



Switchover—related Changes to DTT Licences

Consultation

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Section 1

Summary

Purpose of consultation

1.1 The move towards digital switchover in the UK (DSO) has progressed considerably across the EU in the last twelve months. Four Member States – Germany, the Netherlands, Finland and Sweden – are scheduled to complete switchover by the end of 2007. In the UK, the Government announced in September 2005 that DSO should be complete by 2012 and made public the regional timetable for switchover to achieve this objective. In Ofcom's view it is now necessary and desirable to insert appropriate switchover-related conditions in:

- the five multiplex licences held under the Broadcasting Act 1996; and
- all digital television programme service (DTPS), digital television additional service (DTAS) and relevant digital sound programme service (DSPS) licences. In this consultation, these DTPS, DTAS and DSPS licences are referred to as DTT¹ service licences.

Ofcom sets out proposals for such conditions in this consultation.

1.2 Ofcom's aim with these proposals is to ensure that the multiplex operators and holders of DTT service licences are under clear duties to cooperate with, and participate in, the complex process of digital switchover in the public interest. The purpose of this consultation is to seek views on whether Ofcom should include the proposed DSO-related conditions in these licences.

1.3 The deadline for sending responses to this consultation is 5pm on 27 September 2006.

MULTIPLEX LICENCES

Provision of television multiplex service

1.4 The purpose of the proposed amendments to condition 2 of the current licences is to set out the obligations on the licensee as to the coverage to be achieved by the service at DSO. The new condition 2(3) would impose a duty on the licensee to ensure that, as switchover takes place in the various regions of the UK, so the licensee's obligations to broadcast from the DTT broadcasting stations required to achieve the necessary level of coverage come into force.

1.5 Ofcom proposes that the licensed **PSB** multiplex operators² should be under a new duty to broadcast at DSO from an increased number of sites. The aim is that by 2012 DTT coverage of the PSB multiplexes should be around 98.5 per cent of the population.

¹ digital terrestrial television

² ie multiplexes 2 (Digital 3 and 4 Ltd, owned by Channel 3 and Channel 4) and B (BBC Free to View Ltd). The new Agreement between the Secretary of State for Culture, Media and Sport and the BBC (June 2006) requires the BBC to achieve a similar level of coverage for the unlicensed Multiplex 1.

- 1.6 When power levels for DTT transmission are increased at DSO, it is now estimated that the **commercial** multiplex operators³ will be able to achieve around 90 per cent coverage. These licence holders are presently under a duty to broadcast from 80 sites and Ofcom proposes that this obligation should be unchanged at DSO subject to the following: if the holders of commercial multiplex licences wish to broadcast from more than these 80 sites, they must inform Ofcom by the close of this consultation by making an unconditional commitment to adopt such sites. Ofcom will then consider whether to vary their licences to include additional sites, broadcasting from which at DSO would then become a duty.
- 1.7 The following duties, Ofcom suggests, should be added in new annexes to the licences.

Cooperation and coordination with other parties

- 1.8 Ofcom thinks it appropriate to include in the multiplex licences an obligation on licensees to co-operate with everyone involved in the implementation of digital switchover in the UK.

Annual report and information relating to Digital Switchover

- 1.9 This proposed new condition would place a duty on a multiplex licensee to send Ofcom an Annual Report giving details of his compliance with the conditions in the licence relating to digital switchover, and to provide information requested by Ofcom about DSO.

Communications with viewers

- 1.10 At DSO it will be necessary in some parts of the UK for “rescanning” to take place (ie retuning viewers’ set top boxes). The multiplex operators will have a central coordinating role to play in informing viewers about this procedure. To help ensure it proceeds smoothly, Ofcom is minded to include in their licences a duty on the holders to inform viewers about rescanning or other viewer actions required at switchover, and agree in advance with Ofcom a plan for doing so.

Digital Switchover Date and timetable

- 1.11 Ofcom proposes to insert a date for the final completion of switchover in the UK of 31 December 2012 (except for the Channel Islands where it will be 31 March 2013) and the region by (Channel 3) region switchover timetable to reflect the Government’s announcement in September 2005.

List of digital terrestrial broadcasting stations and Wireless Telegraphy Act licensing

- 1.12 This proposed new condition would include in the licence an obligation on the multiplex licensees to broadcast from an expanding list of DTT broadcasting stations as DSO takes place on a regional basis. There is an important difference between this obligation as set out in the two PSB multiplexes at switchover (i.e. multiplexes 2 and B); and the remaining three commercial multiplex licences.
- 1.13 Ofcom proposes to include in the two **PSB** multiplex licences a list of 1,154 DTT broadcasting stations and dependent relays set out by reference to the various

³ ie multiplexes A (SDN Ltd), and C and D (National Grid Wireless Ltd)

(Channel 3) regions where digital switchover will take place. These lists will reflect those in the various digital replacement licences, and the frequency allocations set out in the relevant Wireless Telegraphy Act (WTA) licences relating to the radio spectrum used for DTT broadcasting.

- 1.14 Currently the WTA licences relating to this spectrum are held by Arqiva (concerning the spectrum used for multiplexes 2 and A), while NGW holds the WTA licences as regards the spectrum used for multiplexes 1, B, C and D. Ofcom is minded at switchover to change who holds the relevant WTA licences. When DSO occurs Ofcom intends to issue new WTA licences for the spectrum needed to the operators of the six DTT multiplexes, so that these licences are held by the multiplex operator, not the transmission service provider.
- 1.15 The proposed list of DTT transmission stations is different in the planned **commercial** multiplexes i.e. muxes A, C and D. Ofcom proposes to include in the commercial multiplex licences the same list of 80 sites from which the licence holder shall broadcast at DSO as binds the licensee currently. If the commercial multiplex operators wish to adopt any DTT broadcasting sites in addition to the current 80, they must take an unconditional decision as to which (if any) additional sites they wish to build and inform Ofcom of this commitment in writing in their response to this consultation. Ofcom will then consider any such offer and, if appropriate, include additional sites in the licences.
- 1.16 Once Ofcom has included the list of DTT broadcasting stations in the multiplex licences, the regulator intends to keep it under regular, probably annual, review as DSO proceeds. The multiplex licences, both PSB and commercial, will be amended accordingly.

