

**LICENCE No.: DTPS [Number]**  
**LICENSEE:**

**OFFICE OF COMMUNICATIONS DIGITAL TELEVISION PROGRAMME  
SERVICE LICENCE**

**LICENCE GRANTED TO [ ] TO PROVIDE A DIGITAL  
TELEVISION PROGRAMME SERVICE UNDER PART I OF THE  
BROADCASTING ACT 1990 ON AN APPLICATION COMPLYING WITH  
SECTION 18 OF THE BROADCASTING ACT 1996**

**THE LICENCE**

1. The Office of Communications (“Ofcom”) in exercise of the powers conferred upon it by Part I of the Broadcasting Act 1990 as amended by the Broadcasting Act 1996 and the Communications Act 2003 hereby grants to [ ] (the “Licensee”) a licence (the “Licence”) subject to the conditions set out in the Schedule (the “Conditions”), to provide the digital television programme service specified in the Annex (the “Licensed Service”).
2. This Licence is granted on the basis of the Licensee’s representation that the statements set out in the declaration as to his affairs made by the Licensee on [ ] are true.
3. This Licence shall come into force on the date appearing below, upon which this Licence is granted by Ofcom (the “Commencement Date”) and subject to the Conditions, shall remain in force until it is surrendered by the Licensee or revoked by Ofcom in accordance with the Conditions of this Licence.
4. The Schedule and the Annex to this Licence form part of it.

**SIGNED FOR AND  
ON BEHALF OF  
OFCOM BY:**

**DATED:**

***Note***

***The holding of this licence does not relieve the licence holder of any requirement to hold or have held on his behalf a licence under Section 1 of the Wireless Telegraphy Act 1949 (as amended by Part VIII of the Broadcasting Act 1990 and by Part 1 of Schedule 18 thereto and by the Communications Act).***

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### PART 1

### DEFINITIONS AND INTERPRETATION

#### 1.

#### Definitions and interpretation

(1) In this Licence unless the context otherwise requires:

references to any “**accounting period**” of the Licensee shall be interpreted in accordance with Section 19(9) of the 1990 Act;

the “**1990 Act**” means the Broadcasting Act 1990 (as amended);

the “**1996 Act**” means the Broadcasting Act 1996 (as amended);

references to “**all relevant codes and guidance**” means all codes and guidance referred to in this Licence, the 1990 Act, the 1996 Act or the Communications Act;

“**Code on Electronic Programme Guides**” means the code giving guidance as to the practices to be followed in the provision of electronic programme guides as drawn up and from time to time revised by Ofcom in accordance with Section 310 of the Communications Act (and in the event that such code has not been drawn up by Ofcom or is not yet in force, “Code on Electronic Programme Guides” shall be interpreted to mean the Code of Conduct on Electronic Programme Guides drawn up by the Independent Television Commission and in force immediately before the commencement of Section 310 of the Communications Act, which code shall continue to have effect (notwithstanding the substitutions made by that section)):

- (a) until the code drawn up by Ofcom under that section comes into force; but
- (b) in relation to times before the coming into force of Ofcom’s code, as if references in the code to the Independent Television Commission were references to Ofcom);

“**Code on Sports and other Listed and Designated Events**”

means the code giving guidance as to the broadcasting of sports and other listed events as drawn up and from time to time revised by Ofcom in accordance with Section 104 of the 1996 Act (and in the event that such code has not been drawn up by Ofcom or is not yet in force, “Code on Sports and other Listed and Designated Events” shall be interpreted in accordance with paragraph 51 of Schedule 18 to the Communications Act);

**“Code on Subtitling, Signing and Audio-Description”** means the code giving guidance as to:

- (a) the extent to which digital television programme services should promote the understanding and enjoyment by persons who are deaf or hard of hearing and by persons who are blind or partially sighted and by persons with a dual sensory impairment of the programmes to be included in those services; and
- (b) the means by which such understanding and enjoyment should be promoted;

as drawn up and from time to time revised by Ofcom in accordance with Section 303 of the Communications Act (and in the event that such code has not been drawn up by Ofcom or is not yet in force, “Code on Subtitling, Signing and Audio-Description” shall be interpreted to mean the code drawn up by the Independent Television Commission under section 20 of the 1996 Act and in force immediately before the commencement of Section 303 of the Communications Act, which code shall continue to have effect (notwithstanding the substitutions made by that section):

