



Data limits on digital terrestrial television multiplexes

Consultation on Draft Guidance

Consultation

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Contents

Section		Page
1	Introduction	1
2	Draft Guidance on the Data Limit for DTT multiplexes	3
Annex		Page
1	Responding to this consultation	9
2	Ofcom's consultation principles	11
3	Consultation response cover sheet	12
4	Legislative position	14

Section 1

Introduction

Background

- 1.1 Digital terrestrial television (DTT) services, including services branded as “Freeview” are transmitted on DTT multiplexes. There are currently six DTT multiplexes (labelled as 1, 2, A, B, C and D) each carrying a range of television and other services. These multiplexes are licensed by Ofcom under the Broadcasting Act 1996 or, in the case of multiplex 1, granted by the Government. The multiplexes licensed by Ofcom are subject to a ‘data limit’ - in essence no more than 10% can be used for non-TV services. This document is consulting on draft guidance on how this limit should be interpreted.
- 1.2 The basis of the data limit is set out in Section 12 of the Broadcasting Act 1996, as amended by section 242 of the Communications Act 2003. These provisions in the legislation empower Ofcom to set a tighter limit; but its relaxation is reserved to the Secretary of State. Their purpose is to ensure that DTT multiplexes are used mostly for television, and are not taken over by data distribution or other communications services. Parliament saw this as an important principle, and one that also applies (though with different limits and definitions) to digital radio multiplexes.
- 1.3 In the Radio Review published in October 2005¹ Ofcom suggested that the data limit applied to radio multiplexes could be relaxed somewhat to encourage innovation and competition in digital broadcasting. In April 2006 the Department for Culture, Media & Sport (DCMS) published a consultation paper which considered raising this limit from 20% to 30%².
- 1.4 This consultation solely considers the application of data limits with regard to DTT multiplexes.

Need for clarity

- 1.5 The success of DTT in recent years has led to a high level of demand for capacity from a range of TV and non-TV services. Multiplex operators want to ensure that they are not reserving any capacity that could be used productively. And they want to have maximum flexibility to use their capacity for both TV and other services as business opportunities arise. The market for capacity on DTT multiplexes is a lively one and even a few kilobits/second can have a high value.
- 1.6 The rules set out in the legislation give some room for interpretation, and multiplex operators have up to now taken a cautious approach to ensure they stay within them. As demand for capacity and its value increases, it is appropriate for Ofcom to give guidance on its interpretation of the relevant statutory provisions.
- 1.7 A revised standard for the DTT software platform (MHEG-5 1.06) is now being implemented in new terminals and distributed over the air to the installed base. As this process is completed, the confidence of broadcasters in the stability of the

¹ http://www.ofcom.org.uk/consult/condocs/radio_reviewp2/

² Consultation Paper on Data Limits and Data Services on Radio Multiplexes
<http://www.culture.gov.uk/global/consultations/2006+closed+consultations/datalimitsservices.htm>

platform, and the range of features available for them to use for interactive services, will increase. It is probable that there will be an increased level of demand for data services on DTT multiplexes, thus increasing the need for clarity about what capacity can be used for this purpose.

Question 1: Do you agree that it is appropriate for Ofcom to issue guidance about the Data Limit on DTT multiplexes?

Section 2

Draft Guidance on the Data Limit for DTT multiplexes

Introduction

- 2.1 The legislative context for data limits is set out in section 12 of the Broadcasting Act 1996 (“the 1996 Act”), as amended by section 242 of the Communications Act 2003 (“the 2003 Act”). The requirements of that legislation are implemented in the DTT multiplex licences for multiplexes 2, A, B, C and D. Annex 4 contains consolidated extracts from the relevant legislation, relevant definitions and a typical multiplex licence condition.
- 2.2 There are five areas where Ofcom believes it can be helpful to licensees to issue interpretation and guidance:
- Services included within the 90%
 - The basis for the percentage calculation
 - The time period for the percentage calculation
 - How the limit is monitored and enforced
 - Future services
- 2.3 The following sections set out these matters and Ofcom’s proposed guidance on them. These proposals are offered to stakeholders for consultation.
- 2.4 It is important to note that this draft guidance, and the final guidance which Ofcom plans to issue in the light of responses, does not represent a definitive decision about any particular case. Ofcom cannot fetter its discretion when considering whether a particular case does or does not meet the rules set out in the legislation; or what enforcement measures it is appropriate to take. This guidance reflects Ofcom’s consideration of the general issues at the present time; but if a dispute arises in the future, Ofcom will take into consideration all the circumstances of the case, in the context of its statutory duties at the time, before reaching a definitive decision.