DTPS, DTAS and DSPS LICENCES

Cooperation and coordination with other parties

- 1.17 Ofcom proposes to include in the DTT service licences some minimal duties relating to DSO. These are set out in a new annex to be added to these licences. The first is an obligation to co-operate with the main parties involved in the administration, organisation or implementation of digital switchover in the UK.

Communications with viewers

- 1.18 The second concerns “rescanning” of set top boxes, analogous to that which Ofcom proposes to insert in the multiplex licences (see above). The direct relationship with viewers and listeners on the DTT platform is managed by the DTT service licensees. Ofcom considers that it is therefore appropriate to include an obligation in these licences that the holders must use their reasonable endeavours to inform viewers/listeners about rescanning or other viewer/listener action required at switchover, to ensure this takes place, and that the multiplex licensees have a means of ensuring they can fulfil their parallel obligation.

Section 2

Background to the consultation

Purpose of consultation

- 2.1 Ofcom has concluded that the move towards digital switchover in the UK (DSO) has progressed to the point where it is now necessary and desirable to propose the insertion of appropriate switchover-related conditions in the five multiplex licences and all digital television programme service (DTPS), digital television additional service (DTAS) and relevant digital sound programme service (DSPS) licences. Although the reasons are set out in detail later in the consultation, Ofcom's overall aim is to ensure that the multiplex operators and holders of DTPS, DTAS and relevant DSPS licences are under clear duties to co-operate with, and participate in, the complex process of digital switchover in the public interest.
- 2.2 The purpose of this consultation is to seek views on whether Ofcom should include the proposed DSO-related conditions in these licences.

Background

- 2.3 There are three types of licences issued by Ofcom which are directly related to DSO:
 - digital replacement licences (DRLs), which license Channels 3, 4 and 5 and Public Teletext to broadcast on the analogue and digital terrestrial (DTT) platforms;
 - multiplex licences, which authorise the operators of certain DTT multiplexes to provide a DTT service consisting of the packaging together of various programme services; and
 - licences covering various services broadcast on the DTT platform ie digital television programme service licences (DTPS, for TV channels like Sky News and Discovery); national digital sound programme service licences (DSPS, for radio stations), and digital television additional services (DTAS) licences which authorize services like games and teletext. These licences are referred to in this consultation as DTT service licences.
- 2.4 In December 2004, Ofcom issued the DRLs and included in them certain specific DSO-related conditions. The multiplex licences pre-date the DRLs. They were first granted in the late 1990s and some of them were re-issued with amendments following the surrender of the licences by ITV Digital in 2002. These licences however on the whole contain very little specifically related to DSO. Switchover however has important consequences for the multiplex licences, and to a lesser extent the DTT service licences, especially following the Government's announcement in 2005 of a timetable for DSO in the UK. Therefore, following this announcement and the Regional Radio Conference (RRC) which concluded in June 2006, Ofcom considers it appropriate to consult on a range of DSO-related conditions which it proposes should be inserted in the multiplex and DTT service licences.

Digital replacement licences

- 2.5 The Communications Act 2003 (the Act) obliged Ofcom to offer digital replacement licences (DRLs) to all 16 Channel 3 licensees and the licensees for Channel 5 and

the Public Teletext Service by the end of 2004. Ofcom was also under a duty to replace Channel 4's existing licence. Ofcom consulted on the terms to be included in these licences, and in particular on new conditions to be added related to digital switchover (DSO).⁴ The result of this DRL consultation was that, subject to some limited amendments resulting from the responses to the consultation, Ofcom's proposed conditions relating to digital switchover were included in all the DRLs which were granted in December 2004.

Digital terrestrial television multiplexes

2.6 Digital terrestrial television is transmitted on television multiplexes. A multiplex is a collection of television programme, radio and data services that are broadcast together in a digital signal that occupies no more spectrum than just one analogue television service. Multiplexes are licensed by Ofcom under the Broadcasting Act 1996 or, in the case of multiplex 1, operated by the BBC under their Royal Charter and Agreement with the Secretary of State for Culture, Media and Sport. All multiplexes use radio spectrum, and their use of radio frequencies for this purpose is licensed in all cases by Ofcom under the Wireless Telegraphy Acts.

2.7 There are six television multiplexes:

- Multiplex 1 is operated by the BBC, carries BBC services and is not licensed by Ofcom under the Broadcasting Act 1996.
- Multiplex 2 is operated by Digital 3&4 Ltd (jointly owned by Channel 3 and Channel 4) and the capacity on this multiplex is split between Channel 3 (48.5%), Channel 4 (48.5%) and the Public Teletext service (3%).
- Multiplex A is operated by SDN Ltd (controlled by ITV plc), and 50% of the capacity on this multiplex is reserved for Channel 5 and (in Wales) S4C.
- Multiplex B is operated by BBC Free to View Ltd (BBC FTV).
- Multiplexes C and D are operated by National Grid Wireless Ltd (NGW).

2.8 The multiplex licences contain conditions for the provision of services over the multiplex and the behaviour of licensees. All multiplex licences issued by Ofcom are available on the Ofcom website, www.ofcom.org.uk, under Ofcom Licensing/ Television Broadcast Licensing.

2.9 Ofcom's most recent, significant regulatory statement relating to DTT and DSO was made in June last year, Planning Options for Digital Switchover.⁵ Ofcom's main conclusions in this statement were:

- all three multiplexes which will broadcast public service broadcasting channels (i.e. the so-called "PSB multiplexes" 1, 2 and B) at DSO should aim to achieve similar levels of coverage to all sites being operated for DTT by adopting the same mode and similar levels of power. (The expectation is that these three multiplexes will achieve coverage of about 98.5 per cent of the UK population and

⁴ Ofcom consultation, Digital Replacement Licences to be offered to Channels 3, 4, 5 and Public Teletext, issued 14 September 2005; and Ofcom's statement on the same subject, dated 29 November 2004.

⁵ Ofcom statement, Planning Options for Digital Switchover, 1 June 2005.

carry all the main national terrestrial TV channels ie all BBC digital channels, ITV1, Channel 4, Channel 5 and Public Teletext.)