- (a) until the code drawn up by Ofcom under that section comes into force; but
- (b) in relation to times before the coming into force of Ofcom’s code, as if references in the code to the Independent Television Commission were references to Ofcom);

the **“Communications Act”** means the Communications Act 2003;

**“digital television programme service”** has the meaning given to “digital programme service” in Section 1(4) of the 1996 Act;

**“electronic programme guide” and “EPG”** mean a service

which:

- (a) is or is included in a digital television programme service; and
- (b) consists of:
  - (i) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
  - (ii) a facility for obtaining access, in whole or in part, to the programme service or services listed or promoted in the guide;

**“European programmes”** shall be interpreted in accordance with the definition of **“European Works”** in Article 6 of the EC Directive 89/552/EEC, as amended by 97/36/EC (the **“Television Without Frontiers Directive”**);

**“Fairness Code”** means the code giving guidance as to principles to be observed and practices to be followed in connection with the avoidance of unjust or unfair treatment and unwarranted infringement of privacy in the provision of television and radio services as drawn up and from time to time revised by Ofcom in accordance with Section 107 of the 1996 Act and paragraph 53 of Schedule 18 to the Communications Act;

**“fairness complaint”** shall be interpreted in accordance with Section 110(4) of the 1996 Act;

**“independent productions”** means programmes of such description as the Secretary of State may pursuant to Section 309(2)(b) of the Communications Act from time to time by order specify as describing the programmes that are to be independent productions for the purposes of Section 309(1) of the Communications Act;

**“international obligation of the United Kingdom”** has the meaning given to it in Section 405 of the Communications Act;

**“listed event”** means a sporting or other event of national interest which is for the time being included in the list drawn up and

published by the Secretary of State for the purposes of Part IV of the 1996 Act and a **“Group A event”** is a listed event that is for the time being allocated to Group A of that list and a **“Group B event”** is a listed event that is for the time being allocated to Group B of that list;

**“programme”** unless otherwise stated includes an advertisement and anything included in the Licensed Service;

**“qualifying programmes”** means programmes of such description as the Secretary of State may pursuant to Section 309(2)(a) of the Communications Act from time to time by order specify as describing the programmes that are to be qualifying programmes for the purposes of Section 309(1) of the Communications Act;

**“qualifying revenue”** means, in relation to any accounting period of the Licensee, the aggregate of:

- (a) all payments received or to be received by him or by any connected person:
  - (i) in consideration of the inclusion in the Licensed Service in that period of advertisements or other programmes, or
  - (ii) in respect of charges made by him in that period for the reception of programmes included in the Licensed Service; and
- (b) the amount of any direct or indirect financial benefit derived by the Licensee or any connected person from payments made by any person by way of sponsorship, for the purpose of defraying or contributing towards costs incurred or to be incurred in connection with any programme included in the Licensed Service,

ascertained in accordance with Section 19(2) to (6) of the 1990 Act and the Ofcom statement of principles (in force pursuant to paragraph 37(1) of Schedule 18 to the Communications Act) as from time to time revised by Ofcom in consultation with the Secretary of State and the Treasury pursuant to Part I of Schedule 7 thereto;

**“relevant international obligations”** means international obligations of the United Kingdom that are notified to Ofcom by the Secretary of State for the purposes of securing compliance

under Condition 17;

**“Standards Code”** means the code or codes governing standards for the content of programmes, including standards and practice in advertising and in the sponsoring of programmes included in television and radio services as drawn up and from time to time revised by Ofcom in accordance with Section 319 of the Communications Act (and in the event that such code or codes has not or have not been drawn up by Ofcom or is not or are not yet in force, “Standards Code” shall be interpreted in accordance with paragraphs 41 and 43 of Schedule 18 to the Communications Act);

**“Standards Complaint”** means a complaint to Ofcom in respect of the observance of standards set under Section 319 of the Communications Act;

- (2) The Interpretation Act 1978 shall apply for the purpose of interpreting this Licence as if it was an Act of Parliament.
- (3) Any word or expression used in this Licence shall unless otherwise defined herein and/or the context otherwise requires has the same meaning as it has in the 1990 Act, the 1996 Act or the Communications Act, as the case may be.
- (4) For the purposes of interpreting this Licence headings and titles shall be disregarded.
- (5) The statutory references in the margins are for purposes purely of convenience and shall not affect the interpretation or construction of the Licence or limit the statutory basis for the inclusion of the relevant Condition in the Licence.
- (6) Where an order is made under the Deregulation and Contracting Out Act 1994 which authorises a person to exercise any functions of Ofcom, the relevant references in the Licence to Ofcom shall include a reference to that person.
- (7) This Licence shall be governed by English law.