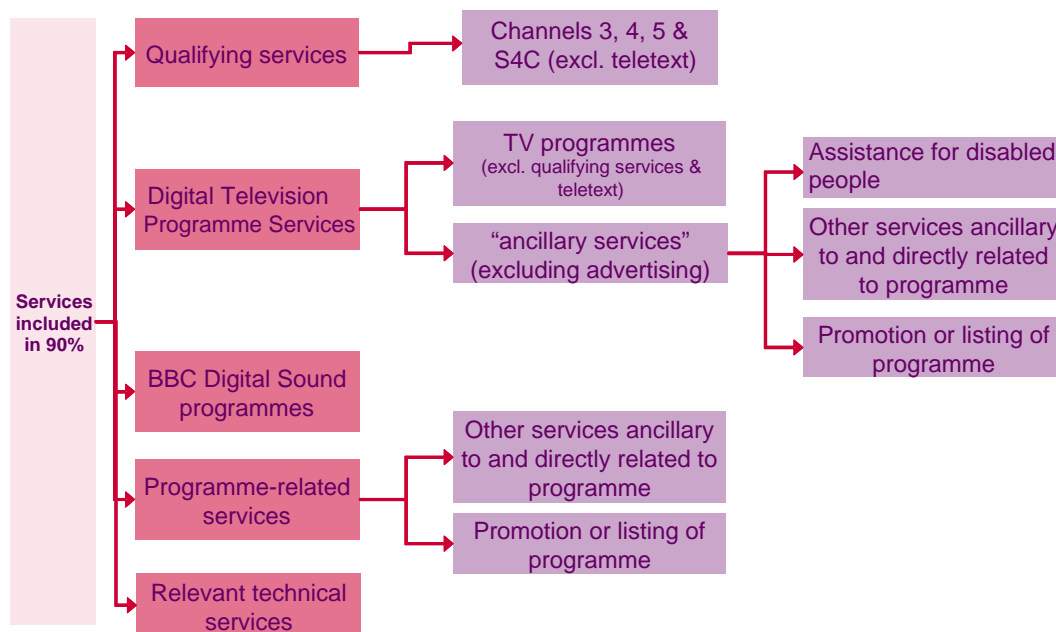
Services included within the 90%

- 2.5 The legislation reserves at least 90% of the capacity on each of the multiplexes licensed by Ofcom for specific types of programme services. At present these are defined to include:
- qualifying services
 - digital television programme services
 - digital sound programme services provided by the BBC (but not the equivalent commercial radio services)

- programme-related services; and
- relevant technical services

2.6 It is important therefore that Ofcom should be clear about what constitutes each of these in this context. Figure 1 below provides a simplified illustration of the components of these services, each of which is discussed in more detail in the following paragraphs.

Figure 1: Simplified overview of the services included in the 90%



Qualifying Services

2.7 “Qualifying Services” are Channel 3, Channel 4, Channel 5 and S4C. Note that for the purposes of section 12 of the 1996 Act, qualifying services do not include the digital public teletext service.

Digital television programme services (DTPS)

2.8 DTPSs are services consisting wholly or mainly of images capable of being seen as moving pictures (“normal” TV channels), either licensed by Ofcom under a Digital Television Programme Service (DTPS) licence, or provided by a broadcaster with an equivalent authorisation from another EU Member State, or provided by the BBC under the Charter. They do not include qualifying services or the digital public teletext service.

2.9 As well as full screen moving pictures, DTPSs could include moving pictures that only fill part of the screen, for example a quarter screen service.

2.10 The definition of DTPS also includes subtitling and audio-description services, promotion and listing of the DTPS and other services which are ancillary and directly related to the DTPS. Examples of such services are interactive and explanatory material associated with a programme, for example material accessed through the ‘red button’. Such material can be of all kinds – text, still images and graphics as well as moving pictures and sound - and may be available for a period before and after

the broadcast programme service. In this case it may be accessed via a more generic interactive menu rather than the 'red button' whilst the programme is broadcast. However, it must still be directly related to the contents of the programme.