- the commercial multiplex operators at DSO (i.e. the so-called “commercial multiplexes” A, C and D) should be able to determine their own coverage objectives in the light of their particular commercial interests provided that they do not allow the coverage of any multiplex to fall below its current level (i.e. 73% of UK households should continue to receive coverage of all six DTT multiplexes).
 - a planning option which involves all three PSB multiplexes adopting the 64 QAM transmission mode at switchover has advantages over other options. (Following the recent conclusion of the Regional Radio Conference, Ofcom plans to issue a statement relating specifically to DTT transmission mode.)
- 2.10 Since the grant of the DRLs, the planning for and progress of digital switchover has developed considerably. The percentage of households receiving digital television has continued to grow steadily. By the end of March 2006, around 18.2 million homes could receive digital TV in the UK – 72.5 per cent of all TV households.⁶ A new organisation, Digital UK, has been set up to lead the implementation of DSO. Its first major national communications campaign was launched at the start of May 2006.
- 2.11 Overall, however, perhaps the most significant event in the UK during the past year was the announcement by the Government in September 2005 of the regional sequence and timetable for DSO in the UK, and that switchover should be completed in the UK by the end of 2012 (the Channel Islands were not included and are likely to switch in 2013).

DTPS, DTAS and DSPS licences

- 2.12 These licences relate to commercial services i.e. the services are typically funded through advertising revenue and/or subscription revenue and they do not have any public service broadcasting or positive programming obligations. There are at present about 38 active DTPS licences, 19 DTAS licences and 5 relevant DSPS licences (ie for radio services broadcast on the DTT multiplexes. DSPS licences are also issued to cover radio services broadcast exclusively on radio multiplexes). At the moment, the DTT service licences do not contain any conditions relating expressly to digital switchover.
- 2.13 Ofcom believes that the cooperation of the holders of DTT service licences may be necessary to help ensure the successful completion of DSO and to minimise inconvenience to consumers of services on the DTT platform. Holders of DTT service licences, unlike DTT multiplex operators, have a direct relationship with viewers and, in the case of DSPS licences, listeners. In order to guarantee their cooperation Ofcom considers it appropriate to include minimal DSO-related conditions in current and future DTT service licences.

Administered Incentive Pricing (AIP)

- 2.14 In parallel with this consultation process, it should be noted that Ofcom is undertaking work on the potential introduction of Administered Incentive Pricing (AIP) for the broadcast use (both television and radio) of spectrum, following a consultation in late 2004. Ofcom plans shortly to publish a further consultation document which

⁶ Ofcom's The Communications Market: Digital Progress Report: Digital TV, Q1 2006

summarises its proposals about the possible application of AIP to spectrum, including that used by terrestrial broadcasters.

Section 3

Proposed switchover-related changes to DTT platform licences

Introduction

- 3.1 Ofcom has statutory powers to vary and add new conditions to multiplex licences. It has similar powers covering DTPS, DSPS and DTAS licences (the DTT service licences). Section 3(4) Broadcasting Act 1996 (as amended) (the 1996 Act) states: “Ofcom may vary a licence by a notice served on the licence holder if ... the licensee has been given a reasonable opportunity of making representations to Ofcom about the variation”.. Further, a licence may include “such conditions as appear to Ofcom to be appropriate having regard to any duties which are or may be imposed on them, or on licence holder, by or under“the Broadcasting Acts 1990 and 1996, and the Act. (See sections 4(1)(a) and 43(1)(a), 1996 Act).
- 3.2 In light of the clear benefits which accrue to the UK and to consumers from digital switchover, Ofcom has concluded that it is under an implicit duty to promote digital switchover in a proportionate way. This obligation is a consequence of a number of statutory duties which bind Ofcom. For example, Ofcom is required to secure the optimal use of the radio spectrum used for broadcasting, and the availability throughout the UK of a wide range of television and radio services which are both of high quality and calculated to appeal to a variety of tastes and interests. (See section 3(2)(a) and (c) of the Act). Ofcom is also under a duty to ensure that the DRL service of Channel 3 and Channel 5 is one that “appears to Ofcom to be a service that is equivalent in all material respects to the service the provision of which in analogue form was authorised by the existing licence” (section 215(4)(b) of the Act). Ofcom has interpreted this obligation to mean that the digital service continues to serve the same geographical area as the former analogue service. It was on the basis of these obligations that Ofcom had the power to insert the DSO-related conditions in the DRLs, and now proposes to insert analogous conditions in the multiplex licences.
- 3.3 At present DTT broadcasts from 80 transmitters. This currently achieves coverage of around 73% of UK households. Ofcom has interpreted its obligation to ensure that the DRL services continue to serve the same geographical area as their current analogue services as meaning that Channels 3, 4 and 5 must after switchover achieve coverage which is substantially the same in digital as in analogue. In practical terms, this means that when switchover is complete in the UK around 98.5% of UK households must have access to the main national terrestrial TV channels. In addition, it is expected that Channel 5 will move to a PSB multiplex at DSO and so increase its coverage to a similar level. As a result it will be necessary to convert the 1,074 analogue transmitters which are currently analogue only to DTT broadcasting, taking the total to 1,154 at switchover. All of these sites will be needed for broadcasting by the PSB multiplexes (ie multiplexes 1, 2 and B).
- 3.4 Ofcom proposed approach for the commercial multiplexes is different. As explained above, Ofcom has already consulted publicly on their coverage objectives at DSO. Ofcom concluded in June 2005 that the commercial multiplex operators should be able to determine their own coverage at DSO, within the frequency plan for six multiplexes, provided it did not fall below the current level (73 per cent). Ofcom has

therefore already taken the decision in principle to grant the necessary spectrum to the commercial multiplexes at DSO to achieve their coverage objectives.

