition Commission, the transmission company Arqiva is bound by a number of Undertakings, including the production of Reference Offers for the provision of network access and managed transmission services. Ofcom is in the process of requesting such offers from Arqiva for the proposed local TV network. These will be published in the New Year. No potential multiplex operator is bound to use Arqiva for either network access or transmission services, but any who wish to will have an indication of the likely transmission costs.
- 1.24 Ofcom anticipates that any applicant for the local multiplex licence is likely to have a business plan that relies on the available funding from the BBC, so must demonstrate that they have satisfied any criteria that are necessary to secure this. We anticipate that the licence will not be granted until a funding contract has been signed.
- 1.25 We plan to propose 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

- 1.26 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. We would particularly like to hear from those who might wish to apply for the multiplex licence. Any such expressions of interest would be non-binding and may be submitted in confidence.

Local service (L-DTPS) licence conditions and requirements

- 1.27 Local services will have both content obligations that are specific to local television, and those that are general obligations for all television broadcasters.
- 1.28 We are proposing a localness requirement: that, 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.
- 1.29 We are proposing to invite applicants for a local service licence to describe their programming output and how it will satisfy the statutory criteria, particularly how it will serve the tastes and interests of the target community, and broaden the range of local services available in the area. These Programming Commitments, drafted as part of the licence application process, will be written into the licence of the successful applicant, so that their delivery becomes a binding licence condition.
- 1.30 Local services will be required to carry Party Political Broadcasts. 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. More broadly, we expect local TV services to engage with the local democratic process. The licence application form will invite applicants specifically to consider what programming they propose to facilitate civic understanding and fair and well-informed debate through coverage of local news and current affairs.
- 1.31 Like any TV broadcast services, local services will have to comply with Ofcom's Broadcasting Code and the UK Code of Broadcast Advertising. Also, local services 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 many will be exempt due to their audience share).
- 1.32 Local services will specifically be prohibited from broadcasting pornography, and longer advertisements, including teleshopping windows, for chat content using premium rate phone calls. (There are no restrictions proposed for the other two video streams, other than any that apply generally.)
- 1.33 We anticipate that most local TV services will be broadcast only on via the local TV multiplex, and therefore will not be receivable outside the UK. This allows us to exempt them from the advertising minutage restrictions set out in the AVMS directive, and we propose to do this. There are some other rules concerning advertising scheduling that must be observed.
- 1.34 There is a requirement under the current UK legislation for a 10% independent production quota. The Government has proposed removing this, subject to a consultation and new legislation in the New Year.
- 1.35 The local service provider will need to make the service available to the multiplex operator at all times, at an interface point and in a specified technical format.
- 1.36 We propose that services should aim to begin broadcasting within two years of licence award. This is subject to network build-out by the multiplex operator, and we hope some services can begin broadcasting earlier. In any case, services must begin broadcasting within three years (unless coverage is not built-out).
- 1.37 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 20 licences

will be for up to 12 years, depending upon their exact launch date in relation to the multiplex licence term, and any advertised subsequently will be granted for shorter periods.

- 1.38 Local services are required to keep full recordings for 60 days, and to complete a short annual return so that Ofcom can report on this emerging sector.
- 1.39 Local service operators 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 engage that entity to apply for a local multiplex licence, should one be advertised or come available.

Local service licensing process

- 1.40 Ofcom's proposed approach to licensing will be first to establish that any applicant is eligible to hold a licence, then we will distinguish between applicants on a basis of how they compare on the statutory criteria: meeting the needs of an area, broadening the range of programmes available, and increasing local programmes; and also ability to maintain the proposed service.
- 1.41 The former criteria are to be demonstrated and enforced through programming commitments; the latter through financial analysis of the proposed business model.
- 1.42 We propose a series of questions encouraging applicants to consider aspects of 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.
- 1.43 Although we are not setting quantitative requirements, we consider news to be the most important type of local television content, and applicants should propose a reasonable provision of news and current affairs, bearing in mind the public subsidy and public purposes of local TV. As a guide, we will be unlikely to consider less than one hour in total of broadcast news per day to be too burdensome for even the smallest licensee. We will judge commitments in the context of the scale of operation, and resources available.
- 1.44 To assess the ability to establish and maintain the proposed service, we will ask applicants to submit 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 are asking applicants to propose a specific launch date. The proposed build-out schedule, when the multiplex licence is awarded, will be compared with proposed service launch dates, and as far as possible, these will be aligned.
- 1.46 We would particularly like to hear from those who might wish to apply for an L-DTPS licence to provide a local television service for any of the areas listed. Any such expressions of interest would be non-binding and may be submitted in confidence.

Section 2

Policy and legislative background

Government policy on Local TV

- 2.1 The Government has set out a clear policy to create a new local television sector in the UK. The existing television broadcasting networks are not set up to target areas that are any smaller than the ITV regions or sub-regions. A new tier of broadcast infrastructure would enable services that were specific to conurbations smaller than this size.
- 2.2 Local TV has been previously licensed on a limited basis by the Independent Television Commission (ITC, the legacy regulator for television) in the form of a restricted television service licence (RTSL). In 2006 following the *Digital Local* report¹ Ofcom offered to extend all existing RTSLs until shortly after digital switchover has completed, with an expectation that any future local TV licensing would take place after digital switchover has been completed. Currently only one service is broadcasting, *Northern Visions* in Belfast².

A framework for local television

- 2.3 In July 2011, the Government published its consultation *A new framework for local TV in the UK*³. This set out a specific vision of local TV. It will be carried on digital terrestrial television [DTT], i.e. the *Freeview* platform. It described how local television services would be created, with Ofcom awarding licences under a new statutory framework, following legislative change.
- 2.4 Local TV licences would be awarded in specific local areas. These new licensed services would all be broadcast by a single 'multiplex operator' (see following chapter), which would also be licensed by Ofcom.
- 2.5 The broadcasts would be possible using frequencies made available by digital switchover. There are two distinct categories of spectrum that will be available after switchover: the spectrum that by 2012 will be cleared of television transmissions (the cleared spectrum); and capacity available within the spectrum that will still be used for DTT after switchover. This second type – Ofcom has termed it 'geographic interleaved [GI] spectrum'⁴ – was proposed for local TV.

¹ http://stakeholders.ofcom.org.uk/broadcasting/reviews-investigations/public-service-broadcasting/digital_local/

² For more information about RSTLs including a list of licensees, see <http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/restricted/>

³ http://www.culture.gov.uk/images/consultations/Local-TV-Framework_July2011.pdf

⁴ It is so called because for each channel within this spectrum there are geographic areas where not all of the channels will be used for existing DTT and in those areas these unused channels may be used for other services. For more detail, see <http://stakeholders.ofcom.org.uk/consultations/ddrinterleaved/summary>

Pioneer locations and indicative network planning

- 2.6 In August, the Government published a second consultation, *Local TV: Pioneer locations*⁵, seeking views on potential local TV licence locations and the order in which they could be awarded.
- 2.7 This drew on a simultaneous Ofcom publication, *Indicative locations for local television multiplexes*⁶, which made an initial technical assessment of what local television coverage it would be possible to deliver, making certain assumptions and using G1 spectrum.
- 2.8 This consultation closed on 23 September 2011 and DCMS has shared the responses with Ofcom, to inform Ofcom's selection of local areas to advertise licences for.

Government response to the consultations, and the Orders laid before Parliament

- 2.9 On 13 December, the Government published the policy document *Local TV: Making the Vision Happen – Government response to the consultations on the Local TV Framework and Pioneer Locations*⁷. This summarised responses to the *Framework for Local TV* and *Pioneer Locations* consultations. It also set out Government's final policy position and timetable.
- 2.10 In particular, this document called upon the local service providers – once licences are awarded – to come together into a mutual organisation, which can act collectively in matters of common concern, such as audience research, national advertising sales, and broadcast transmission.
- 2.11 This document announced three Orders that DCMS proposed to lay before Parliament, which would create the statutory framework for Local TV. These were then laid before Parliament on 15 December⁸. These can be passed or not passed, but they cannot be amended by a vote in either House. Two are subject to a vote in each House.
- 2.12 Ofcom is therefore consulting in advance of it being granted the necessary powers and duties to create a licensing framework for local TV. We are doing this so as not to delay the timetable for launching new local TV services. We are consulting on a basis of the Orders as laid, and if they were to be withdrawn, amended and laid again, we may need to re-consult, or stop this consultation, as appropriate.
- 2.13 Additionally, it is hoped that the detail provided by this consultation may help inform any Parliamentary debate around the Orders.

Consultation on Independent Producers and local TV

- 2.14 The Government's latest publication *Local TV: Making the Vision Happen* indicated that a further consultation would follow, on whether to enable independent producers to participate in local TV service provision by changing the ownership threshold. (The current rules would prevent an independent producer from owning more than 25% of

⁵ <http://www.culture.gov.uk/images/consultations/Local-TV-Locations-August-2011.pdf>

⁶ <http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf>

⁷ <http://www.culture.gov.uk/consultations/8699.aspx>

⁸ Links to the three Orders can be found at <http://www.culture.gov.uk/publications/8718.aspx>

a local TV broadcast licence without losing its independent status.) The Government is also considering removing the independent production quota requirement for local TV services.

- 2.15 As things stand, independent production companies are not prevented from applying to hold a local TV licence, but under current legislation, would lose their qualifying independent status if they were awarded a licence.

The statutory framework and the Orders that will modify it

- 2.16 The Broadcasting Acts of 1990 and 1996, the Communications Act 2003, and the Wireless Telegraphy Act 2006 all provide the statutory basis for broadcasting licensing and regulation. They are however insufficient to achieve the Government policy of creating local television services, which is why three new Orders have been laid to modify the existing statutory framework.

The Local Digital Television Programme Services Order

- 2.17 This Order⁹ is made under Section 244 of the Communications Act 2003 (and is referred to in this document as the 's.244 Order'). It modifies the Broadcasting Act 1996 and the Communications Act 2003.
- 2.18 It sets out the statutory framework for licensing local services. Specifically, it
- sets out the definition of what is meant by a local digital television programme service (L-DTPS);
 - modifies the statutory framework for licensing television multiplex services, allowing the creation of a local TV multiplex;
 - specifies how these two types of licensed service should interact (the local multiplex is required to carry the local services at cost, and certain types of co-operation between the two are required);
 - sets out the framework for awarding L-DTPS and local multiplex licences; and
 - sets out some requirements and prohibitions for LDTPS licensees.

The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order

- 2.19 This Order¹⁰ is made under section 5 of the Wireless Telegraphy Act 2006 (and is referred to in this document as the 's.5 Order').
- 2.20 It will require Ofcom to reserve a single 8 MHz channel of geographic interleaved (GI) spectrum at suitable sites across the UK, for the purpose of broadcasting local TV. The capacity to be reserved will be sufficient to broadcast a local TV channel ('video stream'), along with other services.
- 2.21 This obligation is proposed to apply until 2018, at which time it would lapse. This is not to say that any licences awarded under the framework established by the s.244 Order (i.e. local multiplex and L-DTPS licences) would cease in 2018; once awarded, they would apply for their duration.

⁹ <http://www.legislation.gov.uk/ukdsi/2012/9780111518212/contents>

¹⁰ <http://www.legislation.gov.uk/ukdsi/2012/9780111518229/contents>

Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order

- 2.22 This Order¹¹ is made under Section 310(5) of the Communications Act 2003 (and is referred to in this document as the 's.310 Order'); it modifies the Communications Act 2003.
- 2.23 The Order adds local digital television programme services to the list of public service channels which are required to be covered by Ofcom's published Code of Practice for Electronic Programme Guides, in accordance with section 310 of the Communications Act 2003. It also provides for a local service re-transmitted on another (non-DTT) platform (i.e. it makes a provision for any local services that decide also to go on satellite or cable).
- 2.24 Its effect is to make local television services eligible for EPG prominence in light of their public service broadcasting purposes.

Structure of this consultation

- 2.25 This consultation on Ofcom's proposed approach to licensing Local TV sets out a specific interpretation of its powers and duties under these proposed changes to legislation, particularly the s.244 Order.
- 2.26 Next, Section 3 sets out a broad framework for licensing local TV. The following four Sections address the detail. First in relation to local multiplex licensing, Section 4 sets out our proposed approach to conditions and requirements for a local multiplex licence and then Section 5 explains how we would propose to award a local multiplex licence. Then Sections 6 and 7 respectively do the same in relation to L-DTPS licensing.
- 2.27 This is not a consultation on a single specific policy, but rather on an approach to a programme of work. Therefore we welcome views, particularly those supported by evidence, on any aspect of the approach. Where there is a particular issue that we would like views on, this is flagged in bold as a **Consultation Question**.