**PART 2****GENERAL CONDITIONS****2. Provision of digital television programme service by the Licensee**

Section 18 of the 1996 Act

The Licensee is hereby authorised to provide the Licensed Service specified in the Annex from the Commencement Date for so long as the Licence remains in force.

**3. Quotas for independent programmes**

Section 309 of the Communications Act

(1) The Licensee shall ensure that in each year not less than 10 per cent. (or other such percentage as the Secretary of State may, from time to time, by order specify pursuant to Section 309(3) of the Communications Act) of the total amount of time allocated to the broadcasting of qualifying programmes included in each service in the Licensed Service is allocated to the broadcasting of a range and diversity of independent productions. For these purposes the reference to a range of independent productions shall be interpreted in accordance with Section 309(2)(c) of the Communications Act.

(2) For the purposes of Condition 3(1):

(a) “**programme**” does not include an advertisement; and

(b) “**year**” means each calendar year commencing on 1 January and ending on 31 December save that:

*Adapted from Condition 5(4) of DTPS (no statutory basis)*

(i) where the Commencement Date does not fall on 1 January, the aggregate of the period preceding the first complete calendar year shall be taken to be a “year”; and

(ii) if the Licence is surrendered or revoked and the date of surrender or revocation does not fall on 31 December, the period following the last complete calendar year up to such date shall be taken to be a “year”

**4. Fees**

Section 4 (1)(b), (3) and

(1) The Licensee shall pay to Ofcom such fees as Ofcom may

- (4) of the 1996 Act determine in accordance with the tariff fixed by it and for the time being in force under Section 4(3) of the 1996 Act, details of which, and of any revision thereof, Ofcom shall from time to time publish in such manner as it considers appropriate.
- (2) Payment of the fees referred to in Condition 4(1) shall be made in such manner and at such times as Ofcom shall specify.
- Section 4(1)(c) of the 1996 Act (3) The Licensee shall within 28 days of a request therefor provide Ofcom with such information as it may require for the purposes of determining or revising the tariff referred to in Condition 4(1) above.

## 5.

### V.A.T.

- Section 4(1)(b) and (d) of the 1996 Act
- (1) The Licensee shall pay any V.A.T. on any supply for V.A.T. purposes by Ofcom under this Licence.
- (2) Without limitation to Condition 5(1) above, all sums payable by the Licensee are exclusive of V.A.T. which shall be paid by the Licensee in addition to such sums.
- (3) In this Condition 5 “V.A.T.” means value added tax chargeable under or pursuant to the Value Added Tax Act 1994, including any amendment to or replacement of that Act, and/or any similar tax.

## 6.

### General standards and requirements

- Sections 319(1) and 320 of the Communications Act
- (1) The Licensee shall ensure that the Licensed Service complies with the requirements of Part 3 of the Communications Act and in particular the standards objectives contained in Section 319 of that Part to ensure that:
- (a) persons under the age of eighteen are protected;
  - (b) programmes do not include material likely to encourage or to incite the commission of crime or to lead to disorder;
  - (c) any news given (in whatever form) in the programmes is presented with due impartiality and reported with due accuracy;

*Section 320(1)(b) and  
320(4)(a) of the  
Communications Act*

- (d) with respect to matters of political or industrial controversy and matters relating to current public policy in the programmes:
  - (i) all expressions of the views or opinions of the Licensee are excluded (other than on matters relating to the provision of programme services); and
  - (ii) due impartiality on the part of the Licensee is preserved as respects all those matters. Subject to the provisions of the Standards Code, this Condition 6(d)(ii) may be satisfied in relation to a series of programmes taken as a whole;
- (e) the proper degree of responsibility is exercised with respect to the content of programmes which are religious programmes and that in particular any such programmes do not involve:
  - (i) any improper exploitation of any susceptibilities of the audience for such a programme; or
  - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination;
- (f) generally accepted standards are applied to the contents of programmes so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material;
- (g) advertising that contravenes the prohibition on political advertising set out in Section 328(2) of the Communications Act is not included (see Condition 7(1) below);
- (h) the inclusion of advertising which may be misleading, harmful or offensive is prevented;
- (i) the international obligations of the United Kingdom with respect to advertising included in television services are complied with;

- (j) the inclusion of unsuitable sponsorship of programmes is prevented;
- (k) there is no undue discrimination between advertisers who seek to have advertisements included in the Licensed Service; and
- (l) there is no use of techniques which exploit the possibility of conveying a message to viewers, or of otherwise influencing their minds, without their being aware, or fully aware, of what has occurred.