- 3.5 At present these multiplexes broadcast from 80 sites and achieve around 73 per cent coverage. The outcome of the RRC suggests that the commercial multiplexes will at DSO be able to boost their power at these current sites and achieve coverage of around 90 per cent. The result may be that the commercial multiplexes will decide not to seek to build any additional sites beyond the existing 80, as they have proposed in the past. Ofcom considers, however, that certainty about the number of any additional sites to be adopted by the commercial multiplexes is now necessary in the interests of all stakeholders (e.g. the regulator, broadcasters, consumers, transmission providers etc), and that this consultation should be used to help provide this certainty.
- 3.6 Whether or not the commercial multiplexes do decide to commit to using any sites additional to the existing 80, Ofcom is minded to require the PSB multiplexes to do so as already explained. The building of this new infrastructure is a complex public project, requiring rigorous co-ordination and planning. All the multiplex operators have a key role to play in this process. Since it licenses the multiplex operators, Ofcom believes it is imperative that it retains the necessary powers through the multiplex licences to be able to ensure in the national interest that all television multiplex licence holders co-operate fully and play their part in successfully achieving DSO in the years ahead. Similarly, since the holders of DTT service licences have a direct relationship with viewers and listeners on the DTT platform, Ofcom believes that it is important to include in these licences some minimal conditions to ensure their cooperation with the process of switchover.
- 3.7 This section of the consultation now proceeds to give a brief summary of the proposed new conditions to be inserted in the multiplex licences, and the DTT service licences, together with Ofcom's reasons for wishing to do so. Many of these reasons are similar to those cited by Ofcom in inserting analogous conditions in the DRLs. This consultation document should therefore be read in conjunction with both the DRL consultation and statement and the Planning Options Digital Switchover consultation and statement⁷.
- 3.8 Most of the proposed new conditions are essentially the same for all five multiplex licences, and for all DTT service licences. Any specific issues relating to particular licences are treated separately below. There are for example substantial differences between the proposed coverage conditions to be inserted in the commercial multiplex licences compared to those for the PSB multiplexes.
- 3.9 Copies of all five multiplex licences with proposed amendments, and of examples of the proposed variations to the DTT service licences, will be made available for the purposes of this consultation on the Ofcom website. In addition, hard copies of the relevant variation will be sent by Ofcom to each licensee. It is strongly recommended that all readers of this consultation refer to the proposed amendments on the website to ensure they are familiar with the detail of the new wording proposed by Ofcom, especially if they intend to respond.

⁷ See references in footnotes 4 and 5

MULTIPLEX LICENCES

Condition 2: Provision of television multiplex service

- 3.10 The purpose of the proposed amendments to condition 2 is to set out the obligations on the licensee as to the coverage to be achieved by the service up to DSO and afterwards. The most significant change is to insert the new condition 2(3). This is analogous to the condition already inserted in the DRLs and imposes a duty on the licensee to ensure that, as switchover takes place in the various regions of the UK, so the licensee's obligations to broadcast from the DTT broadcasting stations required to achieve the necessary level of coverage come into force. Ofcom proposes that the PSB multiplex operators should be under a duty to broadcast from an increased number of sites, so that when DSO is complete DTT coverage will be at around 98.5 per cent of UK households. If no additional transmission sites are added, the commercial multiplex operators, on the other hand, would be under a duty only to broadcast from their current 80 sites, but at higher power and on new frequencies. This is thought likely to achieve coverage of around 90 per cent of UK households. The commercial multiplex operators would not, however, be under any duty to achieve particular levels of coverage – other than those which they have agreed to by broadcasting at DSO from the existing 80 sites at increased power and on new frequencies.
- 3.11 The duty to broadcast from an increased number of sites would be an obligation for the holders of licences for PSB multiplexes. It reflects, however, the parallel obligation already inserted by Ofcom into the DRLs as a result of the requirement set out in section 215 of the 2003 Act that under the DRLs the broadcasters must achieve a level of DTT coverage which will be broadly equivalent to that of their present analogue service. The broadcasters have therefore to enter into negotiations with the multiplex operators and transmission providers in order that they can fulfil this obligation. As regards the commercial multiplexes, the proposed new condition simply aims to include in the licence a duty to complete a task which the multiplex operators have already volunteered to carry out in their own interests ie achieve a level of coverage which they have chosen, provided it does not fall below the current level of 73 per cent.
- 3.12 As with almost all of the other DSO-related conditions which Ofcom proposes to insert in the multiplex licences, it would be a theoretical possibility for Ofcom to rely on the goodwill of both PSB and commercial multiplex operators to fulfil a particular role in DSO – here building any necessary additional infrastructure - without there being a need for a licence obligation. In Ofcom's view, however, it is appropriate to include this new condition in the multiplex licences to help ensure clarity for all stakeholders in this major public project.
- 3.13 Compliance with this proposed condition is not expected to require any expenditure by multiplex licence holders beyond that already planned to achieve DSO. Multiplex licensees can expect to recoup the vast majority of their costs through charges passed on to the broadcasters, some of whom are in turn obliged to achieve the enhanced level of DTT coverage. In Ofcom's opinion, digital switchover to a great extent depends on generating sufficient confidence amongst all stakeholders. Everyone will benefit from the legal and regulatory certainty created by multiplex licence holders being under a formal obligation to broadcast from a set number of sites at DSO in order that stakeholders can plan ahead with the necessary confidence. The proposed list of broadcasting stations in the annex to the PSB

multiplex licences totals 1,154 sites and tracks the list of broadcasting stations and frequency allocations which Ofcom intends to insert in the digital replacement licences. As already stated, this number of sites is predicted to achieve coverage of about 98.5 per cent of UK households. The proposed list of broadcasting stations in the annex to the commercial multiplex licences totals only the current 80 sites. This number of sites is predicted to achieve coverage for the commercial multiplexes of around 90 per cent of UK households, once power levels are increased at DSO.

Question 1: is the proposed new condition 2(3) of the multiplex licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

(As with all questions in this consultation, readers are referred to the draft variations available on the Ofcom website).

- 3.14 Ofcom proposes to insert further DSO-related conditions in annexes to be added to the licences.

Cooperation and coordination with other parties

- 3.15 Digital switchover is a complex process. It is not only an enormous engineering undertaking, but involves manufacturers, retailers, equipment installers and members of the public who must be persuaded of the merits of digital television and the need to invest in new technology. It is evident that switchover can only take place smoothly if there is co-operation between all the parties involved.
- 3.16 In view of its implied duty to promote digital switchover, Ofcom thinks it appropriate to include in the multiplex licences an obligation on licensees to co-operate with everyone involved in the administration, organisation or implementation of digital switchover in the UK. These parties may include other Ofcom licensees or Digital UK, the body set up to oversee the implementation of switchover in the UK. This condition is analogous to that already included in all the DRLs.