¹¹ <http://www.legislation.gov.uk/ukxi/2011/3003/contents/made>

Section 3

Local television licensing

Structure of the proposed licensing processes

Licence types for local TV

- 3.1 For broadcasting local television services over digital terrestrial television (DTT) – the policy proposed by Government for local TV – it is necessary for Ofcom to license both the service being broadcast, and the broadcast itself via a ‘multiplex’. Multiplexing is the technology for bringing together multiple services to be transmitted on the same frequency. This, of course, is the same broad framework under which all existing DTT services are licensed by Ofcom.
- 3.2 Thus there are two types of licence holder proposed: the multiplex operator who holds a ‘multiplex licence’, who brings together the channel providers; and the content providers, each of whom must hold a digital service licence of some kind.
- 3.3 The s.244 Order would create a class of licences called ‘local digital television programme service’ (L-DTPS) licences. It also modifies the statutory framework relating to the licensing of multiplex services, to add certain obligations and remove others. A local multiplex service and local digital television programme service are specified as sub-types of the existing categories of multiplex licence and digital programme service licence respectively.
- 3.4 The two licence types are intended to be inter-linked by a number of provisions in the Order. Most crucially for designing the licensing process, there is proposed to be a mutual dependency in the form of an obligation on the local multiplex operator to carry a nominated L-DTPS at each location it serves; the L-DTPS licensee, on the other hand, must provide a video feed at each location to be broadcast. There are various other requirements for how the two entities must interact, described in the following chapters.

Local areas to be licensed

- 3.5 The Government’s policy is that a single local multiplex operator should provide the transmission infrastructure for L-DTPSs at multiple locations. Ofcom’s previous technical report for Government identified 65 different locations where it was considered that a suitable frequency was available to support the transmission of a local TV multiplex (and thus an L-DTPS).
- 3.6 This was based on a number of assumptions, including the use of existing television transmitter sites, as viewers will already have their television aerials directed towards these sites. This means that a new service using these sites would stand a much better chance of being received by its target audience: sites not in the same direction would require households physically to redirect their aerials. However, we said we would not rule out the use of other sites proposed by applicants.
- 3.7 For a location to have a local TV service it is not sufficient for coverage to be technically possible; it is also necessary that the provision of coverage at that location by the multiplex operator is economically feasible, and that there is local demand for a service.

- 3.8 It is difficult to predict the economic viability of the provision of coverage at specific locations, because until a potential multiplex operator enters into commercial negotiations, there are unknowns such as availability of space on transmission masts, how much commercial revenues might be expected to cover operating costs, etc. It is also difficult to know the local demand for a service, absent any market research. Nonetheless, Ofcom has an indication of both.
- 3.9 An independent study commissioned by Ofcom into the potential viability of a single local multiplex operator operating on a quasi-national basis (see Annex 6) suggests that the number of locations that may be viable depends on a range of assumptions made about the income and costs of the business, and can vary significantly, depending on what assumptions are made.
- 3.10 This work suggests that there is a minimum number of locations that would be viable across a range of scenarios, assuming the proposed BBC funding is used. It also suggests that, depending on the business model adopted by the multiplex operator, and the assumptions they choose to make, a number of locations above this minimum threshold may be served.
- 3.11 The responses to the DCMS consultation into Pioneer Locations give an indication of local demand for services. These can be categorised as two types of local demand: demand from potential service operators, and demand from local stakeholders who would like to see a service but did not propose to operate it themselves.
- 3.12 It is demand from potential local operators that is crucial in deciding which areas Ofcom would advertise an L-DTPS licence for, and therefore which areas we would wish the multiplex operator to serve.
- 3.13 It would be possible to invite applicants for the local multiplex licence to propose what locations they would serve, without specifying any minimum requirements. However, there is a risk that potential applicants would not cover a sufficient number of areas to justify the reservation of spectrum for this purpose. Also, this would prevent Ofcom from exercising its discretion in selecting a list of locations to be licensed first. This is necessary because we wish to employ criteria in selecting the first areas to have a local TV service, which may be different from the criteria employed by a potential multiplex operator (for example, a commercial multiplex operator is likely to only have regard for cost of deployment and numbers of households covered). Having a list also allows us to consult on it to be sure of local demand, and to give all stakeholders an opportunity to comment.
- 3.14 For these reasons Ofcom's proposed approach will be to award a local multiplex licence and specify that it must serve a minimum, specified list of locations. It will be for applicants for the multiplex licence to propose which locations they will serve, over and above that minimum (choosing from a list that Ofcom will publish), and one of the criteria competing applications will be judged against will be this additional coverage proposition.
- 3.15 In the following section we set out the minimum specified list, and the analysis behind it. We are consulting on this list and welcome responses that present evidence of demand from local areas and particularly from potential local operators. It may be the case that now the Orders are fully specified and before Parliament, and the proposed licensing and regulatory framework set out for local TV, there are new potential operators who did not respond to the DCMS. Conversely, there may be some potential operators who are no longer keen to bid.

- 3.16 Ofcom's approach to defining the local areas, and to minimum coverage within each area, is set out in Section 4 below.

The two additional video streams

- 3.17 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. Ofcom's duties are limited to ensuring that this local service is carried; there are no provisions in the Orders for the other two video streams.
- 3.18 We anticipate that the most likely source of commercial revenue for the local TV multiplex operator would be joining up these two video streams across all the local areas it covers, in order to create two quasi-national channels. These could be sold to service providers, which would require to be licensed as digital television programme services.

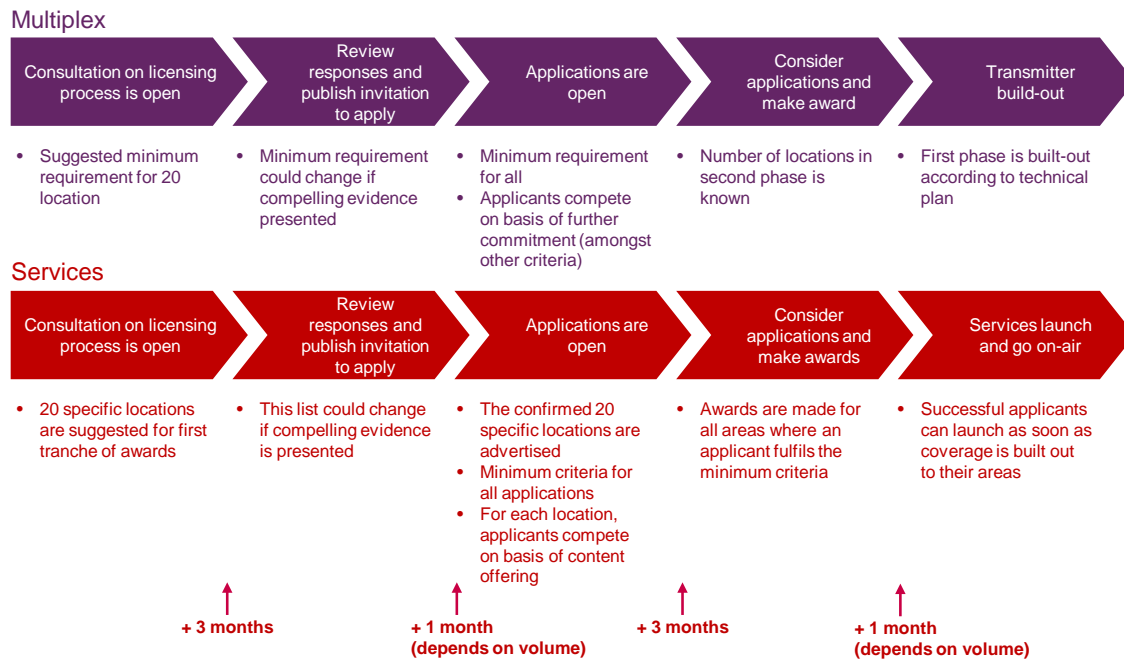
Advertising the local multiplex licence and the first L-DTPS licences

- 3.19 Licensed local channels cannot begin broadcasting before coverage is built-out. Therefore the first stage of the licensing process must include advertising the local multiplex licence.
- 3.20 The requirement for a minimum build-out of locations will allow Ofcom to advertise a first tranche of L-DTPS licences simultaneously with the local multiplex licence, because otherwise we would not know which locations to advertise; this first tranche will be identical with the minimum list of areas.
- 3.21 The minimum list will also have the effect of ensuring that services can launch within a reasonable time frame, as the simultaneous licensing will allow licensed services to prepare to launch whilst transmitters are being built-out.
- 3.22 However, the final build-out commitment of the local multiplex operator will not be known until the local multiplex licence is awarded (at the same time as the first tranche of L-DTPS licences). This is because the commitment will be made by applicants for the licence.
- 3.23 At that point, it will be possible to advertise further L-DTPS licences, at the locations that the multiplex operator proposes to serve, over and above its required minimum. We would expect multiplex licence applicants to take into account the results of this consultation – in particular the interests of potential local operators – in drawing up their list of additional proposed areas.
- 3.24 There will be a future Ofcom statement to confirm the details of any second phase of L-DTPS licensing, including the advertisements for specific areas. We anticipate this will shortly follow the award of the first such licences.
- 3.25 This consultation, following standard Ofcom policy, will be open for 12 weeks. We anticipate publishing a statement as soon as possible, possibly in around four weeks, although this will depend on the volume of responses and the evidence they contain. That statement will be the advertisement of the local multiplex licence and first tranche of L-DTPS licences.
- 3.26 Following standard broadcast licensing practice for Ofcom, those advertisements will be open for a further 12 weeks, to allow interested parties to assemble their business

cases and apply. Depending on the volume of applications again, we would seek to make licence awards as soon as possible after the deadlines for applications.

3.27 Figure 1 below summarises the processes and likely timing of the first phase of licensing local TV.

Figure 1: First phase of licensing Local TV



Re-advertisement of L-DTPS licences

3.28 The process outlined in Figure 1 assumes that all L-DTPS licences can be awarded and that the licensees successfully go on to launch their licensed services. There are certain scenarios where this may not happen.

- Despite Ofcom's endeavours to advertise L-DTPS licences in areas where there is a declared demand, when it comes to the actual applications process, there might be no applicants in some areas.
- Also, applicants for an advertised licence might not meet the minimum statutory criteria that would enable a licence to be awarded.
- The licensed entity may be unable to deliver on its licence obligations (e.g. if it ceases trading), after licence award.

3.29 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. Given evidence that it was an aspect of our proposed approach that led to one of these outcomes, we would seek to review our approach if we thought that could increase the chances of success following re-advertisement.

Related processes and projects

- 3.30 A number of related processes and projects are relevant to the licensing of local TV services. These are not the subjects of this consultation, either because they are distinct, wider policy projects within Ofcom, or because they involve other authorities. But because they are linked to the licensing process, they are briefly described here for the benefit of readers.

The BBC funding for local TV build-out

- 3.31 The Government and the BBC have agreed that up to £25m will be available from the licence fee settlement to fund transmission for local TV. The main principles of the BBC's proposed funding arrangements for the multiplex operator are set out in the most recent Government publication *Local TV: Making the Vision Happen*. The BBC Trust will have oversight of the funding, and a responsibility to ensure value for money.
- 3.32 The BBC Trust will publish further details on the proposed terms and conditions of its funding.

Ofcom rules on Party Political Broadcasts

- 3.33 One of the requirements in the s. 244 Order for the L-DTPSs is that they must carry party political broadcasts ('PPBs'). Below we describe how a condition will be inserted in L-DTPS licences to achieve this.
- 3.34 Ofcom sets broadcasting rules for elections and referendums, including in relation to party election broadcasts and party political broadcasts. The rules are minimum requirements set by Ofcom to assist broadcasters (with the exception of the BBC) in deciding the allocation, length, frequency and scheduling of party political and party election broadcasts. Ofcom applies the rules in determining any disputes referred to it by political parties or broadcasters.
- 3.35 Ofcom proposes to review the arrangements for party political and party election broadcasts in 2012/13¹² to ensure that they remain fit for purpose.
- 3.36 We anticipate consulting on a new set of rules, in time for these to be in place by the time that the first L-DTPSs would start broadcasting.

DMOL statement/consultation on the EPG Code

- 3.37 DMOL – DTT Multiplex Operators Limited – is a company owned by the operators of the six digital terrestrial television (DTT) multiplexes. Its purpose is to provide technical platform management for the DTT platform, including assigning logical channel numbers (LCN) to channels through the EPG.
- 3.38 The EPG prominence of local digital television programme services will be achieved through the DMOL code. DMOL have indicated that they will consult publicly on a new code in Q1 2012.