- 2.11 The principal restriction is that advertising services, even though directly related to a programme, do not qualify as ancillary. In the case where the DTPS is a teleshopping service, enhancing features to such a service could only be considered to be an ancillary service (and hence within the 90%) to the extent that they simply contained informational material which related directly to the content of the teleshopping programmes. However, in practical terms, it seems likely that any material directly relating to the content of a teleshopping channel may be difficult to distinguish from advertising.

Digital sound programme services provided by the BBC

- 2.12 The legislation sets out that BBC radio services are included in the 90%, but commercial radio services are not.

Programme-related services

- 2.13 "Programme-related services" are those which are ancillary and directly related to programme services; or which contain information about the promotion or listing of such programmes. Programme-related services will always be Digital Television Additional Services (DTAS), although not all DTASs will be programme related.
- 2.14 The test for services which are 'ancillary and directly related to' a programme service in the context of a 'programme-related service' is broadly the same for services which are 'ancillary and directly related to' a DTPS. The key difference is that services meeting this criteria and licensed as a DTAS will get included in the 90% via the 'programme-related service' route rather than as part of a DTPS.
- 2.15 Promotion and listing of programme services includes the provision of Electronic Programme Guides (EPGs). EPGs are a critical part of the digital television experience, and the availability of an EPG is a key benefit which viewers gain from the switch to a digital service. The 1996 Broadcasting Act refers to "the promotion or listing of such programmes" which indicates that the information needed to populate the EPG should be considered as a programme-related service rather than as "data".
- 2.16 Each DTT multiplex carries its own EPG information, but also cross-carries that for the other multiplexes. This is an effective way to ensure that all viewers, whichever multiplex they are watching, receive EPG information about the whole DTT services. The whole of the cross-carried EPG information should therefore be considered as programme-related services rather than as "data".

Relevant technical services

- 2.17 The definition of "technical service" in section 24(3) of the Broadcasting Act 1996 indicates that the term refers to the encryption or decryption of services and is also subject to an order made by the Secretary of State made in 1997 (reproduced in Annex 4). Based on this, Ofcom proposes to consider only data streams used for encryption purposes and associated with conditional access services to be covered by this term. "Relevant technical service" is defined in Section 12(4)(c) of the 1996 Act and must also relate to one or more services discussed above which are permitted within the 90%, ie qualifying services, digital television programme

services, digital sound programme services provided by the BBC and programme-related services.

Examples of what can and cannot be treated as part of the 90%

2.18 In summary, therefore, Ofcom considers that the following are likely to be examples of services falling into and outside the 90%.

2.19 In the 90%:

- EPGs because an EPG is a “programme-related service” and as such falls within the services listed in section 12(1A) of the 1996 Act.
- extra information about a programme, for example reached through the red button, because it falls within the definition of “ancillary service” (which deems it to be part of the DTPS licensed service that it is ancillary to), provided it does not consist exclusively of advertising
- extra information about a programme licensed with a separate DTAS licence providing it can be described as a “programme-related service” (because programme-related services are listed in section 12(1A) of the 1996 Act)
- subtitling for the deaf and other assistance for the disabled (because such a service is “an ancillary service” - i.e. part of the DTPS)
- relevant technical services relating to one or more services which are permitted within the 90%

2.20 Things that cannot be included in the 90% are:

- the public teletext service
- interactive services, for example games, which are not directly related to a licensed programme service or its listing or promotion
- any service which is licensed as a DTAS unless it is a programme-related service
- any service which consists exclusively of advertising, even if it is directly related to the contents of a shopping channel for example
- any technical service that is not a relevant technical service

The basis for the percentage calculation

2.21 The legislation refers to 90% of “digital capacity”. In order to enable the calculation to be made, it is important that Ofcom should be clear about the definition of “digital capacity”.

2.22 A DTT multiplex is licensed by Ofcom to broadcast in a channel of 8MHz. Depending on the transmission mode adopted by the licensee, this channel can deliver a range of data rates.