Question 2: Are the proposed new provisions relating to cooperation and coordination with other parties concerning DSO, and contained in the annexes to the multiplex licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Annual report and information relating to Digital Switchover

- 3.17 The provisions set out in these paragraphs place a duty on a multiplex licensee to send Ofcom an Annual Report giving details of his compliance with the conditions in the licence relating to provision of the digital service and with the other licence provisions related to digital switchover, and of his plan (including budgets and expenditure) to fund the roll out of equipment and/or infrastructure relating to DSO. The first Annual Report would need to be provided to Ofcom by the end of 2006 and annually thereafter until digital switchover or an earlier date as notified by Ofcom. The licensee could also be obliged to provide interim reports in respect of progress towards DSO.
- 3.18 Ofcom considers that the need to be kept informed of licensees' progress towards, and plans for, digital switchover is sufficiently important that a specific duty should be included in the multiplex licences to provide information to assist Ofcom. The inclusion of these provisions would ensure that there should be no disputes about whether Ofcom reasonably required this information relating to digital switchover for the purpose of exercising its statutory functions, as might happen if Ofcom needed to

rely on its general information gathering powers in the licence. As regards interim reports, to make clear that Ofcom would not make unfair demands of time and cost on a licensee, the relevant sub-paragraph of this proposed condition is subject to the limitation that the interim report must be one which Ofcom must “reasonably require”. Again, this suggested new condition reflects one already included in all the DRLs.

Question 3: Are the suggested new provisions concerning and Annual Report and information relating to Digital Switchover contained in the annexes to the multiplex licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Communications with viewers

- 3.19 Ofcom inserted conditions in the DRLs intended to ensure that the licence holders adequately informed their viewers about issues relating to switchover. The multiplex licences however authorise very different activities to the DRLs – the packaging together of television services and their broadcast, rather than individual channels and their content. The holders of multiplex licences do not have the same direct relationship with viewers as that of the DRLs. It would therefore not be appropriate for Ofcom to insert in the multiplex licences a duty to inform viewers similar to that in the DRLs.
- 3.20 At DSO however it will be necessary in some parts of the UK, and to varying extents, for a procedure to be completed known as “rescanning”. Terrestrial television receivers are currently tuned to receive particular channels at particular frequencies. At switchover these will change and some viewers’ set top boxes will need to be manually retuned. The multiplex operators will have a central coordinating role to play in informing viewers about this procedure and, to help ensure it proceeds smoothly, Ofcom is minded to include in their licences a duty on the holders to inform viewers about rescanning, and any other viewer actions required at switchover which it would be appropriate for the multiplex licence holders to inform DTT viewers about, and agree in advance with Ofcom a plan for doing so. To ensure the multiplex operators have the means to fulfil this obligation, Ofcom wishes to include in the DTT service licences a parallel obligation to inform viewers or listeners. The DTT service licensees have a direct relationship with viewers and listeners not possessed by the multiplex operators.

Question 4: Are the proposed new provisions relating to an obligation to inform viewers about rescanning and other viewer actions required by switchover contained in the annexes of the multiplex licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Digital Switchover Date and timetable

- 3.21 Ofcom is convinced of the value of including a final Digital Switchover Date and regional switchover timetable in the multiplex licences and has the power to do so, as already explained. The insertion of a final Digital Switchover Date, and a timetable for converting transmission sites from analogue to digital television, in the multiplex licences would help bind the multiplex operators into the DSO project approved by Government and so contribute to extending digital penetration in the UK and help ensure digital switchover is achieved smoothly. The Government officially confirmed the regional timetable for switchover and its completion in 2012 in a statement in September 2005. Switchover in any region is a process which will take place over a

period of several, possibly up to eight, months. The Government's statement⁸ set out the timetable by reference to a series of six month windows within which dates would be fixed when the process of switchover would start in each region. The aim of Ofcom's proposed new condition is to incorporate this timetable into the DTT licences, as Ofcom will insert it in the DRLs, by reference to the end dates of switchover in each region ie the latest date by which switchover must be completed. This is in order that all stakeholders, and the broadcasters in particular, have certainty about the milestones they must achieve in terms of regional switchover. We note that the Government did not refer to the Channel Islands in their statement of September 2005, but that they are considered likely to switch in 2013. The date for the completion of DSO in the multiplex licences is therefore 31 March 2013. This proposed new condition is parallel to one included in the DRLs.

3.22 The following table sets out the regional start dates announced by Government in September 2005, and the regional end dates which Ofcom proposes to incorporate in the multiplex licences.

Region	DSO regional start dates (DCMS, September 2005)	DSO regional end dates (proposed Ofcom licence variations)
Border	2008 2nd Half	30 June 2009
West Country	2009 1st Half	30 September 2009
HTV Wales	2009 2nd Half	31 March 2010
Granada	2009 2nd Half	31 March 2010
HTV West	2010 1st Half	30 September 2010
Grampian	2010 1st Half	31 December 2010
Scottish Television	2010 2nd Half	31 March 2011
Yorkshire	2011 1st Half	30 September 2011
Anglia	2011 1st Half	31 December 2011
Central	2011 1st Half	30 September 2011
Meridian	2012 1st Half	30 June 2012

⁸ See http://www.culture.gov.uk/global/press_notices/argive_2005/dcms116_05.htm

Carlton/LWT	2012 1st Half	30 June 2012
Tyne Tees	2012 2nd Half	31 December 2012
Ulster	2012 2nd Half	31 December 2012
Channel TV		31 March 2013

Table 1 The following table sets out the regional start dates announced by Government in September 2005, and the regional end dates which Ofcom proposes to incorporate in the multiplex licences

Question 5: Are the suggested new provisions relating to the Digital Switchover Date and regional timetable contained in the annexes to the multiplex licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Digital terrestrial broadcasting stations and WTA licensing