¹² See Draft Annual Plan, <http://stakeholders.ofcom.org.uk/binaries/consultations/plan2012-13/summary/condoc.pdf>

Section 4

Local multiplex licence: conditions and requirements

- 4.1 This section sets out the conditions and requirements that would be placed upon any local multiplex licensee, including the minimum list of locations to be covered. It seeks to describe in full the relevant policies, for all stakeholders. Potential applicants for the multiplex licence, and stakeholders wanting more detail, should read this section in conjunction with the draft *Invitation to Apply* (to be published shortly), which contains a fuller and more technical treatment of the multiplex conditions and requirements.
- 4.2 The following chapter then describes the proposed process for awarding the multiplex licence. The following two chapters do likewise for the local service licences.
- 4.3 As such Sections 3 to 7 consider a number of options regarding policy issues, for example, as stated above, minimum roll-out requirements. As defined in Section 7 of the Communications Act 2003 (the Act) an impact assessment is required for such policy issues. The analysis contained in these sections constitutes an impact assessment for these purposes.
- 4.4 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. Under Section 7 of the Act, we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. In addition, as a matter of policy, we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions.¹³

Multiplex coverage

Reservation of spectrum and frequency plan

- 4.5 The s.5 Order requires Ofcom to reserve sufficient spectrum for broadcasting one standard definition local digital television service and two further standard definition digital television programme services at each identified location across the UK. The licensee can use or sublet the capacity for these two services on a commercial basis¹⁴. Any television service carried using this capacity would require a standard Ofcom digital television programme service (DTPS) licence. The Order does not require that they are used for television services.
- 4.6 There has been some discussion of a Scottish DTT network. It is possible that, at Scottish local TV sites, the multiplex operator might negotiate with local parties and

¹³ For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website:

http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

¹⁴ The impact assessment regarding the use of spectrum for Local TV was included in the consultation *A new framework for local TV in the UK* published by the Government in July 2011. As such we do not repeat the analysis laid out here.

one or both of the additional video streams, appropriately licensed, could form the basis of a wider network.

- 4.7 We have produced an outline technical plan for the frequencies and locations for local television broadcasting on DTT using GI spectrum. Applications for the local multiplex licence are to be made on the basis of the provisional plan, but changes could be necessary, and the draft *Invitation to Apply* (to follow) will set out the process for any changes, both before and after the licence award.
- 4.8 We are working on revised proposals for coverage based on the locations proposed below. These will be contained in a Coverage Note that will accompany the draft ITA.

Minimum roll-out requirement: number of sites

- 4.9 On 13 December Ofcom published a list of 20 locations where we would propose to advertise local TV licences first. We also published a further list of 24 locations, which we indicated would be the areas that might be advertised after the first 20¹⁵. The following paragraphs give the rationale behind these lists, which we are consulting on.
- 4.10 Our proposed approach set out in the previous chapter, is to require a minimum number of locations to be covered by the local TV multiplex that will be licensed. There are two policy questions that follow: how many should be in that minimum, and at which locations they should be.
- 4.11 In relation to the first question, the options range from placing no minimum all the way to requiring all of the 65 possible locations set out in our publication, *Indicative locations for local television multiplexes*.
- 4.12 In order to inform how many sites the multiplex operator should be required to build, Ofcom commissioned an independent study from the consultants FTI to build a *financial model of the multiplex operator's business* (Annex 6). The study needed to make assumptions about the structure of the business, the technical constraints, and the likely costs and income of the business. None of these are fully defined, and we would expect potential multiplex operators to develop their own business plans and their own sources of information that may provide quite different inputs to the assumptions made by FTI. The study also looked at the viability of the multiplex both with and without external funding provided by the BBC. We set out below some of the scenarios modelled by FTI.

No BBC funding (Scenarios 1 and 2)

- 4.13 The study concluded that although a number of locations could generate more income than they would cost to run, the local TV multiplex overall would almost certainly make a loss in the absence of external funding (Scenarios 1 and 2 in the Annex). This underlines the necessity of the BBC funding for local TV transmission.

With BBC funding (Scenarios 3, 4a, 4b, 4c, 5 and 6)

- 4.14 If external funding is available to pay for the local multiplex operator's capital expenditure (but no contribution towards operating costs) an increased number of locations could be covered. Depending on the level of payment that the multiplex

¹⁵<http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/local-tv-locations/>

operator receives from local services, between 17 and 25 locations could be viable, i.e. generate more cash than they would cost to run (Scenario 3).

- 4.15 The s.244 Order sets out that the multiplex operator should charge the local services a carriage cost that is no more than what is needed to cover net operating costs. In the FTI modelling, where the local services pay the local operating cost but no more (no profit margin, no contribution to capital expenditure and no contribution to central costs), 23 locations could be viable for the term of the licence.
- 4.16 In this scenario it is not clear whether the multiplex would be able to be run as a viable commercial (i.e. profitable) business: the study found it 'unlikely'. However as previously noted, we would expect potential operators to carry out their own modelling, and come to their own judgements. The statutory criteria for multiplex licence award specify 'ability to maintain service' (see discussion of this below), and not any particular business model.
- 4.17 On a variant of this scenario, if the multiplex chose to increase capital expenditure in order to increase population coverage, then it could make a small profit running 23 sites, and a slightly larger profit running 25, depending on the operating cost assumptions. This is set out in Scenario 5.
- 4.18 If it were possible for the BBC funding to be used to make pay for capital expenditure and also to make a contribution towards operating costs, the modelling found that all 65 sites could potentially be covered. Payment for the operating costs would have to be 'front-loaded' and so the multiplex might have to operate under a not for profit model (Scenario 4).
- 4.19 A final option modelled by FTI investigated the situation where the BBC funding is used for capital contribution only, and the multiplex operator adopted a non-profit business model and did not seek to raise commercial revenues from the two other video streams. As the central multiplexing and distribution costs of the multiplex would be removed, FTI found that all 65 sites could potentially be covered (Scenario 6).

Conclusion on minimum number of sites

- 4.20 As discussed above there are a range of options that are available when considering the minimum number of sites to be required. We have considered the following three:
- Firstly, there is the option that no minimum requirement is needed, However as discussed above, we consider that it is reasonable to require a minimum number of locations to be specified;
 - Secondly, there is the option that all 65 sites should be required. However the analysis produced by FTI suggests that this is not commercially viable, it is only viable if it is run as a not-for-profit business. As such it would be inappropriate to use such criteria as a minimum; and
 - Thirdly, there is the option based on the FTI analysis to set the minimum criteria in the range of 17-25 sites which were considered commercially viable, under scenario 3.
- 4.21 These options, therefore give a narrower range for the minimum requirement of between 17-25 sites. Thus, based on the above analysis, we therefore propose a

minimum roll-out requirement of 20 sites. We consider that this is the appropriate figure as it should permit a potential local multiplex operator to operate under a number of different business models. In addition due to the complexity of the model and the number of assumptions that have needed to be made, we consider a more conservative approach, for example taking a mid-range point for the number of sites, to be more appropriate. We welcome views on whether respondents agree with this number and this analysis.

4.22 We would particularly like to hear from those who might wish to apply for the multiplex licence. Any such expressions of interest would be non-binding and may be submitted in confidence.

4.23 Consultation question: Do you agree that 20 locations should be set as a minimum roll-out obligation?

Minimum roll-out requirement: selection of specific sites

4.24 Our starting point was the 65 sites where we have previously said that Local TV is technically possible.

4.25 One of the necessary requirements in selecting a site is that there is at least one potential local digital television programme service provider in that location. Using the DCMS consultation responses to provide an indication of this gives a list of 45 locations, from the 65.

4.26 The financial modelling (discussed above) added sites in descending order of population coverage, making the assumption that this would maximise commercial viability¹⁶. It would seem important for the multiplex to be as viable as possible and therefore to maximise the opportunity for local TV to be successful. There is also a good policy reason to prioritise larger areas: in doing so, local TV services will be available to a greater number of people. Serving a larger audience also provides the potential for content providers to generate more revenue from advertising. Therefore our starting point in ordering this list of 45 locations is population covered (using the DPSA¹⁷ measure of coverage, i.e. households that are likely to be able to receive the services from a particular transmitter, without changing their existing TV aerial).

4.27 We removed Falkirk from the list, because although there was a large population that could be covered by the transmitter at this location, most of that population in the area covered lives in Edinburgh. There may therefore be merit in combining that transmitter into the Edinburgh area (for which there is already another transmitter), increasing coverage area but also the cost. **We welcome views on this possibility.**

4.28 We considered that any area with a strong demonstration of local support (from general stakeholders, rather than prospective licensees) would be likely to have a greater chance of successfully launching a service. For example, it might be easier for a prospective licence holder to get advance agreement of support from potential advertisers. Surveying the DCMS consultation responses, two locations stood out—Grimsby and Brighton & Hove – and so these are both in the first 20.

¹⁶ This was based on the costs of operating the transmitter not exceeding the likely revenues based on the local population that is covered, notwithstanding any external sources of revenue such as the BBC funding.

¹⁷ Digital Preferred Service Area

- 4.29 Next, we considered that there should be a spread of locations across the whole UK, given the public purposes of Local TV. To satisfy this criterion, we moved the following locations into the first 20: Norwich (to provide a service in East England), Oxford (to provide a service in Central Southern England), and Swansea (to provide a second service in Wales).
- 4.30 Finally, we considered that it would be desirable that the first 20 locations should include a range of sizes of community. This is because we anticipate local TV services to adopt a range of business models, ranging from a purely commercial model of operation (likely for larger services), to a more community-focused, volunteer-led and probably non-profit operation (likely in smaller communities). There is value in testing different business models in the first phase of licensing, in order to inform future licensing and regulatory decisions. There is also value in a diverse sector where local operators at different levels of scale have comparable stations elsewhere, so that they can learn from each other, and co-operate in areas of mutual interest.
- 4.31 The 20 proposed sites are: Belfast, Birmingham, Brighton & Hove, Bristol, Cardiff, Edinburgh, Glasgow, Grimsby, Leeds, Liverpool, London, Manchester, Newcastle, Norwich, Nottingham, Oxford, Plymouth, Preston, Southampton and Swansea. We are consulting on this list.
- 4.32 Of these 20 locations, assessing them in terms of size, using our predicted population coverage:
- Seven might be termed large (greater than 500,000 households – these are London, Birmingham, Manchester, Leeds, Newcastle, Liverpool and Glasgow);
 - Eight medium (500,000 to 150,000 households – Cardiff, Preston, Bristol, Edinburgh, Nottingham, Grimsby, Belfast and Southampton);
 - Four small (150,000 to 100,000 households – Norwich, Oxford, Plymouth and Brighton & Hove); and
 - One micro (less than 100,000 households – Swansea).

This seems to be a good range, with a skew towards the more easily viable services, which would be appropriate in the first phase of licensing.

- 4.33 The specification of locations will impact on the multiplex and local operators, as well as on the population as a whole. For example, for the multiplex operator because the mix of locations and households is not solely determined by size, this may have an effect on the profitability of the service. However, it is unclear whether this could be negative or positive because demand for the local service will play a large role here through advertising revenues. Although if these locations are successful then it should form a solid foundation on which the multiplex operator can build. Furthermore it will also show whether the size of the area is a large factor in its success.
- 4.34 For local operators there may be some who wish to apply for a L-DTPS licence, but are not able to because the area they would like to provide a service for is not one of the initial 20 locations. However, as discussed below, further roll-out of locations is also being consulted on, which will help to mitigate these effects.

4.35 Consultation question: are the 20 proposed locations in our minimum roll-out list the right ones?

4.36 The sites to be covered in addition to this minimum should be sites where there is an interested local service licensee. Based on responses to the DCMS consultation we believe there are 24 of these¹⁸: Aberdeen, Ayr, Bangor, Barnstable, Basingstoke, Bedford, Cambridge, Carlisle, Derry/Londonderry, Dundee, Guildford, Hereford, Inverness, Kidderminster, Limavady, Luton, Maidstone, Malvern, Mold, Salisbury, Sheffield, Stoke on Trent, Stratford upon Avon and York.

