

**Question 1: Do you agree that it is appropriate for Ofcom to issue guidance about the Data Limit on DTT multiplexes?:** Digital One believes it is important for Ofcom to issue guidance about Data Limits both for DTT and DAB multiplexes. For DAB multiplexes, comparable issues have emerged to those outlined in 1.5 to 1.7 of the consultation paper.

The legislation covering DTT and DAB multiplexes is comparable. There are similarities in the wording (both in the Broadcasting Act 1996 and in the Communications Act 2003) and, as a result there are some similar grey areas.

Ofcom seeks to ensure that, where appropriate, its regulation is platform and media neutral. Digital One welcomes the general approach outlined in this consultation and would welcome the same general approach being extended to DAB multiplexes. In this response we indicate how Digital One believes the approach would apply to DAB multiplexes (which are different in some details but have a high level of overlap).

**Question 2: Do you agree with Ofcom's proposed guidance on these issues?:** Although Digital One is not an operator of DTT multiplexes and has only limited knowledge of that market, Ofcom's guidance for DTT multiplexes seems clear and helpful. It clarifies elements that might otherwise seem unclear in the relevant legislation and proposes a light touch system for regulation in this area.

Digital One believes the approach outlined in the consultation paper could be applied to DAB multiplexes with only minor changes. This would provide the necessary clarity quickly without the need to reinvent the wheel.

It might be helpful for Digital One to outline some issues which affect the operation of its multiplex and indicate how it believes they would be answered using the general approach of the consultation paper.

1. In a DAB multiplex an audio channel (i.e. a radio station) is broadcast with a small amount of text (known as Dynamic Label Segment). This is used mainly for information such as music details (e.g. the title of the track being broadcast, and artist details), programme/presenter information. It is occasionally also used to complement an advert (e.g. an Internet address) or to carry a sponsor/advertiser message.

The consultation paper (in paragraph 2.19 and elsewhere) suggests that provided that comparable services do "not consist exclusively of advertising" they should be included in DTT's 90% (which for DAB is 70%) as they are ancillary services.

Compared with the alternative, this would simplify and assist the monitoring process for the multiplex operator and avoid a regulatory burden that delivers no public policy benefit.

As with Ofcom's proposals for DTT multiplexes, if a DLS service was fundamentally an advertising service it would be proper to include it in the 30% (10% for DTT).

2. Digital One broadcasts an EPG which contains information about the services on the multiplex. This is comparable with the EPGs carried on DTT multiplexes (although in Digital One's case the EPG does not contain information about

programmes on other multiplexes). Digital One has always believed that the EPG should be categorised as a "programme related service".

Previous guidance to Digital One from Ofcom has suggested that EPGs should be included in the 30%. We would welcome an early discussion about the circumstances in which Digital One's EPG could be re-categorised.

3. Digital One has considered the basis for the percentage calculation and the time period for the percentage calculation. We have discussed these issues with Ofcom (and the Radio Authority).

We have based the calculation on Capacity Units (CUs) and not counted bits required for the FIC of the multiplex (which seems in line with the proposed guidance in 2.25 and 2.26). We have based the calculation on the average over a 24 hour period from midnight to midnight (which seems in line with the proposal in 2.30).

4. There are different ways that a multiplex operator can monitor the use of capacity for different types of service. If the approach outlined in the consultation is also applied to DAB multiplexes it would allow operators to rely on calculations based on high level analysis at daily schedule level (e.g. a radio station and its DLS would always be categorised as a digital sound programme service, a simulcast radio service or an ancillary service and would be included in the 70%, the EPG would be categorised as a programme-related service and would be included in the 70%; and a TV channel would be included in the 30%).

Ofcom's proposed guidance for DTT could also help clarify how other potential services might be treated if broadcast on a DAB multiplex (e.g. picture radio or audio/music downloads).

Taken as a whole, this would result in a light regulatory burden on operators.

In contrast, some other options could be expensive and might require multiplex operators to commission tailor made software solutions to fulfil the regulatory obligation. Digital One is already exploring such an option, and an early indication of how far the guidance for DAB will follow the proposals in the consultation document would be very welcome.

**Question 3: Are there any other issues relating to the data limit on DTT multiplexes which Ofcom should give guidance on?:** Digital One has no additional comments to make in response to this question.

**Additional comments:** Digital One operates the UK's national commercial DAB digital radio multiplex. The multiplex currently broadcasts 7 national radio stations, 4 TV channels and an Electronic Programme Guide (EPG). Digital One's shareholders are GCap Media (63%) and Arqiva (37%).

Digital One has the world's biggest DAB digital radio network with well over 85% coverage of the British population. Digital One's transmitters are operated by Arqiva.

Digital One is a leading stakeholder in the UK's Digital Radio Development Bureau and the international organisation WorldDAB.