- 3.23 This proposed new condition would include in the licence an obligation on the multiplex licensees to broadcast from an expanding list of DTT broadcasting stations as DSO takes place on a regional basis. There is an important difference between this obligation as set out in the two PSB multiplexes at switchover (i.e. multiplexes 2 and B); and the remaining three commercial multiplex licences.
- 3.24 Ofcom proposes to include in the two PSB multiplex licences a list of 1,154 DTT broadcasting stations and dependent relays set out by reference to the various (Channel 3) regions where digital switchover will take place. The aim is that as DSO proceeds on a region by region basis, each PSB multiplex licence holder will be clear about how its obligation to broadcast from certain stations develops. These lists will reflect those in the various DRLs and the frequency assignments set out in the relevant Wireless Telegraphy Act licences relating to the radio spectrum used for DTT broadcasting.
- 3.25 Currently the WTA licences relating to this spectrum are held by Arqiva (concerning the spectrum used for muxes 2 and A), while NGW holds the WTA licences as regards the spectrum used for muxes B, C and D. Ofcom has carefully considered whether this position should continue after switchover in view of the fact Arqiva and NGW presently hold the WTA licences for the spectrum on behalf of the broadcasters. Ofcom is minded at switchover to change who holds the relevant WTA licences. When DSO occurs in the first region (Border) Ofcom intends to remove the relevant spectrum from the existing WTA licences and issue new WTA licences for the spectrum needed in the Border region to the six DTT multiplex operators. As DSO proceeds around the UK, so the schedules to the existing WTA licences will be amended to return the relevant spectrum to Ofcom and then the spectrum needed for DTT broadcasting will be added progressively to the new WTA licences issued to the multiplex operators. When DSO is finally complete in the UK, Ofcom intends to revoke the current WTA licences.

- 3.26 The proposed list of DTT transmission stations is different in the planned commercial multiplexes i.e. muxes A, C and D. In its Planning Options statement, Ofcom concluded that these operators should be able to determine their own coverage objectives in the light of their particular commercial interests, and within the frequency plan for the six multiplexes, provided that they did not allow the coverage of any multiplex to fall below its current 73% level. Before the RRC, these operators informed Ofcom that they were considering the adoption of up to a further 65 sites, in addition to the current 80 from which they presently broadcast i.e. a total of up to 145 sites. The outcome of the RRC is however that the commercial multiplexes may in fact, as a result of the boost in power at DSO, be able to achieve about 90 per cent coverage without using any extra sites. Informally some multiplex operators have suggested to Ofcom that they are not likely to wish to adopt additional sites.
- 3.27 Now that the outcome of the RRC is known, Ofcom considers it essential that there is certainty about the coverage of the commercial multiplexes at DSO. It therefore proposes to include in the commercial multiplex licences the same list of 80 sites from which the licence holder shall broadcast at DSO as binds the licensee currently. Ofcom's default position in other words is that the commercial multiplex operators would not be authorised to broadcast from any extra sites.
- 3.28 If, however, the commercial multiplex operators do wish to adopt any additional sites, Ofcom takes the view that it is essential that they now commit to specific sites. This is to give certainty to all parties involved with DSO, including consumers, the Government, broadcasters, transmission operators and the regulator. A decision by the commercial multiplex operators will be an important step in helping to bring to a conclusion the spectrum planning process for the six DTT multiplexes, which has been proceeding for several years.
- 3.29 If the commercial multiplex operators wish to adopt any DTT broadcasting sites in addition to the current 80, they must take an unconditional decision as to which (if any) additional sites they wish to use and their locations, and inform Ofcom of this commitment in writing in their response to this consultation. Ofcom will then consider any such request and, if appropriate, include additional sites in the licences. If the commercial multiplexes do not respond in this way and do not offer to adopt any extra stations, then the current list of 80 stations will remain in their licences.
- 3.30 The regulator intends to keep the list of DTT broadcasting stations under regular, probably annual, review as DSO proceeds and the multiplex licences, both PSB and commercial, will be amended accordingly.

Question 6: Is it necessary, appropriate and proportionate to include in the annexes of the multiplex licences the new, proposed conditions setting out details of broadcasting stations? Please comment on the draft wording if you consider if it could be improved.

NOTE TO HOLDERS OF MULTIPLEX LICENCES A, C AND D. Please read paragraph 3.29 carefully and note Ofcom's decision that if the commercial multiplex operators wish to adopt any sites above the current 80 they must commit unconditionally to doing so in writing by the closing deadline for this consultation.

DTPS, DTAS and DSPS LICENCES

Cooperation and coordination with other parties

- 3.31 The principal burden of preparing for switchover in the UK falls on the BBC and main commercial television broadcasters, the TV multiplex operators and the transmission operators. It is clear to Ofcom, however, that holders of DTT service licences may also be required to cooperate and have a role to play. For example, at switchover frequencies may need to be altered and it might be necessary to require holders of these licences to assist with these changes. It is evident that switchover can only take place smoothly if there is co-operation between all the parties involved, including holders of DTT service licences.
- 3.32 In view of its implied duty to promote digital switchover, Ofcom thinks it appropriate to include in the DTT service licences various duties relating to DSO. These are set out in a new annex contained in the proposed licence variations. Ofcom intends them to impose a minimal regulatory burden consistent with giving Ofcom necessary powers to ensure the DTT service licensees assist with switchover as appropriate. The new duties include an obligation on licensees to co-operate with everyone involved in the administration, organisation or implementation of digital switchover in the UK. These parties include other Ofcom licensees and Digital UK, the body set up to oversee the implementation of switchover in the UK, but in particular the holder of the licence for the DTT multiplex on which the DTT service licensee broadcasts. This condition is analogous to that already included in all the DRLs, and which Ofcom proposes to insert in the multiplex licences.

Question 7: Are the proposed new provisions relating to cooperation and coordination with other parties concerning DSO, and contained in the annexes to the DTT service licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Communications with viewers

- 3.33 The holders of multiplex licences do not have the same direct relationship with viewers as that of the DRLs. On the DTT platform that direct relationship with viewers (and in the case of DSPS licences, listeners) is maintained by holders of DTT service licences. As already explained above, at DSO it will be necessary in some parts of the UK, and to varying extents, for a procedure to be completed known as “rescanning”. Ofcom is proposing to include in the multiplex licences a duty on the licence holders to inform viewers/listeners about rescanning and agree in advance with Ofcom a plan for doing so. Since however the direct relationship with viewers and listeners is managed by the DTT service licensees, Ofcom considers that it is also appropriate to include an obligation in these licences that the holders must use their reasonable endeavours to inform viewers/listeners about rescanning to ensure this takes place, and that the multiplex licensees have a means of ensuring they can fulfil their parallel obligation.

Question 8: Are the proposed new provisions relating to an obligation to inform viewers/listeners about rescanning contained in the annexes of the DTT service licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Section 4

Consultation questions

4.1 Ofcom's consultation questions are:

Question 1: is the proposed wording of condition 2(3) of the multiplex licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording. (As with all questions in this consultation, readers are referred to the draft amendments available on the Ofcom website).