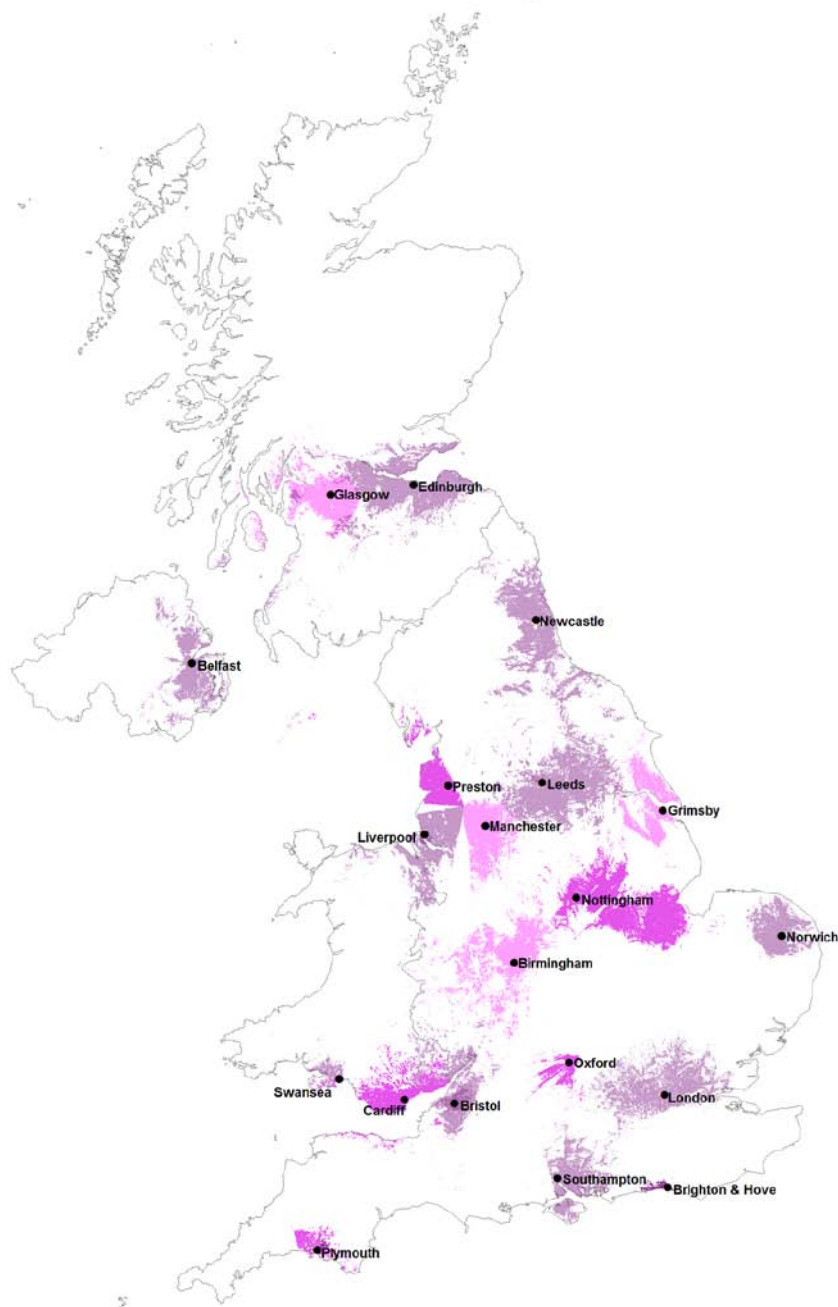
4.37 We are consulting on this list too. We are keen to hear from any prospective providers of local television services, particularly any who did not respond to the DCMS consultation earlier this year.

4.38 Consultation question: are the 24 locations the ones, from our list of 65 sites where local TV is technically possible, where there is a demand from local service operators? Should any locations be added to, or subtracted from, this list?

4.39 A map showing the coverage of the proposed first 20 locations is at Figure 2 (the different shades of colour are used to distinguish adjacent areas). This uses the coverage predicted in our initial study of 65 locations; we are currently in the process of updating our coverage predictions.

4.40 We would particularly like to hear from those who might wish to apply for an L-DTPS licence to provide a local television service for any of the areas listed. Any such expressions of interest would be non-binding and may be submitted in confidence.

¹⁸ The 45 sites mentioned in 4.24, minus Falkirk as discussed in 4.26

Figure 2: Predicted coverage of the proposed first 20 locations for local TV**Further roll-out: Phase 2**

- 4.41 We are asking applicants for the multiplex licence to propose which areas they will cover beyond the first 20 locations in this list. The locations where we believe there is interest from a local service operator would be the list that any potential multiplex operator would select from for this further proposed coverage.
- 4.42 The list of 24 such locations above is subject to consultation, which is to say both the inclusion of the specific locations on the list, and the length of the list itself, will be confirmed following responses to this consultation, and may change.
- 4.43 We would anticipate that potential multiplex operators will have their own conversations with potential local service providers.

4.44 Consultation question: Do you agree with our approach to selecting sites for the second phase of local service licensing: inviting the multiplex applicants to select from the further list of locations where there is demand from potential service providers?

4.45 The technical plan proposed by the successful multiplex licence applicant will include a commitment to build out a further number of locations on top of the minimum 20. The multiplex licensee will be held to this further commitment, and these additional locations will be advertised in a second round of L-DTPS licensing.

4.46 While there may be interest from a local operator, Ofcom cannot guarantee in advance that it will be able to award a licence given the statutory criteria for licence award. Ofcom will therefore only ask for roll-out to these further locations when there is an L-DTPS licensee in place.

4.47 Because the objective is to achieve local TV coverage at as many locations as possible, we propose to hold the multiplex operator to the number of additional locations that they have proposed to serve in their technical plan, but not to the specific locations they propose, if an L-DTPS licence cannot be awarded after it is advertised. Ofcom would propose to substitute an equivalent-sized area, for any locations where we cannot award an L-DTPS licence.

4.48 Consultation question: Do you agree with our proposed approach to building out and substituting further areas, in the second phase of licensing?

Definition of areas: technical plan

4.49 We would expect coverage at any location that the multiplex operator is required to cover to be at least as good as that predicted by our modelling exercise, which produced indicative plans for the list of 65 areas where local TV is technically possible¹⁹.

4.50 We are conducting further planning for the proposed first 20 areas, which takes into account interference between these new sites and existing DTT transmitters. The results of this work were not complete in time to publish alongside this consultation, but we anticipate it being available shortly, and it will be published on the Ofcom website alongside this consultation.

4.51 We do not anticipate a significant difference between these planning exercises in most local areas. We propose to consider consultation responses based on either set of plans. The eventual minimum coverage requirements in the *Invitation to Apply* will be based on the second set of plans.

4.52 These modelling exercises aim to provide an indication of the coverage that the local services could achieve. They are based upon certain assumptions (such as availability of space about half way up the broadcast masts), intended to represent a realistic estimate of the coverage that might be achievable. The eventual technical plan supplied by applicants for the multiplex licence will need to be based on their actual proposed plans.

4.53 In particular, the prospective multiplex operator may be able to develop and suggest alternative technical proposals that achieve improvements in coverage, for example if there is space higher on a transmitter mast. Such coverage improvements would

¹⁹ <http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf>

need to be assessed by Ofcom against the requirement not to cause a material increase in interference to other DTT multiplexes.

Definition of areas: principal conurbations

- 4.54 The locations named above, and in our longer list of 65 potential areas, are named for their principal towns/cities, following the Government's policy of targeting local TV at specific conurbations rather than geographic regions. A principal town/city is the conurbation best served within a coverage area. In some cases, it has a considerably smaller population than the wider area covered. In others, most of the population covered by the wider area is within the principal town/city.
- 4.55 We have also identified secondary towns/cities that are wholly or partially within the likely coverage area, but served less well than the principal towns/cities, given the technical planning assumptions we made. These are in Table 1, below.

Table 1: Primary and secondary conurbations within local areas²⁰

Primary Location	Area also includes
Aberdeen	
Ayr	Kilmarnock
Bangor	
Barnstaple	
Basingstoke	
Bedford	Sandy
Belfast	Lisburn
Birmingham	Part of Wolverhampton, Walsall, Dudley
Brighton & Hove	
Bristol	
Cambridge	
Cardiff	Newport, Bridgend
Carlisle	
Derry/Londonderry	
Dundee	Arbroath, Perth
Edinburgh	
Glasgow	East Kilbride, Motherwell, Paisley
Grimsby	parts of Kingston upon Hull
Guildford	parts of Woking
Hereford	
Inverness	
Kidderminster	
Leeds	Dewsbury, Halifax, Huddersfield, Wakefield
Limavady	parts of Ballymoney & Coleraine
Liverpool	St Helens, Widnes, Wigan, Wirral
London	Greater London area
Luton	
Maidstone	
Malvern	
Manchester	Bolton, Bury, Oldham, Rochdale, Salford, Stockport
Mold	Denbigh, Ruthin
Newcastle	Gateshead, South Shields, Sunderland
Norwich	
Nottingham	

²⁰ Phases 1 and 2 combined in this table

Primary Location	Area also includes
Oxford	Abingdon, Didcot
Plymouth	
Preston	Blackpool
Salisbury	
Sheffield	parts of Rotherham
Southampton	Eastleigh, Fareham, parts of Isle of Wight, parts of Portsmouth, Winchester
Stoke on Trent	Newcastle under Lyme
Stratford upon Avon	
Swansea	Llanelli
York	

- 4.56 Because these are the conurbations best served by DTT coverage, we anticipate prospective local service licensees to propose services targeted at these primary towns/cities. However – and particularly if the further planning exercise significantly changes the areas covered – we will consider propositions for services targeted at other conurbations within the coverage area, or at combinations of conurbations that make sense in terms of local affinities.

Extension of areas – requests by multiplex operators

- 4.57 Post licence award, the multiplex operator may wish to extend coverage of areas covered in Phases 1 and 2 beyond that set out in the Technical Plan. Coverage extension might take the form of extension of existing areas (perhaps due to being able to secure a better position upon the broadcast mast than anticipated) or through building supplementary relay transmitters.
- 4.58 The operator may alternatively wish to target additional areas, perhaps in response to subsequent changes in business plan.
- 4.59 Ofcom will consider requests from the multiplex operator for extensions to coverage taking into account the impact on other spectrum users (e.g. interference to other DTT multiplexes) and also on local service providers. In the latter case, we will need to consider if the increase in coverage represents a natural extension of an existing area (with an existing local service provider carried in the extended area) or whether the extension results in a material difference to the originally licensed service, in which case it may be appropriate to consider an award for a separate local content licensee. For example, extension of coverage of a town to a county-wide service might be acceptable, whereas increasing overspill into an adjacent conurbation might not be acceptable.
- 4.60 Multiplex operators should also bear in mind the cost implications to the local service provider of extending coverage. Carriage fees are dealt with below.

Extension of areas – requests by local service providers

- 4.61 The s.244 Order makes provisions for the situation where the local service provider might wish to increase coverage beyond what the multiplex operator is obliged to provide in the technical plan²¹.

²¹ Section (7)(m) and (n)

- 4.62 This may be through the extension of coverage at sites proposed by the multiplex operator, or through the building of relay transmitters to fill in coverage in otherwise un-served areas.
- 4.63 The Order requires the multiplex operator to facilitate any extension of coverage that is requested by the local service provider, provided that the local service provider covers the cost of the coverage extension. We do not anticipate that the BBC's funding will cover the funding of additional coverage, but it is for the BBC Trust to specify its terms.
- 4.64 Ofcom will consider applications for extension of coverage taking the same considerations into account as for requests originated by the multiplex operator.
- 4.65 In the event that coverage is extended either in response to requests originated by the multiplex operator or the local service provider, the new coverage area will be formalised as an update to the technical plan.
- 4.66 Consultation question: Do you agree with our approach to dealing with requests for extension to coverage?**

Timetable of roll-out

- 4.67 To give L-DTPS licensees certainty about when they might be able to launch their services, and to ensure that allocated spectrum is used for the public purposes that Ofcom has been directed to allocate it for, we will seek to ensure that coverage is built out to the sites in the minimum requirement as soon as possible.
- 4.68 We are asking applicants for the local multiplex licence to include in their technical plan a detailed roll-out schedule, specifying dates from which all locations will start broadcasting. We will be assessing applications against this criterion.
- 4.69 As an indicative guide, we would expect the first site to begin broadcasting no later than one year from the date of the licence award, and most if not all of the remaining sites in the minimum requirement to be added within two years.
- 4.70 We do not propose to specify the order in which sites in the minimum requirement must be built-out: this is for multiplex licence applicants to propose. We expect the successful applicant to liaise with the successful applicants for L-DTPS licences, to ensure that as far as possible, locations are served from around the time that the local service is ready to begin broadcasting.
- 4.71 The sites over and above the minimum requirement that the successful multiplex licensee proposes to serve should be built-out after the first tranche is all complete. The timetable for this additional build-out should also be specified in the technical plan.
- 4.72 These commitments will be included as conditions in the local multiplex licence when granted, with a suitable degree of flexibility to reflect factors outside the multiplex operator's control, for example if unusual weather conditions resulted in the seasonal period during which outdoor transmitter work is possible, being shortened.
- 4.73 Consultation question: is our proposed approach to multiplex roll-out timetable the right one?**

Licence term

Duration of the local multiplex licence

- 4.74 The s.224 Order gives Ofcom the power to award a local multiplex licence for a period of up to twelve years.
- 4.75 The duration of the local multiplex licence is of course a significant factor for any applicant to take into account in their business planning, and it will also have a direct impact on the duration for which L-DTPS licences are awarded. Because of their interdependency, these licences need to terminate at the same time. It would be highly undesirable for Ofcom to have to revoke L-DTPS licences after they were forced to stop broadcasting by the multiplex licence coming to an end. The Orders do not give us the power to renew L-DTPS or local multiplex licences, only to re-advertise them.
- 4.76 There is an option to award the local multiplex licence for less than the statutory maximum period, or we could award the licence for the maximum duration.
- 4.77 The multiplex business will need to recover its costs over the duration of the licence; and our modelling (see Annex 6) suggests that the business may have marginal profitability. For any commercial business operating the multiplex, the duration will be critical.
- 4.78 We also need to consider the effect of the multiplex licence duration on the licence durations of the L-DTPS licences, given that they need to terminate at the same time. Although Ofcom has not conducted equivalent financial modelling of the local services, we consider it more than likely – for example, reading across from our experience of commercial radio – that some local business may be operating at the margins of profitability, and that licence duration will have a major impact on these businesses too.
- 4.79 These considerations would lead us to advertise the local multiplex licence for the maximum duration (and the L-DTPS licences so as to be coterminous).
- 4.80 However, under a scenario with a multiplex licensee operating on a non-profit basis, there could be other considerations, and a longer licence term may not be automatically desirable. Ofcom's concerns are that there should be certainty for L-DTPS licensees, and a viable build-out. It is possible that there are models for operating the local multiplex that can deliver these without the maximum licence duration, or with an application for the local multiplex licence that sees a transfer of ownership of the licensed entity during the term²².
- 4.81 We are particularly mindful that if local service operators were given the opportunity to come together to take over the multiplex licence, this might be a desirable outcome for the sector.
- 4.82 We welcome responses that set out different models for the operation of the local TV multiplex.