2.23 The overall bit-rate of DTT multiplexes is given in the European Telecommunications Standards Institute (ETSI) specification ETS 300 744 'Digital broadcasting systems

for television, sound and data services; framing structure, channel coding and modulation for digital terrestrial television'.

2.24 The two modes in use in the UK, and their total bit-rate, are:

- 16QAM³, rate 3/4, guard interval 1/32 (18.10Mbit/s)
- 64QAM, rate 2/3, guard interval 1/32 (24.13Mbit/s)

2.25 Ofcom does not believe that the overall bit-rate is the same as the “digital capacity” of the multiplex. The DTT multiplexes carry a number of streams of data to allow the management of the multiplex. These include Service Information (SI), Programme Specific Information (PSI) and Packet Identifiers (PIDs). All of these are invisible to end-users and perform a purely technical function in allowing the component programme streams multiplexed together to be unpacked and delivered to the user. The multiplex could not exist without these data streams. Together they represent some hundreds of kbps on each multiplex.

2.26 Ofcom proposes to ignore the SI, PSI and PID data streams when determining the basis for the percentage calculation. The net effect of ignoring these streams is to assign the bit-rate they represent pro rata to the services carried on the multiplex. Since the existence of these streams is a necessary precondition for all services carried on the multiplex, it is appropriate that the services carry this overhead pro rata.

The time period for the percentage calculation.

2.27 DTT multiplexes operate on the statistical multiplexing principle. The individual services use different proportions of the total multiplex capacity from one moment to another, thereby optimising the bit-rate available to each. For the purposes of the data limit therefore the percentage limit could be set as a peak or as an average over a period, and it is important for Ofcom to indicate how it would intend to decide between these approaches.

2.28 Statistical multiplexing is a valuable tool to ensure that multiplex capacity is used as intensively as possible, and it is therefore highly beneficial to the efficient use of multiplex capacity for the operation of this technique to be as flexible as possible. It would therefore be desirable that the percentage of data services should be measured and averaged over an extended period rather than to set a hard limit above which non-TV services may never rise.

2.29 An extended period for the calculation could also open the way for innovative services in the data category which might otherwise not be possible. For example, data capacity might be more heavily used overnight, when TV services were less intensively used, in order to serve receivers with storage capabilities.

2.30 Ofcom therefore proposes that the calculation of the data percentage should be done over a 24 hour period.

How the limit is monitored and enforced.

2.31 When the DTT multiplex licences were issued the ITC indicated to multiplex licensees that responsibility for monitoring the data limit rested with the licensees,

³ Quadrature Amplitude Modulation

with occasional audits mounted to ensure compliance. This represents a light-touch approach to regulation which is consistent with Ofcom's principles.

- 2.32 Ofcom proposes to continue this approach. If Ofcom has any reason to suppose that the limit is not being met in a particular case, it will raise the matter with the licensee and seek more detailed information. Any guidance issued as a result of this consultation will be taken into account, alongside any other relevant factors at the time. If Ofcom finds a breach of the limit, it will require the licensee to observe fully the terms of their licence by making the changes necessary to restore the limit. However it should be noted that whilst Ofcom would prefer to resolve any breaches in this way, this is guidance only and cannot fetter Ofcom's discretion in the carrying out of its regulatory duties, which may include using any of the sanctions available to it under the licence to ensure that Conditions of the licence are complied with.

Future services

- 2.33 New technologies are emerging for use of the DTT platform that may increase its capacity, functionality and enable new services. Ofcom's intention is that the application of this guidance should be technology neutral in character, so that the data limit does not favour one technology over another.

Question 2: Do you agree with Ofcom's proposed guidance on these issues?

Question 3: Are there any other issues relating to the data limit on DTT multiplexes which Ofcom should give guidance on?

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 14 September 2006**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/datalimits/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 justin.moore@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.
- Justin Moore
Spectrum Policy Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4303
- 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. It would also help if you can explain why you hold your views.

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 Justin Moore on 020 7783 4167.

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

- A1.9 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.
- A1.10 Ofcom reserves its power to disclose any information it receives where this is required to facilitate the carrying out of its statutory functions.
- A1.11 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/account/disclaimer/>

Next steps

- A1.12 Following the end of the consultation period, Ofcom intends to publish final guidance later in 2006.
- A1.13 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

- A1.14 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.15 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.
- A1.16 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 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 version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 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.