Section 325(1)  
of the Communications  
Act

- (2) The Licensee shall ensure that the provisions of the Standards Code are observed in the provision of the Licensed Service.

## 7.

### Listed events

Section 101(1)  
of the 1996 Act (see also  
Section 300(2) of the  
Communications Act)

- (1) The Licensee shall comply in all respects with the listed events provisions of the 1996 Act and the Communications Act.
- (2) The Licensee shall not include within the Licensed Service (the “**first service**”) live coverage of the whole or any part of a listed event unless:
  - (a) (i) another person who is providing a service falling within Section 98(1)(a) of the 1996 Act (the “**second service**”) has acquired the right to include in the second service live coverage of the whole of the event or of that part of the event; and
  - (ii) the area for which the second service is provided consists of or includes the whole, or substantially the whole, of the area for which the first service is provided; or
  - (b) Ofcom has consented in advance to inclusion of that coverage in the first service; or
  - (c) the event is a Group B event for which rights to provide coverage have been acquired by one or more other persons in addition to the Licensee; and

- Section 104ZA and 101(1)(C) of the 1996 Act (see Section 302(1) of the Communications Act)
- (i) that additional coverage constitutes adequate alternative additional coverage of the event; and
  - (ii) the person or persons who have acquired rights to provide the additional coverage satisfy the requirements in relation to that coverage of any regulations made by Ofcom in accordance with Section 104ZA of the 1996 Act.
- (3) Condition 7(2) shall not apply where:
- Section 97(5)(a) of the 1996 Act (see also Section 299(3) of the Communications Act)
- (a) the Licensee is exercising rights acquired before 1st October 1996; and
  - (b) the Licensee is exercising rights acquired in relation to an event listed after 1st October 1996 where such rights were acquired before the date referred to in Section 97(5)(a) of the 1996 Act.
- Section 97(5A) & (5B) of the 1996 Act (see Section 299(4) of the Communications Act)
- (4) The allocation or transfer of an event to Group A:
- (a) shall not affect the validity of rights acquired in relation to that event where such rights were acquired before the date referred to in Section 97(5A) of the 1996 Act; and
  - (b) where the Secretary of State makes a direction in accordance with Section 97(5B), will not affect the application of Condition 7(2)(c) which will continue to apply in relation to a Group B event that is transferred to Group A as if the event remained a Group B event.
- Section 101(1)(b) of the 1996 Act (see also Section 300(2) of the Communications Act)
- (5) Except where otherwise stated, this Condition 7 applies to the Licensed Service if and to the extent that the Licensed Service is provided for reception in the United Kingdom or in any area of the United Kingdom.
- Section 101B(1) of the 1996 Act
- (6) The Licensee shall not, without the previous consent of Ofcom, exercise any rights to televise, for reception in another EEA State, the whole or part of an event:
- (a) that has been designated by that other EEA State, and notified by it to the European Commission, in
- Section 101A of the 1996 Act

accordance with Article 3a of the Television Without Frontiers Directive , as being of major importance to its society; and

- (b) where a substantial proportion of the public in that State is deprived of the possibility of following that event by live or deferred coverage on free television as determined by that State in accordance with Article 3a of the Television Without Frontiers Directive .

(7) For the purposes of this Condition 7:

Section 104ZA of the 1996 Act (see Section 302(1) of the Communications Act)

- (a) the circumstances in which the televising of listed events generally, or of a particular listed event, is, or is not, to be treated as live for the purposes of Part IV of the 1996 Act shall be determined in accordance with the regulations referred to in Condition 7(2)(c)(ii) above;
- (b) what is (whether generally or in relation to particular circumstances) to be taken to represent the provision of adequate alternative coverage shall be determined in accordance with the regulations referred to in paragraph 2(c)(ii) above;

Section 104(1) of the 1996 Act (see also Section 301(1) of the Communications Act)

- (c) guidance as to the matters which Ofcom will take into account in determining:
  - (i) whether to give or revoke their consent for the purposes of Condition 7(1) and 7(5); and
  - (ii) whether to take action pursuant to Condition 29(4)(a) or 29(4)(b) in circumstances where the Licensee fails to comply with Conditions 7(2) or 7(6),

shall be provided in the Code on Sports and Other Listed and Designated Events.