²² A transfer of ownership of a multiplex licence is possible under the Broadcasting Act 1996, 3 (6), as is a change of control. Ofcom must approve a licence transfer; and must be notified of a change of control. In the case of a licence transfer, the test that Ofcom would apply is, could the entity seeking to hold the licence comply with all the licence conditions [3 (7)].

- 4.83 We also propose that the ITA for the local multiplex licence will give applicants the opportunity to add further information that is relevant to their application, including proposed transfers of ownership. Applicants will be asked to explain how their proposed model will deliver the statutory criteria for the award of the local multiplex licence.
- 4.84 Consultation question: Do you agree with Ofcom's proposal to advertise a multiplex licence for the maximum 12 year duration, but to be open to other models, provided they deliver certainty for broadcast licensees and a viable build out?**

Wider spectrum strategy

- 4.85 There are also a number of developments starting to raise questions on the balance of the use of UHF spectrum in the longer term. Of particular note is an international debate starting to emerge within both the International Telecommunications Union (ITU) and European Union around future spectrum needs for wireless broadband. This debate will include discussion of access to UHF spectrum that could have an impact on the continued use of GI spectrum by the planned new local multiplex as well as the established national DTT multiplexes.
- 4.86 Changes to the pattern of spectrum use are only likely to take place over the longer term and there are no plans at present to change the balance between broadcasting and non-broadcasting uses and their access to UHF spectrum. While we cannot at this stage be certain if, or when, changes may be required, the subject of future uses of UHF spectrum use is likely to be debated at the World Radio Conference in 2015 or 2016. After this time there should be greater clarity on the scope of changes to UHF spectrum use, the possible impact on existing licensees and the timescales under which they might need to happen.
- 4.87 The knock-on of these changes might be to modify the transmission characteristics that can be used by licensees (e.g. the frequencies, powers, antenna patterns at certain transmitters) to enable a reorganisation of frequency use to take place. In these circumstances, Ofcom would make reasonable endeavours to identify alternative frequencies for the licensee to use that provide equivalent coverage. Should this not be possible, the licensee may have to cease operation at some or (in extremis) at all transmitters.
- 4.88 One approach to addressing the above considerations would be to award the local multiplex licence with a shorter duration (less than 12 years), although this would not allow either the multiplex licensee or the L-DTPS licensees to build a business model over the maximum period, and would have the disadvantages discussed above. Therefore we propose not to make these wider spectrum issues a consideration in deciding the duration of the local multiplex licence.
- 4.89 Applicants should however be aware that Ofcom may need to respond to changes that occur over the coming years internationally in the harmonisation of frequencies for non-broadcast uses. Such developments may require us to consider making changes to the frequencies used by the local multiplex before twelve years have elapsed.
- 4.90 Should it become apparent that a rebalancing of frequency use might become likely, Ofcom would consult on the measures that it proposes to take, including managing the impact on existing licensees.

- 4.91 In the event of the need to terminate the licence, Ofcom may do so by notice served on the licensee, although such notice will be provided not less than five years before the licensee would be required to cease operation.
- 4.92 **We are not consulting here on any wider spectrum policies, but we would do so if the need arose.**

Interaction with local licensees

- 4.93 Following the s.244 Order, these aspects of how a local multiplex licensee must interact with L-DTPS licensees will be specified in conditions included in the multiplex licence:
- The multiplex licensee must reserve capacity for, and carry, the local service in each location;
 - It must not charge the local service operator more than sufficient to cover the 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.
- 4.94 The first requirement means that the local multiplex licensee must reserve capacity on the multiplex which is sufficient for the carriage of a single standard definition video stream.
- 4.95 The second requirement is explained further below.
- 4.96 Ofcom proposes, following the Government's policy set out in *Local TV: Making the Vision Happen*, to interpret the third and fourth requirements 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 6.)
- 4.97 We envisage that the co-operation requirement may take the form of consulting the industry body on matters relating to local TV transmission and promotion.

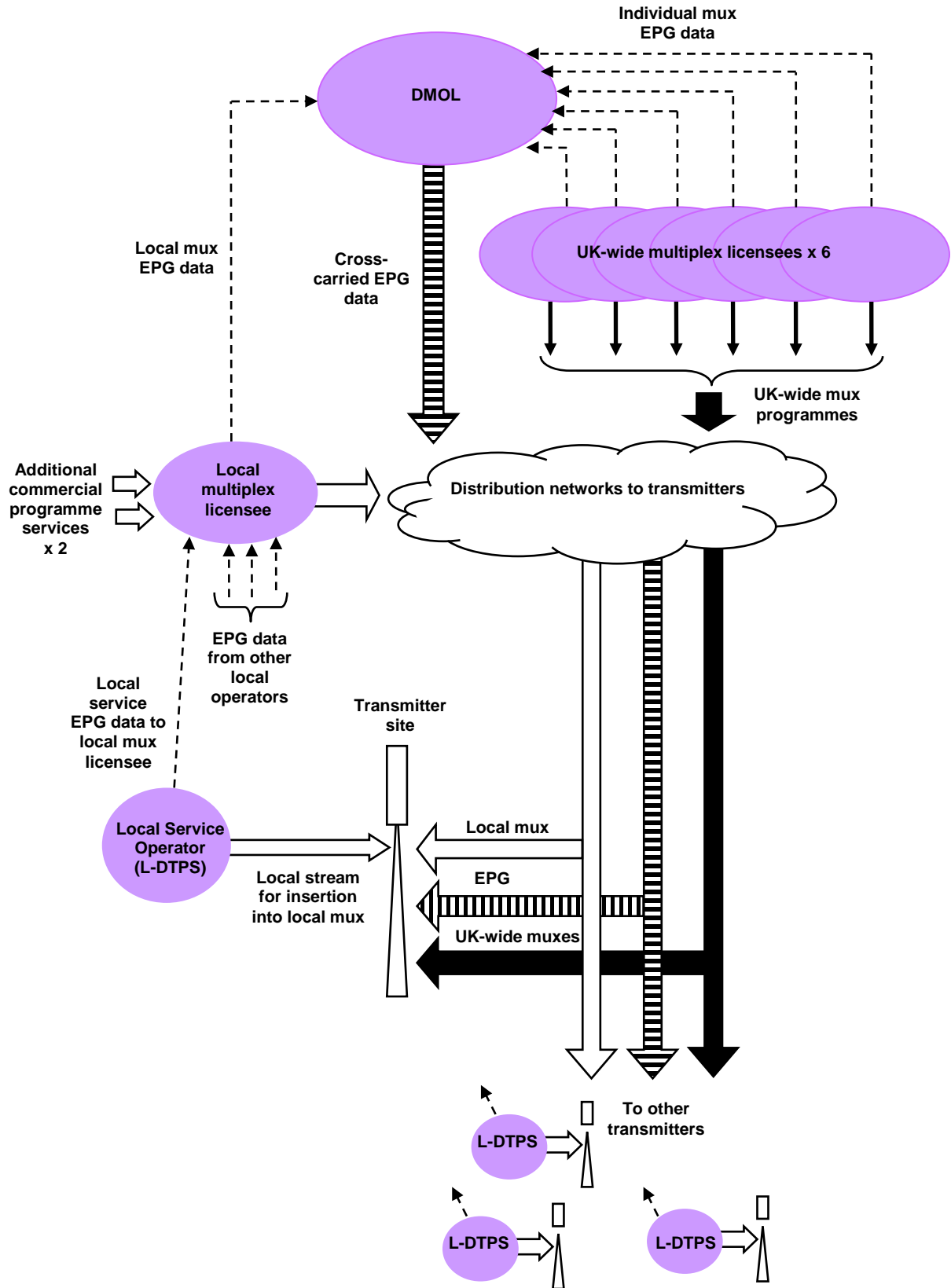
Technical standards

- 4.98 The choice of transmission mode and encoding technologies are important choices as they govern the likely coverage that might be achieved by the local multiplex and the number of services that can be carried within the multiplex.
- 4.99 We are proposing that the local multiplex licensee should adopt a DVB-T QPSK signal mode. QPSK provides a robust signal that will permit the local multiplex to maximise its coverage whilst operating with modest transmitter powers. We have considered whether the multiplex should adopt DVB-T or DVB-T2 technology and whether the encoding should be MPEG-2 or MPEG-4. Although the number of households with DVB-T2/MPEG-4 equipment has now exceeded 3 million (and is expected to continue to increase) we propose that the local multiplex should operate using DVB-T and MPEG-2 to maximise the number of consumers that could receive the service.

- 4.100 We have not yet reached a final decision on the exact signal mode for the local multiplex and seek views from stakeholders, including on the choice between DVB-T/MPEG-2 and DVB-T2/MPEG-4. We are also carrying out two further pieces of work which we expect to publish in the New Year that will inform our decision. One piece of work will test the compatibility of existing DTT receivers with QPSK signal modes. Another will investigate the technical feasibility of accommodating three services within a QPSK multiplex. Our initial coverage planning has been based upon QPSK rate $2/3$ $1/32$ guard interval which yields a net capacity of 8Mbit/s.
- 4.101 The multiplex licensee will also need to ensure that its services are compatible with the technical arrangements described in the *Reference parameters for Digital Terrestrial Transmissions in the United Kingdom*²³. This includes a requirement to cross-carry Service Information with the other DTT multiplexes to ensure reliable operation of the DTT EPG on viewers' receivers.
- 4.102 Further information on the proposed Technical Standards to be adopted by the multiplex licensee will be provided in the Coverage Note that accompanies the Draft Invitation to Apply for the Multiplex Licence, which we will publish shortly.
- 4.103 The diagram in Figure 3 illustrates the connections between the multiplex licensee, local content operators and national multiplexes.
- 4.104 Consultation question: Do you agree with our approach to technical standards? Do you have any views on the choice of transmission mode or encoding standards?**

²³ http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt_uk.pdf

Figure 3 Connection between local multiplex licensee, local content operators and UK-wide multiplexes



Eligibility

4.105 The s.244 Order does not direct Ofcom to award the MuxCo licence to a specific class of person. Existing licence holding restrictions will apply as defined in Schedule 2 to the Broadcasting Act 1990.

Regulated fees and income

Carriage costs

4.106 The s.244 Order specifies that L-DTPS licensees should not pay any more to the holder of a local multiplex licence than the cost of their service being carried²⁴. This policy was set out in the DCMS statement of 12 December 2011, which stated that the local multiplex operator should not make a profit from the local service providers.

4.107 The Order gives Ofcom the role of resolving any disputes where the local service providers and the local multiplex operator cannot agree about the cost charged, but we hope that the two parties would resolve costs between themselves wherever possible, as a regulated solution may delay services getting on air.