Question 2: Are the proposed new provisions relating to cooperation and coordination with other parties concerning DSO, and contained in the annexes to the multiplex licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Question 3: Are the suggested new provisions concerning and Annual Report and information relating to Digital Switchover contained in the annexes to the multiplex licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Question 4: Are the proposed new provisions relating to an obligation to inform viewers about rescanning and other viewer actions required by switchover contained in the annexes of the multiplex licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Question 5: Are the suggested new provisions relating to the Digital Switchover Date and regional timetable contained in the annexes to the multiplex licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Question 6: Is it necessary, appropriate and proportionate to include in the annexes of the multiplex licences the new, proposed conditions setting out details of broadcasting stations? Please comment on the draft wording if you consider if it could be improved.

NOTE TO HOLDERS OF MULTIPLEX LICENCES A, C AND D. Please read paragraph 3.29 carefully and note Ofcom's decision that if the commercial multiplex operators wish to adopt any sites above the current 80 they must commit unconditionally to doing so in writing by the closing deadline for this consultation.

Question 7: Are the proposed new provisions relating to cooperation and coordination with other parties concerning DSO, and contained in the annexes to the DTT Service Licences, necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Question 8: Are the proposed new provisions relating to an obligation to inform viewers about rescanning and other viewer actions required by switchover contained in the annexes of the DTT Service Licences necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Annex 1

Impact Assessment

Introduction

- A1.1 The analysis presented in this Annex, when read in conjunction with the rest of this consultation document, represents an Impact Assessment (IA), as defined by Section 7 of the Communications Act 2003 (the Act). You should send any comments on this IA to Ofcom by the closing date for this consultation. We will consider all comments before deciding whether to implement the proposals set out in the consultation document.
- A1.2 IAs form part of best practice policy-making and are commonly used by other regulators. This is reflected in Section 7 of the Act, which means that Ofcom carries out IAs where its proposals are 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, Ofcom also carries out IAs for other policy decisions as a matter of course as a means of ensuring that policy-making is informed by an appropriate appraisal of the available options. In accordance with Section 7 of the Act, in producing the IA in this document, Ofcom had had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.
- A1.3 Economic and policy analysis, such as that presented in this IA, can thus provide a valuable tool for evaluating and selecting different options for regulation but other factors, such as public policy considerations, also need to be taken into account. IAs therefore play an important role in policy formulation but they are not determinative.

Background

- A1.4 In light of the clear benefits which would accrue to the UK and to consumers from switchover, Ofcom has taken steps – following appropriate consultation - to include specific provisions in the Digital Replacement Licences (DRLs) offered to Channel 3 licensees, Channel 4, five and Teletext to assist in achieving DSO. For instance, the DRLs now include specific obligations on broadcasters in respect of ceasing to transmit in analogue after specific dates.
- A1.5 Against that background, this IA is primarily concerned with assessing, so far as this is possible, the likely impact of including certain switchover-related conditions in all five multiplex licences and all digital television programme service (DTPS), digital television additional service (DTAS) and relevant digital sound programme service (DSPS) licences. In particular there is a consideration of the likely impact of varying the licences of the commercial DTT multiplex operators to include conditions which are analogous to those which are included in the DRLs to assist with DSO⁹.
- A1.6 In discharging its functions, Ofcom's principal duty is to further the interests of citizens and consumers (Section 3(10) of the Communications Act 2003). Ofcom is

⁹ Impact Assessments have previously been carried out for the DRL consultation and statement and also the Planning Options Digital Switchover consultation and statement. They should be read in conjunction with this IA to provide a complete assessment of rationale for the move to DSO and of the impact of the proposals in this consultation.

also required to secure certain objectives. Of particular relevance to this consultation are the following:

- the optimal use for wireless telegraphy of the electro-magnetic spectrum
- the availability throughout the UK of a wide range of electronic communications services; and,
- the availability throughout the UK of a wide range of television and radio services which (taken as whole) are both of high quality and calculated to appeal to a variety of tastes and interests.

A1.7 As well as the general duty to further the interests of consumers and citizens, the Communications Act 2003 sets out a range of considerations to which Ofcom must have regard, where relevant in the performance of its general duties. A number of these considerations are particularly relevant to this IA. These include:

- The desirability of promoting competition in relevant markets
- The opinions of consumers in relevant markets and of members of the public generally
- The different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas; and,
- The interests of consumers in respect of choice, price, quality of service and value for money.

A1.8 Taken together, Ofcom considers that it is under an implicit duty to promote digital switchover in the UK. In considering the appropriate nature of the proposed conditions to be included in the multiplex and DTT service licences, Ofcom has had regard, where relevant, to all these obligations.

A1.9 Sections 2 and 3 of the consultation provide a summary of the situation in respect of DTT multiplex operators and holders of DTT service licences today and the context for this impact assessment.

Core Proposals

A1.10 Ofcom is considering two broad sets of options:

- No change from the current situation
- Including conditions in commercial DTT multiplex licences and DTT service licences which are analogous to those already included in DRLs to achieve DSO.

A1.11 The specific set of conditions which Ofcom is considering including in the commercial multiplex licences relate to:

- The co-operation and co-ordination with other parties
- Providing an annual report and information relating to Digital Switchover
- Communications with viewers about rescanning

- Setting out the Digital Switchover date and regional timetable
- A1.12 Ofcom is also asking the commercial multiplex operators to submit a list of any additional transmission sites that they wish to have considered for inclusion in their respective multiplex licences.
- A1.13 In respect of the DTT service providers the relevant conditions relate to:
- The cooperation and coordination with other parties
 - Communications with viewers about rescanning

Option 1 – “No Change”

- A1.14 Under this option, there would be no change in the existing DTT multiplex and DTT services licences¹⁰.
- A1.15 The DSO process would not necessarily be derailed without the inclusion of these conditions in relation to the provision of information, co-operation and communications but it could make efforts by Ofcom to ensure that the industry works together in an effective and efficient way materially more difficult. For instance, the DTT multiplex operators and DTT service licence holders would be the best placed to have responsibility for communicating to viewers and listeners the need to retune their DTT set-top boxes (STBs): they ought to have the best understanding of how widespread the issue would be; to understand the different technical issues thrown up by different types of STBs; and to be able to design a communications strategy to address these issues etc. However, without the specific requirement on multiplex operators to communicate with viewers on these issues, there would be the need for Ofcom to seek out a third party to provide this facility who would in turn have to liaise with the commercial multiplex operators.
- A1.16 In relation to the sites at which digital broadcasting would take place, the licences for the commercial multiplex licences would still include the list of the 80 sites from which they currently transmit. If commercial operators do not put forward any additional transmission sites to be considered for inclusion in the revised licences, then the operators of the commercial DTT multiplexes would be constrained from increasing coverage beyond the existing 80 sites that are currently specified in their licences. The “Do Nothing” option still means that, post-switchover, after the recent RRC and relevant power increases and adjustments to frequency allocations, the coverage of the commercial multiplexes would still increase from the current level of 73% to around 90% of UK households.