A2.7 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

A2.8 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 3

Consultation response cover sheet

- A3.1 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.
- 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 by allowing you to state very clearly what you don't want to be published. We will keep your completed coversheets confidential.
- 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 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)

Annex 4

Legislative position

Introduction

- A4.1 The legislative context for data limits is set out in section 12 of the Broadcasting Act 1996 section 12, as amended by section 242 of the Communications Act 2003. The requirements of that legislation are implemented in the DTT multiplex licences for multiplexes 2, A, B, C and D. This section provides consolidated extracts from the relevant legislation, relevant definitions and a typical multiplex licence condition.

The data limit

- A4.2 Section 12 of the Broadcasting Act 1996, as amended by section 242 of the Communications Act 2003 requires that:

(1) A multiplex licence shall include such conditions as appear to OFCOM to be appropriate for securing—

(h) that, while the licence is in force, at least the required percentage of the digital capacity on the frequency or frequencies on which the service is broadcast is used, or left available to be used, for the broadcasting of services falling within subsection (1A).

(1A) The services falling within this subsection are—

(a) qualifying services;

(b) digital programme services licensed under this Part or provided by the BBC;

(c) digital sound programme services provided by the BBC;

(d) programme-related services; and

(e) relevant technical services.

(4) In subsection (1A)—

(a) “qualifying service” does not include the digital public teletext service,

(b) “programme-related service” means any digital additional service consisting in the provision of services (apart from advertising) which—

(i) are ancillary to the programmes included in one or more television programme services (within the meaning of Part I of the 1990 Act), or in one or more digital sound programme services provided by the BBC, and are directly related to the contents of those programmes, or

(ii) relate to the promotion or listing of such programmes, and

(c) “relevant technical service” means any technical service which relates to one or more services falling within subsection (1A) which are comprised in the multiplex in question.

(4A) In subsection (1)(h), the reference to the required percentage is a reference to such percentage equal to or more than 90 per cent as OFCOM—

(a) consider appropriate; and

(b) specify in the condition.

(5) The Secretary of State may by order amend subsection (4A) by substituting for the percentage for the time being specified there a different percentage specified in the order.

(6) No order under subsection (5) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

Definitions

A4.3 **Digital Television Programme Service** (defined in section 1(4) of the 1996 Act; see also section 362 of the Communications Act)

means a service consisting in the provision by any person of television programmes (together with any ancillary services, as defined by section 24(2)) of the Broadcasting Act 1996 with a view to their being broadcast in digital form so as to be available for reception by members of the public, whether by him or by some other person, but does not include—

(a) a qualifying service,

(b) a teletext service, or

(c) any service in the case of which the visual images to be broadcast do not consist wholly or mainly of images capable of being seen as moving pictures,

except, in the case of a service falling within paragraph (b) or (c), to the extent that it is an ancillary service.

A4.4 **Digital Television Additional Service** (defined in section 24(1) of the 1996 Act, see also section 362 of the Communications Act)

means any service which—

(a) is provided by a person with a view to its being broadcast in digital form (whether by him or some other person) so as to be available for reception by members of the public;

(b) is so provided with a view either—

(i) to the broadcasting being by means of a television multiplex service or by means of a general multiplex service; or

(ii) to the members of the public in question being or including members of the public in an EEA State other than the United Kingdom, or in an area of such a State; and

(c) is not a Channel 3 service, Channel 4, Channel 5, a public television service of the Welsh Authority, the digital public teletext service, a digital programme service, a digital sound programme service, an ancillary service or a technical service.

A4.5 Qualifying Service (defined in section 2(2) of the 1996 Act):

means any of the following, so far as they are provided with a view to their being broadcast in digital form—

(a) a television broadcasting service included in Channel 3;

(b) Channel 4;

(c) Channel 5;

(d) S4C Digital;

(e) a television programme service provided by the Welsh Authority with the approval of the Secretary of State under section 205 of the Communications Act 2003;

(f) the digital public teletext service.