4.108 Ofcom would be likely to apply the following principles, based on cost orientation, in the event of having to determine the appropriate cost payable by an L-DTPS licensee to the holder of a local multiplex licence:

- It is up to the local multiplex operator to demonstrate the basis of their cost calculations.
- Central costs of the multiplex operator should only be reflected in the cost of carriage for a local service if they are not attributable to commercial deployment of the additional two video streams. So office/staff costs would be reflected, but not, for example, 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 local costs are managed transmission services (MTS), network access, and electricity.
- If the BBC funding includes a contribution towards the multiplex operating costs, we would expect this to be reflected in the cost calculation for local services.
- If the business model of the multiplex operator includes monetising the additional capacity at a local site (the two extra video streams) then we would still expect the local service to have to make a contribution towards the locally attributable costs.
- Conversely, however, if the local service is the only service carried, then all locally attributable costs would need to be covered. The viability research published at Annex 6 suggests that in this scenario, the costs would not be too great a burden for local services to bear.
- Should the multiplex operator seek to increase its coverage through transmitter enhancements that would result in a potential increase in the cost to the local service, then the increase in cost should only be passed on to the local operator if the increase in coverage is of benefit to the local service. For example, increasing

²⁴ S.244 Order, (7)(j)

coverage in an area where there is no natural affiliation to the local service's core target area may not be of any benefit to the local service.

- 4.109 These principles act as a guide to how Ofcom may calculate the carriage cost, and so while we welcome any general views on this question, we would set out our approach in the event of any disputes being raised.
- 4.110 It is a consequence of this framework that changes to the technical plan, for example to facilitate the coverage enhancements mentioned above, could result in changes in carriage costs. We would expect the local multiplex licensee to offer a reasonable notice period to local services if this was to happen.

Reference offer

- 4.111 Television broadcasting is largely based upon reception by fixed receivers, the majority of which are connected to rooftop or loft aerials that point at one specific transmitter. Although local multiplex operators could in principle build their transmitters at alternative locations, if they are not in the line of sight of existing aerials, their chance of achieving reliable reception are greatly reduced.
- 4.112 The existing DTT multiplexes all share common transmitter sites which provides a consistent experience for viewers. In the past, two transmission companies, Crown Castle and ntl:broadcast (ntl) owned approximately half of the sites each.
- 4.113 Following the coming into force of new EU communications directives in 2003, Ofcom carried out a market review of broadcast transmission services²⁵. Ofcom found the two transmission companies did have Significant Market Power in Network Access²⁶. In practice, this meant that it would be difficult for alternative suppliers to bid to provide transmission services to customers as they would not have access to cost information for a large portion of the transmission chain. Ofcom therefore imposed several obligations on Crown Castle and ntl:
- a requirement to provide network access to their respective masts and sites on reasonable request;
 - a requirement not to unduly discriminate in that provision of network access;
 - a requirement to provide network access to their respective masts and sites on cost-orientated terms; and a
 - requirement to publish a Reference Offer for that provision of network access (i.e. to set out the costs of access to the masts and sites that other organisations could include in bids to provide managed transmission services).
- 4.114 In 2008, a round of ownership changes and consolidation occurred that resulted in both transmission companies coming under the ownership of a single company, Macquarie Broadcast Holdings Ltd. The Competition Commission found that this consolidation would lead to a substantial lessening in competition for both network access and also for Managed Transmission Services²⁷ in the broadcast television

²⁵ http://stakeholders.ofcom.org.uk/consultations/bcast_trans_serv/?a=0

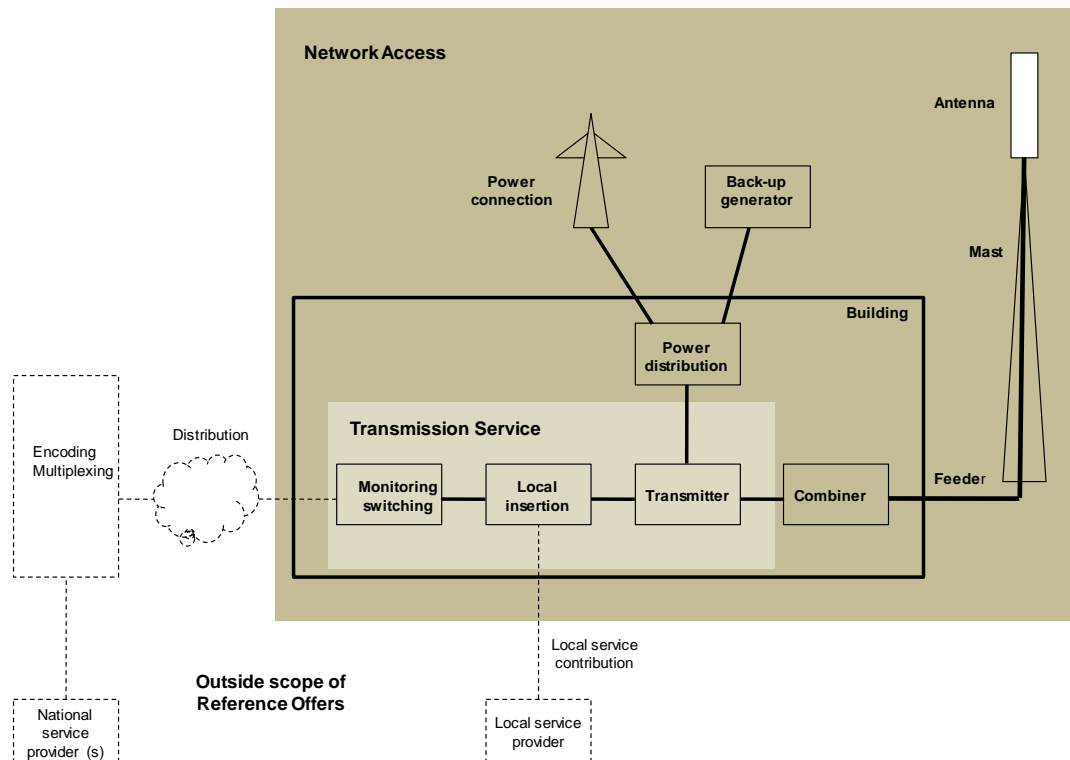
²⁶ Network Access covers part of the transmission chain including broadcast masts, antenna systems, power and buildings.

²⁷ Managed transmission Services includes the transmitters and monitoring equipment that together with the Network Access elements form the broadcast transmission chain.

market. In order to obtain clearance for the acquisition to take place, Macquarie gave certain Undertakings²⁸ to the Competition Commission, including producing Reference Offers for Transmission Services as well as for Network Access. Both companies have now been merged into the single transmission company Arqiva which either owns or leases all of the existing transmission sites used to broadcast television services in the UK.

4.115 Figure 4 sets out a typical transmission chain and how these break down into Network Access and Managed Transmission Service.

Figure 4: Typical transmission chain



4.116 We are in the process of requesting that Arqiva provides Reference Offers for both Network Access and Transmission services for a putative local television multiplex for the locations set out above. The Reference Offer will provide an indication of the likely costs of providing transmission facilities for a local multiplex service covering those locations.

4.117 A local multiplex operator will be able to procure transmission services from alternative transmission companies. Use of alternative sites may be permissible, if the multiplex operator can demonstrate that

- there will not be a detrimental impact upon reception of other DTT multiplexes through interference (coverage 'hole punching')
- the alternative site is in a position where it is in line with the majority of viewers' TV aerials in the target area

²⁸ <http://www.adjudicator-bts.org.uk/documents/Undertakings%20-%20Non-confidential%20version.pdf>

4.118 It is likely that the Arqiva sites will need to be used in a large number of cases due to their position and size of the structure. As noted above, alternative transmission companies will be able to provide transmission services for the multiplex licensee. Arqiva's Network Access Reference Offer will provide a cost basis for access to those sites that other transmission companies can use as the basis of developing proposals for applicants. Arqiva's Transmission Service Reference Offer provides an indication of cost should the licensee wish to use Arqiva to provide transmission services.

4.119 We expect that Arqiva will publish the Reference Offers in the early part of next year.

BBC funding

4.120 Ofcom anticipates that any applicant for the local multiplex licence is likely to have a business plan that relies on this funding. Therefore it will be important that any applicant has available to them the BBC criteria for funding, and is able to satisfy these criteria²⁹.

4.121 Similarly, the BBC Trust may require technical advice from Ofcom in order to ascertain whether the local multiplex licensee has satisfied its criteria, for example, achieving a certain level of coverage at a given site.

4.122 Therefore there will be a flow of information in both directions between the BBC Trust and Ofcom from the point of our receipt of multiplex licence applications onwards. The application form for the local multiplex licence will explain further where information may be shared.

4.123 We anticipate that the local multiplex licence will not be granted until a funding contract has been signed between the successful applicant and the BBC Trust³⁰.

Fees for terrestrial broadcasting spectrum licences/AIP

4.124 In line with our wider policy on fees for terrestrial broadcasting spectrum licences³¹ set out in June 2007, we plan to propose fees based on our administered incentive pricing (AIP) principles for television multiplex licences from the end of 2014 onwards. This will help to improve efficiency but could also reduce the ability of broadcasters to fund public service content.

4.125 We would include consideration of the opportunity cost of the spectrum used by local TV, and other relevant factors including the potential effects on public service broadcasting output, and the expected impact of fees set at that level, as part of the wider consultation process for all broadcasting spectrum licences. We will examine policy or regulatory changes that may be appropriate to address or mitigate any effects.

²⁹ To ensure that licence fee funding is well used and represents value for money, the BBC Trust has determined that the £25 million will be made available within the certain parameters. These are described at para 91 of the DCMS *document Local TV: Making the Vision Happen*, see http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf

³⁰ The granting of a licence occurs after a licence has been awarded to the successful applicant.

³¹ <http://stakeholders.ofcom.org.uk/consultations/futurepricing/statement/>

Section 5

Local multiplex licence: licensing process

5.1 This part of the document is a guide for potential applicants for the local multiplex licence, and provides an overview of the licence application and assessment process.

Application form

5.2 Full details of how applications should be presented will be set out in the Invitation to Apply for a local television multiplex (ITA). A draft version of the ITA will be made available shortly.

Approach to assessment

5.3 We will make an assessment of the applicants' proposals against the statutory criteria and Ofcom's general duties. In the context of making an award for the multiplex licence for reserved GI capacity, the proposed relevant statutory criteria include:

- A technical plan including details of the extent of the areas to be served and the coverage in those areas, the timetable for achieving this coverage and the technical means for delivering the coverage
- 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
- The applicant's proposals for supporting local digital television services

5.4 It will be the applicants' responsibility to ensure that we are provided with complete applications as set out in the ITA once received, applications may neither be amended nor new material introduced. We may however contact applicants should it be necessary to seek clarification of any proposals or information provided.

5.5 For transparency, after the closing date, all applications (except for confidential information) will be published on the Ofcom website.

5.6 The Ofcom Board will set up a Committee with delegated authority to carry out Ofcom's functions in relation to broadcast licensing. Once established details of the Committee will be published, including members and terms of reference, on the Ofcom website.

5.7 The decision to make an award or not to make an award for the reserved spectrum will be taken by that committee, and each application will be considered with regard to how far the proposals appear, in the committee's opinion, to meet the assessment criteria.

5.8 Any determination to make an award or not will be announced as soon as practicable after the decision has been taken. In the case of making an award, we would also look to publish the key determining factors which led to the decision.

5.9 Consultation question: Do you agree with the criteria for assessing proposals from applicants for the multiplex licence?

Technical plan

- 5.10 Having refined our preliminary assessment of the available GI spectrum where local TV services might be available, as stated in Section 4, we are now proposing a minimum requirement for the multiplex licensee to build a network serving a core of 20 locations (Phase 1). We have also listed a further 24 locations (Phase 2) where responses to the DCMS consultation indicated interest from potential operators. These lists of locations are subject to consultation and we may revise them subject to feedback to this consultation.
- 5.11 Our published coverage predictions have been based on certain assumptions as certain technical information (such as the availability of space at certain heights on the broadcast masts) is not yet available. We are working with Arqiva on the production of a Reference Offer for Network Access and Transmission Services that will increase certainty on some of these matters; this will be published next year.
- 5.12 In the meantime, applicants should refer to the sample technical arrangements annexed to the ITA (to be published shortly) as an appropriate starting point in determining proposed technical plans to support their proposals. We are satisfied that these provide a good basis for the preparation of a technical plan, with appropriate engagement with transmission companies as necessary.

Financial position

- 5.13 In making an award for a 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 (s8(2)(c) of the Broadcasting Act 1996). Applicants will therefore be expected to submit a detailed business plan, including financial information projected up to the full licence term, as well as information on key staff and the management structure. This information is relevant for Ofcom's assessment on whether the applicant can meet this requirement.
- 5.14 We recognise that a significant assumption of the business plan is likely to be an applicant's ability to access BBC funding for capital expenditure. Applicants are reminded that the BBC Trust will have criteria that must be met in order to access this support³².

Proposals to support local TV

- 5.15 As noted above, it is proposed in the s.244 Order that Ofcom will be required to have regard to any proposals by the applicant for promoting local digital television programme services. In addition, conditions that will oblige the holder of the local multiplex licence to co-operate and co-ordinate with local service providers will be included in the licence. We will therefore be looking for applicants' plans to engage with local operators, promoting local TV, positive steps to extend roll-out and/or any financial or technical assistance that can be provided.