Option 2 – Inclusion of additional conditions

- A1.17 Given the requirement set out in section 215 of the Communications Act 2003 that DRLs must achieve a level of DTT coverage which will be broadly equivalent to that of their present analogue service, Ofcom considers that the inclusion of analogous

¹⁰ The licences for the public service multiplexes will need to be modified to include the 1,154 existing sites which are currently used for analogue terrestrial broadcasting in order to ensure that the existing level of coverage is maintained. These lists would reflect those already in the various DRLs and the frequency allocations set out in the relevant Wireless Telegraphy Act licences relating to radio spectrum used for DTT broadcasting.

conditions in the relevant public service licences is an appropriate measure to support the DSO process.

- A1.18 Including analogous conditions in the licences of the public service multiplex operators simply mirrors the obligations that are already in place on the broadcasters and which the multiplex operators would need to work towards satisfying anyway. As a result the proposals set out in this document should not impose any material additional costs on the public service multiplex operators. The rest of this discussion will therefore focus on the impact of the additional conditions to be included in the licences of the commercial multiplex operators and DTT service providers.
- A1.19 The detail of the proposed variations on the commercial multiplex operators is set out in Section 3 of the document.
- A1.20 Given the nature of the licence variations and Ofcom does not consider that these licence conditions would impose any material costs on the commercial multiplex operators:
- The process of planning DSO already requires multiplex operators to co-operate with one another and to ensure close co-ordination of their technical activities.
 - The provision of an annual report and information relating to DSO should draw on information already being collected by the multiplex operators for their own business management purposes.
 - The requirement to communicate with viewers will be specific to the need to retune DTT set-top boxes only and they, together with the DTT service licensees, are best placed to coordinate and/or carry out this function
 - The inclusion of a final Digital Switchover Date and regional switchover timetable simply replicates the timetable that the Government confirmed in a statement in September 2005.
- A1.21 At the same time, the inclusion of these conditions will help to underpin the DSO process in terms of providing a mechanism for Ofcom and the industry to be able plan and monitor the progress towards DSO.
- A1.22 Requiring the commercial multiplex operators to submit in writing a list of any additional sites that they wish to adopt will be important in terms of providing greater certainty to a number of aspects of the planning process for DSO. For instance, once Ofcom has a list of sites to which multiplex operators would be committed unconditionally to adopting, then it can get on with the process of considering whether to include those sites in the relevant multiplex licences. The outcome of such a process would be increased certainty for a number of different stakeholders (e.g. multiplex operators, broadcasters, transmission service providers and ultimately consumers) about the maximum level of coverage that could be achieved.
- A1.23 As referred to earlier, in the *Planning Options for Digital Switchover* statement published in June 2005 Ofcom concluded that the decision to roll-out coverage at additional transmitter sites should be a business decision for the commercial multiplex operators rather than an obligation imposed by Ofcom. Ofcom also suggested that the commercial multiplex operators should be encouraged to agree a common approach to any extension of coverage that they wished to pursue. It

would not be efficient or appropriate for Ofcom to substitute its judgement for that of the commercial multiplex operators as to the economic viability of rollout to additional transmission sites. Nor is it clear that Ofcom has the power to impose such an obligation.

- A1.24 However, Ofcom considers that it is now necessary to resolve the question of exactly which sites will be used by commercial multiplexes at DSO, as without certainty it will be more difficult to plan other aspects of the switchover process (for example communications to consumers, and the identification of which frequencies may be available for other uses such as radio microphones). Ofcom will consider the merits of any proposals from commercial multiplex operators for using additional sites before making decisions, including for example whether there might be a material opportunity lost through displacement of other services.

Conclusion

- A1.25 Based on the above discussion, and the fact that many of these issues have already been covered in previous consultations, Ofcom's provisional conclusion is that Option 2 would be an appropriate and proportionate response.

Annex 2

Responding to this consultation

How to respond

- A2.1 Ofcom invites written views and comments on the issues raised in this document to be made **by 5pm on 27 September 2006**.
- A2.2 Ofcom strongly prefers to receive responses using the online web form at http://www.ofcom.org.uk/consult/condocs/dtt_changes/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.
- A2.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email lauren.cleverley@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A2.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Lauren Cleverley
Television Broadcast Licensing
Ofcom, Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4303
- A2.5 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.
- A2.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together in Section 5. It would also help if you can explain why you hold your views.

Further information

- A2.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Trevor Barnes at Ofcom on 020 7783 4675.

Confidentiality

- A2.8 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 (when respondents confirm on their response coversheet that this is acceptable).

- A2.9 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex so that non-confidential parts may be published along with the respondent's identity.
- A2.10 Ofcom reserves its power to disclose any information it receives where this is required to facilitate the carrying out of its statutory functions.
- A2.11 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use in order to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A2.12 Following the end of the consultation period, Ofcom intends to publish a statement in November 2006 and implement the licence variations.
- A2.13 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

- A2.14 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 3.
- A2.15 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.
- A2.16 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Annex 3

Ofcom's consultation principles

A3.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A3.2 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

A3.3 We will be clear about who we are consulting, why, on what questions and for how long.

A3.4 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 version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A3.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A3.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organizations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A3.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A3.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 4

Consultation response cover sheet

- A4.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.

- A4.2 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 by allowing you to state very clearly what you don't want to be published. We will keep your completed coversheets confidential.

- A4.3 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.

- A4.4 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/.

- A4.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. 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

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. 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)