A4.6 Ancillary Service (defined in section 24(2) of the 1996 Act):

means any service which is provided by the holder of a digital programme licence or by an a relevant public service broadcaster and consists in the provision of—

(a) assistance for disabled people in relation to some or all of the programmes included in a digital programme service or qualifying service provided by him;

(b) a service (apart from advertising) that relates to the promotion or listing of programmes included in such a service or in a digital sound programme service so provided; or

(c) any other service (apart from advertising) that is ancillary to one or more programmes so included, and relates directly to their contents.

A4.7 Technical Service (defined in section 24(3) of the 1996 Act):

means a service which—

(a) is provided for technical purposes connected with the encryption or decryption of one or more digital programme services, digital sound programme services or digital additional services, and

(b) is of a description specified in an order made by the Secretary of State.

Other definitions

- A4.8 **Television programmes** - see s.405 of the Communications Act
- A4.9 **Available for reception by members of the public** - see section 361 of the Communications Act
- A4.10 **Television Multiplex** - see section 241(1) of the Communications Act and section 1(1) of the 1996 Act
- A4.11 **General Multiplex** - see section 175 of the Communications Act
- A4.12 **Relevant public service broadcaster** - see section 24(3A) of the 1996 Act
- A4.13 **Public television service of the Welsh Authority** - see section 24(3A) of the 1996 Act
- A4.14 **Text service** - see section 362 of the Communications Act
- A4.15 **Public teletext service** - see section 362 of the Communications Act and section 218 of that Act
- A4.16 **Digital sound programme service** - see section 72 of the 1996 Act

Technical services order

- A4.17 The Broadcasting (Technical Services) Order 1997 relates to the definition of “technical service” and is reproduced below (also see (<http://www.opsi.gov.uk/si/si1997/19971856.htm>)).

1997 No. 1856

BROADCASTING

The Broadcasting (Technical Services) Order 1997

Made	29th July 1997
Laid before Parliament	29th July 1997
Coming into force	20th August 1997

The Secretary of State, in exercise of the powers conferred on him by section 24(3)(b) of the Broadcasting Act 1996[1], hereby makes the following Order:

1. This Order may be cited as the Broadcasting (Technical Services) Order 1997 and shall come into force on 20th August 1997.

2. The services specified for the purposes of section 24(3)(b) of the Broadcasting Act 1996 are those consisting of the transmission of telecommunication signals (as such expression is defined in section 48(6) of the Broadcasting Act 1990[2]) by means of which access to programmes or other information included in digital programme services or digital additional services is controlled so that only those viewers who are authorised to receive such programmes and information do so, and which are required to be offered to all holders of licences under Part I of the Broadcasting Act 1996 in accordance with regulation 11(1)(a) of the Advanced Television Services Regulations 1996[3].

Chris Smith
Secretary of State for National Heritage

29th July 1997

EXPLANATORY NOTE

(This note is not part of the Order)

The Order describes technical services for the purposes of section 24(3)(b) of the Broadcasting Act 1996 ("the Act"). Technical services must be defined in order for them to be distinguished from digital additional services, which will be licensed by the Independent Television Commission under section 25 of the Act.

Notes:

[1] 1996 c. 55.

[2] 1990 c. 42.

[3] S.I. 1996/3151.

Typical multiplex licence condition

- 2.34 The numbering and wording of the data limit license condition varies slightly between multiplexes, however a typical condition is set out below:

Condition 7:

(1) The Licensee shall ensure that, during the Licence Period, at least 90 per cent. (or such other percentage as Ofcom may from time to time specify pursuant to Section 12 (5) of the 1996 Act) of digital capacity on the Frequencies is used or left available to be used for the broadcasting of digital television programme services licensed under Part I of the 1996 Act or provided by the BBC, digital sound programme services provided by the BBC, qualifying services, programme-related services and relevant technical services.

(2) For the purpose of Condition 7 (1), "qualifying services" shall be interpreted in accordance with Section 12 (4) (a) of the 1996 Act.

(3) The Licensee shall supply to Ofcom in relation to such periods, in such form and at such times as Ofcom shall require, information as to the percentage of digital capacity available on the Frequencies for the broadcasting of digital television programme services, digital sound programme services, qualifying services, programme-related services, digital television additional services or relevant technical services together with the name of each person providing one or more such services and the percentage of digital capacity available on the Frequencies to him in relation to each such service provided by him.