³² To ensure that licence fee funding is well used and represents value for money, the BBC Trust has determined that the any funding will only be made available within certain constraints. These are described at para 91 of the DCMS document *Local TV: Making the Vision Happen*, see http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf

Local multiplex licence fees

- 5.16 There will be a licence application fee of £10,000 and an annual licence fee of £5,000 for the local TV multiplex licence. Any transfer of the local multiplex licence would also incur a fee equivalent to the annual fee, of £5,000.

Section 6

L-DTPS licences: conditions and requirements

- 6.1 This section sets out the conditions and requirements that would be placed upon any L-DTPS licensee. It includes content obligations that are both specific to local television, and general obligations that by virtue of applying more widely across television broadcasters would also apply to local television services.
- 6.2 Where Ofcom proposes to exercise its discretion in relation to a particular requirement, our proposed policy is described and justified. It also covers obligations not directly related to the programme content of a service (for example, the retention of recordings)³³.
- 6.3 In considering how these statutory requirements, if enacted, might be interpreted and implemented, we have been mindful not only of the specific framework that would be created by the Orders, but also of the purposes for which these new local TV services have been created. DCMS has described these services as local public service television, and Article 3 of the s.244 Order sets out the description of a local digital television programme service for the purposes of the proposed statutory framework.
- 6.4 Potential applicants for the L-DTPS licences, and stakeholders wanting more detail, should read this section in conjunction with the *Draft L-DTPS Application Form* (to be published shortly). The following section – and final section of this document – then describes the proposed process for awarding the L-DTPS licences.
- 6.5 Some of the requirements described below will be familiar to any local service licence applicants coming from a broadcasting background. Some derive from the Orders and will not be familiar to any applicants. Ofcom will engage with all potential applicants to ensure that they are sufficiently informed about the obligations that a local TV licence entails.

Specific content requirements

Localness requirement

- 6.6 We are proposing that, 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 area³⁴.

³³ The starting point for the conditions and requirements which will apply to L-DTPS licences is of course the statute. The draft s.244 Order modifies sections 18 and 19 of the Broadcasting Act 1996 to set out the process Ofcom must follow when advertising and awarding L-DTPS licences and the conditions that may be included in such licences.

³⁴ The intention is that programmes should be produced locally, but we do not want to specify the model utilised by the local service – it would be acceptable to have a live studio based output model, in which case the studio location is important, or a mainly third-party production based model, in which case the production should be local, but it wouldn't matter if it was 'knitted together' elsewhere.

- 6.7 This is because we are not persuaded in the general case that a service that is broadcast and/or produced from outside the local area it is seeking to serve, could be sufficiently targeted at the particular needs of the local area.
- 6.8 Under this proposed policy, we would be open to representations making the case otherwise, and would be prepared to enter into written agreement to exempt local services from this requirement, where a good case had been made.
- 6.9 Consultation question: Do you agree with our proposed localness requirement?**

Service description

- 6.10 Following the licensing criteria set out in the s.244 Order (and described in the following Section) we propose to invite applicants for an L-DTPS to describe their programming output in terms of:
- the nature of the service they wish to provide;
 - how the service will serve the tastes and interests of the target community; and
 - how the service will broaden the range of local services available in the area.
- 6.11 Our proposed approach will be that applicants would draft their own Programming Commitments as part of the licence application process, and the Order requires that these would be written into the licence of the successful applicant, so that the delivery of these becomes a binding licence condition. In the event that a licensee did not comply with its licence conditions, it could be subject to regulatory action, up to and including licence revocation.
- 6.12 Consultation question: Do you agree with our proposed approach of securing programming output that meets the statutory requirements by inviting applicants to draft Programming Commitments to be written into their licences?**

Party Political Broadcasts and local political coverage

- 6.13 The s.244 Order modifies the Communications Act 2003 such that L-DTPS licensees will be required to carry Party Political Broadcasts. Party Political Broadcasts are effectively spot advertisements produced by political parties themselves. Ofcom has published guidance on this obligation (which is also placed upon national television broadcasters)³⁵. We envisage revising the guidance to take account of the requirement on local licensees, and there will be a public consultation on this before any L-DTPS licences are awarded.
- 6.14 There is a wider programming category through which local TV services will be able to engage with the local democratic process. The licence application form will invite applicants specifically to consider what programming they propose to broadcast to facilitate 'civic understanding and fair and well-informed debate through coverage of local news and current affairs' (for example, televised mayoral debates, in locations where there is a directly elected mayor). Like all content, this must comply with the

³⁵ Ofcom rules on Party Political and Referendum Broadcasts, <http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/ppbrules/>.

Ofcom Broadcasting Code (see below), including a requirement for due impartiality. Ofcom has published separate guidance relating to the rules in the Broadcasting Code on election and referendum coverage³⁶.

General content regulation

6.15 All TV broadcast services are subject to general rules derived from the AVMS Directive or UK broadcasting legislation. These are summarised below. There are also a few specific provisions for content regulation on L-DTPS services made in the s.244 Order.

Standards

- 6.16 In relation to editorial standards, licensees will have to comply with Ofcom's Broadcasting Code³⁷. This includes in particular, but it not limited to:
- Requirements for due accuracy and due impartiality, particularly with regard to news and current affairs;
 - Ofcom's rules on fairness;
 - Ofcom's proposed Code on the Prevention of Undue Discrimination between Broadcast Advertisers (this is subject to a forthcoming statement); and
 - The cross-promotion code.
- 6.17 In relation to advertising standards, licensees will have to comply with the UK Code of Broadcast Advertising³⁸.
- 6.18 The s.244 Order contains two specific prohibitions for local TV services, which would be written into licences. These are:
- Pornography; and
 - Longer advertisements, including teleshopping windows, for chat content using premium rate phone calls.
- 6.19 There are no restrictions proposed for the other two video streams, other than any that apply generally.

Commercial content

6.20 Ofcom's Code on the Scheduling of Television Advertising³⁹ (COSTA) includes rules requiring that all commercial broadcasters:

³⁶ In news reports on elections, licensees must also comply with the rules set out in section 6 of the Ofcom Broadcast Code, guidance on which can be found at <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>.

³⁷ *Broadcasting Code*, Ofcom (<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>)

³⁸ *The UK Code of Broadcast Advertising, BCAP* – see <http://bcap.org.uk/The-Codes/BCAP-Code.aspx>. Ofcom has delegated the Broadcast Committee on Advertising Practice, to set the rules for broadcast advertising, and the Advertising Standards Authority to enforce them.

- schedule no more advertising in any hour or in total across the day than is permitted;
 - ensure that advertising and teleshopping is readily distinguishable from editorial content, and does not prejudice its integrity; and
 - minimise isolated advertising spots (other than in live transmissions such as sports events);
 - ensure there are no advertising breaks in broadcasts of religious services, Parliamentary proceedings, and Royal ceremonies.
- 6.21 We anticipate that most if not all local TV services will be broadcast only on DTT via the local TV multiplex, and of these, most will therefore not be receivable outside the UK. Whether a channel is receivable outside the UK or not determines whether the UK may exempt it from the advertising minutage restrictions set out in the AVMS directive. We propose to exempt all local TV services that are not receivable outside the UK from these restrictions. However, if a service is receivable outside the UK (e.g. because it is broadcast by satellite) it will not benefit from this exemption.
- 6.22 Regardless of where a local TV service can be received, there will be no limit to the amount of teleshopping a local TV service may schedule, provided it is able to meet its Programming Commitments.

Access requirements

- 6.23 Ofcom's Code on Television Access Services⁴⁰ sets out the requirements on subtitling, sign language and audio description ('television access services') that apply to television services licensed in accordance with the Communications Act 2003, the Broadcasting Act 1996, or the Broadcasting Act 1990.
- 6.24 This code applies to all broadcasters, but television services achieving an average audience share of all UK households over a 12 month period of 0.05% or less are excluded from providing television access services (based on the current number of UK households, this equates to an audience of 140,000 households). It is possible that all local TV services would be exempt as a result of their audience share. For any that are not, then the existing rules will apply.

Production requirements

- 6.25 There is a requirement under s.309 of the Communications Act for digital programme service licensees, which would include local TV operators, to fulfil a 10% independent production quota. In its recent statement, *Local TV: Making the Vision Happen*, the Government indicated it would consider whether it is appropriate for this quota to apply to local TV services as it currently does to nationwide broadcasters. The Government will set out its proposals for further consultation in due course.
- 6.26 The AVMS directive also includes quotas of 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 proposes to apply this exemption to local TV services.

³⁹ *Code on the Scheduling of Television Advertising*, Ofcom – see (<http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/tacode.pdf>)

⁴⁰ <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/ctas.pdf>

Technical licence terms

Obligation to provide service

- 6.27 An L-DTPS licensee will be obliged to make the service available to be broadcast on the local multiplex at all times, and in a technical format specified by Ofcom. The technical details of this will be made clear in the licence application.
- 6.28 We will propose an interface point, likely to be at the relevant transmitter site, and technical delivery of a broadcast-suitable stream to that point will be the responsibility of the L-DTPS licensee.

Timetable of service launch

- 6.29 We propose that licensed local services should have a target of commencing broadcasting within two years of licence award. This is when we would expect most if not all of the locations to be built out by the multiplex operator.
- 6.30 We hope there will be scope at some locations to begin broadcasting earlier, if the L-DTPS licensee and the local multiplex licensee are both ready to do so at an earlier date. Ofcom anticipates that the launch date will be something that the L-DTPS licensee and the local multiplex licensee can come to an agreement on, and does not propose to take a regulatory role beyond confirming the technical plan of the successful multiplex licence applicant, which will specify build-out dates for all locations that the multiplex must cover.
- 6.31 We propose to make it a condition of each award of an L-DTPS licence that the service must be broadcasting within three years, unless by that time the multiplex operator has not built out coverage at the relevant location. (We do not consider it likely that coverage would not be built out within three years, and have set out an expectation in Section 4 above that coverage should be built out within two years, but there may be factors outside the multiplex operator's control, for example unusual weather conditions, which impact upon this.)
- 6.32 Consultation question: is our proposed approach to service roll-out timetable the right one?**

Licence duration and termination

- 6.33 The s.244 Order gives Ofcom the power to grant an L-DTPS licence for a period of up to 12 years. We propose to grant L-DTPS licences for a duration such as to make them coterminous with the local multiplex licence, which we are proposing to award for a full 12 years. This means that the first local services to launch would have licences for a full 12 years, but that local services launching subsequently would have correspondingly shorter licences.
- 6.34 The Orders do not make any provision for the renewal or extension of L-DTPS licences, so there is no practical alternative to this; the L-DTPS licensees would be in breach of their must-provide conditions at the point of the local multiplex licence ending, and Ofcom would be obliged to revoke them anyway.
- 6.35 We would anticipate that Government will make provisions during the next 12 years for renewal of both L-DTPS and local multiplex licences, but it may be too early to say what the most appropriate distribution platform will be for this type of service, more than 12 years into the future.

Retention of recordings

- 6.36 Under the Broadcasting Act 1990, all licensed television broadcasters are required to retain recordings of their output. Ofcom has some discretion over the period for which recordings should be retained after broadcast; existing policy is that TLCS licensees (i.e. licensed TV services on any platform except DTT) have to retain recordings for 60 days; DTSP licensees (i.e. broadcasting on DTT) for 90 days.
- 6.37 Although L-DTSP licences are a subset of DTSP licences, we are conscious of the cost of keeping recordings, and the small scale of some local TV operations, and therefore propose requiring recordings to be kept for 60 days.
- 6.38 This requirement applies to all broadcast output, and not just to certain types of programming.

Eligibility

- 6.39 An L-DTSP 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)⁴¹.
- 6.40 There are no specific restrictions in the s.244 Order on who may hold an L-DTSP licence; the general statutory framework applies. This specifies that the following are disqualified from holding a licence or from controlling a licensee:
- a local authority (other than in specific circumstances);
 - a political body;
 - a religious body (except by specific Ofcom determination);
 - an advertising agency or any company controlled by one.
- 6.41 In particular, there are no restrictions on other local media companies holding an LDTPS licence⁴².

Other obligations

Annual returns

- 6.42 So that Ofcom can report on this emerging sector, and to minimise the amount of active compliance work we need to do, with its burden on licensees, we propose that L-DTSP licensees should complete a short annual return, reporting on their programming output during the past year.
- 6.43 We propose that this return should be short and factual, with an emphasis on quantitative information suitable for aggregation across the sector. The proposed scope of this return is set out in Table 2 below.

⁴¹ See <http://licensing.ofcom.org.uk/binaries/tv/service-provider.pdf>

⁴² 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>

6.44 Ofcom will also need to collect information on licensees' relevant turnover, in order to calculate fees (see below).