- (8) The Licensee shall supply to Ofcom such information as Ofcom may reasonably require to determine the Licensee's compliance with this Condition 7 and for the purposes of determination made by it pursuant to Section 102 or Section 103 of the 1996 Act;

## 8. Advertising and sponsorship standards and requirements

Sections 319 and 321  
of the Communications  
Act

- (1) The Licensee shall ensure that the Licensed Service does not include:
  - (a) an advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature; or
  - (b) an advertisement which is directed towards a political end; or
  - (c) an advertisement which has a connection with an industrial dispute.

*Section 321(7) of the  
Communications Act)*

- (2) Nothing in Condition 8(1) above shall prevent the Licensee from including in the Licensed Service an advertisement of a public service nature inserted by, or on behalf of, a government department.

*Section 321(3) and (5)  
of the Communications  
Act*

- (3) For the purposes of this Condition 8, objects of a political nature and political ends include:
  - (a) influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere;
  - (b) bringing about changes of the law in the whole or part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory;
  - (c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere;
  - (d) influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom;
  - (e) influencing the policies or decisions of persons on whom functions are conferred by or under international agreements;
  - (f) influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy;

- (g) promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends.

Section 322 of the  
Communications Act

- (4) The Licensee shall comply with all directions, whether general or specific and/or qualified or unqualified, given to him by Ofcom, including but without limitation, directions with respect to:

- (a) the maximum amount of time to be given over to advertisements in any hour or other period;
- (b) the minimum interval which must elapse between any two periods given over to advertisements;
- (c) the number of such advertisements to be allowed in any programme or in any hour or day; and
- (d) the exclusion of any advertisement or advertisements from a specified part of the Licensed Service,

which directions may make different provision for different parts of the day, different parts of the week, different types of programmes or for other differing circumstances.

Section 325(4) and (5)  
of the Communications  
Act

- (5) The Licensee shall comply with all directions given to him by Ofcom with regard to advertisements or methods of advertising or sponsorship, including without limitation directions with respect to:

- (a) the exclusion from the Licensed Service of a particular advertisement, or its exclusion in particular circumstances;
- (b) the descriptions of advertisements and methods of advertising to be excluded from the Licensed Service (whether generally or in particular circumstances); and
- (c) the forms and methods of sponsorship to be excluded from the Licensed Service (whether generally or in particular circumstances).

Section 121 to 123 of the  
Communications Act

- (6) The Licensee shall ensure that the provisions of the code approved by Ofcom for regulating the provision of premium rate services, or in the absence of such a code, the terms of



any order made by Ofcom for such purposes, are observed in the provision of the Licensed Service.

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| Section 321(1) of the Communications Act | (7) The Licensee shall ensure that the provisions of the Standards Code relating to standards and practice in advertising and sponsorship of programmes and any prohibitions of advertisements and forms and methods of advertising or sponsorship of programmes are observed in the provision of the Licensed Service. |
| Section 321(4) of the Communications Act | (8) The Licensee shall supply to Ofcom and/or to whomsoever Ofcom specifies details, in whatever form and within such period as Ofcom may reasonably require, of any particular advertisement or any class of advertisement specified by Ofcom or any sponsored programme which Ofcom shall from time to time request.  |

## **9. Subtitling, signing and audio-description**

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| Section 307(1) of the Communications Act     | (1) The Licensee shall ensure that the provisions of the Code on Subtitling, Signing and Audio-Description are observed in the provision of the Licensed Service. |
| Section 303(12)(d) of the Communications Act | (2) This Condition shall not apply if the Licensed Service is an EPG or to any EPG included in the Licensed Service.  |

## **10. Electronic Programme Guides**

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| Section 311(1) of the Communications Act | To the extent that the Licensed Service consists in or includes an EPG the Licensee shall ensure that the provisions of the Code on Electronic Programme Guides are observed in the provision of the Licensed Service. |
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## **11. Retention and production of recordings**

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| Section 325(1) and (2) of the Communications Act | (1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings in sound and vision of any programme which is the subject matter of a Standards Complaint and in relation to the production of recordings of any programme which is the subject of a fairness complaint the Licensee shall also comply with the requirements of Condition 20 below. |
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Section 334(1) of the  
Communications Act

- (2) In particular, the Licensee shall:
- (a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 90 days from the date of its inclusion therein; and
  - (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction; and
  - (c) at the request of Ofcom forthwith produce to Ofcom any script or transcript of a programme included in the Licensed Service which he is able to produce to it.