Table 2: Proposed 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
Description of type and amount of local programming not comprised within news and current affairs

6.45 Consultation question: Do you agree with our proposed approach to annual returns?

Promotion of equal opportunities and training

6.46 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, it should be noted that the Government has announced its intention to repeal this provision of the Act, and has introduced legislation to this effect. It is therefore possible that this requirement will have ceased to apply before L-DTPS licences are granted.

Interaction between L-DTPS licensees and a mutual entity

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

6.48 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's publication *Local TV: Making the Vision Happen*. Ofcom intends to interpret this requirement in line with that vision, and to notify L-DTPS licence holders to that effect.

6.49 They are also required, in co-operation with that entity, to seek to measure the number of views of the service.

- 6.50 Finally, they are required to encourage that entity to apply or negotiate for a local multiplex licence, should one become available.
- 6.51 We will insert licence conditions to secure these things.

Section 7

L-DTPS licences: licensing process

Application form

- 7.1 Full details of how applications should be presented will be set out in the licence advertisement and application form. Applicants are required to follow the instructions set out in the form, for example regarding word limits.
- 7.2 Generally, the form has been designed for applicants to demonstrate how they will meet the statutory criteria for licence award, but to be no more burdensome than necessary. It should be sufficient to describe the proposed service, without producing accompanying audio-visual material.

Approach to assessment

- 7.3 Ofcom's approach to licensing will be first to establish that any applicant meets the necessary minimum criteria, and then to distinguish between applicants on a basis of how they compare on the statutory criteria that we must have regard to.
- 7.4 The s.244 Order sets out three criteria that relate to the service, and one that relates to the ability of the prospective licensee to maintain the proposed service. We are proposing that the former would be demonstrated and enforced through programming commitments; and the latter we will judge through financial analysis of the proposed service's business model.
- 7.5 The service-related criteria are:
- Meeting the needs of the local area;
 - Broadening the range of TV programmes available in the local area;
 - Increasing the and range of programmes made in and about the local area.

Programming commitments

- 7.6 In order to demonstrate that they meet these criteria, we propose asking applicants to draft their programming commitments, and to consider their answers to the following questions:
- What are the proposed programming elements of your service and what will be the balance between the different elements of that programming?
 - How many hours a day / week of local programming do you intend to broadcast?
 - How many hours a day / week of first run local programming do you intend to broadcast?
 - What types of content other than first run local programming do you intend to broadcast?

- Do you intend to broadcast live output? If so when and how much do you propose to do?
- Will you broadcast in languages other than English (what languages and how much)?
- How much of your output will be original i.e. produced for your service alone?
- Will your local programming be locally produced?
- How much do you intend to repeat local material?

7.7 We recognise that there is likely to be a wide range of organisations interested in running local TV services, with an equally wide range of creative visions for the programming. We do not wish to be prescriptive, beyond setting in place a licensing and regulatory system to deliver the objectives laid out in, and the purposes underpinning, the s.244 Order. We also do not wish to encourage an approach that may encourage local services towards a lowest common denominator. For these reasons we do not propose to specify minimum content quantities, for example in terms of hours of a certain type of programming.

7.8 Although we are not setting quantitative requirements, we consider news to be the most important type of local television content, and applicants should propose a reasonable provision of news and current affairs, bearing in mind the public subsidy and public purposes of local TV. As a guide, 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.

7.9 We are proposing the that following guidance notes and definitions will be in the application form:

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 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 listeners living in the area. Local news stories should be up to date and regularly refreshed. Simply localising UK-wide news (e.g. conducting vox pop interviews in one area and playing them out as if from another or inserting local place names into UK-wide stories) without local news/information generation would not be regarded as fulfilling local news requirements. While local sports stories can make a significant contribution to delivering localness, and can represent an important part of a local station's editorial mix, local sports news would not be regarded as being a substitute for local news stories. Similarly, entertainment news may be relevant locally but should not be the main ingredient of local news bulletins or a substitute for more serious local news stories.

Current affairs: A current affairs programme is one that contains explanation and/or analysis of current events and issues, including material dealing with political or industrial controversy or with current public policy. Current affairs content is also required to be duly impartial.

- 7.10 Applicants should state in their programming commitments how much and which elements of their proposed local programming will be broadcast during 'peak time', which is between 6.30pm and 10.30pm. They should also set out whether and how much they intend to broadcast material produced by a different organisation.
- 7.11 In explaining how their service caters for local tastes and interests, we will ask applicants to address the following questions:
- How will the programming facilitate civic understanding and fair and well-informed debate through coverage of local news and current affairs? As well as news coverage applicants may also wish to consider local political coverage as set out below.
 - How will the programming reflect the lives and concerns of communities and cultural interest and traditions in that area?
 - What elements of local programming will be provided which will inform, educate and entertain (and which is not otherwise available through a digital programme service which is available across the UK)?
- 7.12 We will judge commitments in the context of the scale of operation, and resources available. In other words, a larger operation with more resources would be expected to have greater ambitions than a smaller one.
- 7.13 Consultation question: Do you agree with our proposed guidance around Programming Commitments, including our guidance on news and current affairs?**

Ability to maintain service

- 7.14 Ofcom needs to consider whether an applicant has the ability to establish and maintain the proposed service. This includes having sufficient financial and other resources.
- 7.15 The application form therefore includes questions on what 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.
- 7.16 Applicants need to submit a clear business plan to show how they will set up their service and maintain it once on air. Without a well thought-through business plan it is unlikely that an applicant will be able to demonstrate its ability to maintain the proposed service.
- 7.17 We require financial information – budgets and funding – for set-up and the first three years of operation only, but there should be a clear strategy to sustain the service for the duration of the licence.
- 7.18 We anticipate that analysis of a business plan would include scrutiny of three main components:
- Revenue or other income estimates. We would seek to understand the applicants income sources, and expect them to breakdown the possible income streams to enable us to understand the assumptions used.

- Cost estimates. We would like to review the applicant's cost forecast to ensure that all the relevant costs have been captured and that costs have been forecast in a fair and reasonable way.
- Ability to sustain operation. We would like to ensure that the applicant has access to sufficient borrowing arrangements or funds that will enable them to sustain operation throughout the licence period.

7.19 Typically for broadcasting licence applications, Ofcom would conduct benchmarking exercises using existing services (e.g. commercial radio services), in order to test a proposed business plan. In the case of local TV, we anticipate that some combination of local commercial and community radio, and television businesses both local and national, may go some way towards providing benchmarks, but not give as a reliable an indicator as in a sector where analogous businesses are established.

7.20 Consultation question: Do you agree with our approach to assessing L-DTPS applicants' ability to maintain service?

Launch date

7.21 We are asking applicants to propose a specific launch date for their services as part of the application.

7.22 A launch date will only be achievable in practice if the multiplex licensee has built out coverage to the location in question by that date. Because we are proposing to run the process for awarding the local multiplex licence and the first batch of L-DTPS licences in parallel, the build-out schedule of the multiplex will not be known at the time of submitting L-DTPS licence applications.

7.23 When the local multiplex licence is awarded, the proposed build-out schedule will be compared with the proposed launch dates for the services that will be carried. We anticipate that the multiplex operator will amend the build-out plan to align with proposed service launch dates as far as possible.

Contingent applications

7.24 Each application for a specific local service 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.

7.25 When considering applications for licences beyond the first tranche of locations, we recognise that if an applicant operates one or more existing local services, then synergies between those and the proposed new service may form part of the application case.

L-DTPS licence fees

7.26 Ofcom's *Statement of Charging Principles*⁴³ sets out our approach to setting fees generally.

⁴³ http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

7.27 Ofcom publishes licence fees annually, for different categories of licensee. The L-DTPS licence is a type of DTPS licence; therefore Ofcom proposes to apply its fees for DTPS licences.

7.28 Because of the PSB purposes of local TV, Ofcom proposes that the *Category A - PSB* fees should apply.

7.29 There are two types of fee to be paid by broadcast licensees:

- An application fee payable by all applicants (this includes an application to transfer or vary a licence, as well as to be granted a licence);
- An ongoing annual fee payable by licence holders.

7.30 Application fees are shown in Table 3.

Table 3: Application fees

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

7.31 The annual fees are calculated on a basis of the licensee's Relevant Turnover⁴⁴ generated in a specific calendar year.

7.32 The tariffs are progressive in that licensees pay proportionally more in fees as their Relevant Turnover increases, based on a cumulative sliding scale⁴⁵. There is a maximum Relevant Turnover cap of £300m, beyond which no fee is payable.

7.33 For reference, the 2011/12 tariff table is set out in Table 4 below but will change each year depending on market size and the regulation costs to be recovered.

7.34 There is a minimum annual fee of £1,000, so any licensee generating revenue below a certain threshold (approximately £800,000) will just pay the minimum.

7.35 Consultation question: Is this approach to fees for local TV services the right one?

Table 4: 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%

⁴⁴ The definition and guidance for Relevant Turnover is in the Statement of Charging Principles http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf Chapter 4 and Annex B specifically are relevant to the Television Sector

⁴⁵ e.g. for Category A licensees, 0.12326% is charged on the first £10m of Relevant Turnover; 0.18489% on the next £25m; 0.27733% on the next £40m and 0.41600% on the next £225m

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 19 March 2012**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <https://stakeholders.ofcom.org.uk/consultations/local-tv/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email local.tv@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Licensing Local Television – Consultation Response
Radio Content and Broadcast Licensing
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4033
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact local.tv@ofcom.org.uk.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement as soon as possible.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your coversheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing Name/contact details/job title	<input type="checkbox"/>		<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation questions

4. Local multiplex licence: conditions and requirements

- A4.1 Do you agree that 20 locations should be set as a minimum roll-out obligation?
- A4.2 Are the 20 proposed locations in our minimum roll-out list the right ones?
- A4.3 Are the 24 locations the ones, from our list of 65 sites where local TV is technically possible, where there is a demand from local service operators? Should any locations be added to, or subtracted from, this list?
- A4.4 Do you agree with our approach to selecting sites for the second phase of local service licensing: inviting the multiplex applicants to select from the further list of locations where there is demand from potential service providers?
- A4.5 Consultation question: Do you agree with our proposed approach to building out and substituting further areas, in the second phase of licensing?
- A4.6 Do you agree with our approach to dealing with requests for extension to coverage?
- A4.7 Is our proposed approach to multiplex roll-out timetable the right one?
- A4.8 Do you agree with Ofcom's proposal to advertise a multiplex licence for the maximum 12 year duration, but to be open to other models, provided they deliver certainty for broadcast licensees and a viable build out?
- A4.9 Do you agree with our approach to technical standards? Do you have any views on the choice of transmission mode or encoding standards?

5. Local multiplex licence: licensing process

- A4.10 Do you agree with the criteria for assessing proposals from applicants for the multiplex licence?

6. L-DTPS licences: conditions and requirements

- A4.11 Do you agree with our proposed localness requirement?
- A4.12 Do you agree with our proposed approach of securing programming output that meets the statutory requirements by inviting applicants to draft Programming Commitments to be written into their licences?
- A4.13 Is our proposed approach to service roll-out timetable the right one?
- A4.14 Do you agree with our proposed approach to annual returns?

7. L-DTPS licences: licensing process

- A4.15 Do you agree with our proposed guidance around Programming Commitments, including our guidance on news and current affairs?

- A4.16 Do you agree with our approach to assessing L-DTPS applicants' ability to maintain service?
- A4.17 Is this approach to fees for local TV services the right one?

Annex 5

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	The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order
s.244 Order	The Local Digital Television Programme Services Order
s.310 Order	Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order
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
Committee	The [Name] 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
DPSA	Digital Preferred Service Area – a prediction of the areas where viewers are expected to be watching a particular transmitter
DMOL	DTT Multiplex Operators Ltd – a company jointly owned by the UK-wide DTT multiplex operators, BBC, D3&4, SDN and Arqiva that manages some aspects of cross-platform interoperability including consolidating schedule information from each multiplex to populate the DTT electronic programme guide.
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	Digital Video Broadcasting (project) – a European consortium of broadcasters and manufacturers that has developed technical standards for digital television. www.dvb.org
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 – the number allocated to a programme service on an EPG e.g. BBC1 is often allocated LCN 1.
L- DTPTS	Local Digital Television Programme Service [define as per Order]
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.
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	Re-Broadcast Link – the means by which many of the PSB multiplex operators' relay transmitters receive their programme feed
RRC	Regional Radio Conference – 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
SI	Service Information – data that is carried within a DTT multiplex that allows receivers to function correctly. Data to populate the EPG is carried within the SI.
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	Quadrature Phase Shift Keying – a type of robust signal used by digital television
UHF	Ultra High Frequency – a part of the spectrum a portion of which between 470 MHz to 854 MHz is used for television broadcasting.