## 12.

### General provision of information to Ofcom

Section 4(1)(c)  
of the 1996 Act

- (1) The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act and in particular (but without prejudice to the generality of the foregoing):

Section 4(1)(c) of the  
1996 Act

- (a) a declaration as to its affairs/corporate structure in such form and at such times as Ofcom shall specify;

Section 143(5)  
of the 1996 Act and  
Section 5(1)(a) of the  
1996 Act

- (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee on any ground is a disqualified person by virtue of any of the provisions in Section 143(5) of the 1996 Act and/or Schedule 2 to the 1990 Act or contravenes requirements imposed by or under Schedule 14 to the Communications Act;

Sections 4(1)(c) and 15  
of the 1996 Act

- (c) half-yearly income and expenditure returns and supplementary annexes (including, without limitation, such information as Ofcom shall require from time to time in relation to the shares of multiplex revenue attributable to the Licensee (as determined in accordance with Section 15 of the 1996 Act) in relation to such accounting periods as Ofcom may specify;

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| Section 4(1)(c) and 19 of the 1996 Act | (d) statements of his qualifying revenue at monthly intervals and also in respect of each entire accounting period of his in such form as Ofcom shall require; and |
| Section 12(3A) of the 1996 Act         | (e) details of any change in the Licensee's country of establishment, such notification to be made within 28 days of the Licensee becoming aware of such change.   |
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| Section 19(3) of the 1996 Act (see also paragraph 91 of Part 2, Schedule 15 to the Communications Act) | <p>(2) The Licensee shall:</p> <p>(a) on entering into any agreement with the provider of a television multiplex service or general multiplex service for the provision of a digital television programme service provided under this Licence to be broadcast by means of that provider's service, notify Ofcom in such form and manner as Ofcom may from time to time require:</p> <ul style="list-style-type: none"> <li>(i) of the identity of the service by means of which it will be broadcast;</li> <li>(ii) of the characteristics of the digital television programme service to which the agreement relates;</li> <li>(iii) of the period during which the digital television programme service will be provided; and</li> <li>(iv) where under the agreement the Licensee will be entitled to the use of a specified amount of digital capacity, of that amount;</li> </ul> <p>(b) when any such agreement is varied so far as it relates to any of the matters mentioned in Condition 12(2)(a) above, notify Ofcom of the variation so far as relating to those matters; and</p> <p>(c) where the Licensee is providing a digital television programme service under this Licence to the provider of a television multiplex or general multiplex service in accordance with such an agreement as is mentioned in Condition 12(2)(a) above but intends to cease doing so, notify Ofcom of that fact and of the date on which he intends to cease doing so.</p> |
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Section 5(5) of the 1996  
Act

(4) The Licensee shall inform Ofcom forthwith in writing if:

- (a) any order is made or any resolution is passed or other action is taken for the dissolution, termination of existence, liquidation (whether compulsory or voluntary), or winding up of the Licensee (otherwise than for the purpose of reconstruction or amalgamation made whilst the Licensee is solvent on terms previously approved in writing by Ofcom) or a liquidator, trustee, receiver, administrative receiver, administrator, manager or similar officer is appointed in respect of the Licensee, or in respect of all or any part of his assets; or
- (b) the Licensee makes or proposes to enter into any scheme of compromise or arrangement with his creditors; or
- (c) the Licensee shall permit an execution to be levied against his assets and/or chattels and allows such execution to remain outstanding for more than 14 days; or
- (d) any person having direct or indirect control of the Licensee shall do or be subject to any of the events specified in Condition 12(4)(a) to (c) above; or
- (e) anything analogous to or having a substantially similar effect to any of the events specified in Condition 12(4)(a) to (d) above shall occur under the laws of any applicable jurisdiction.

Sections 3(6) and (7)  
and 4(1)(c) of the 1996  
Act

(5) The Licensee shall inform Ofcom when judgment is awarded against him in any court proceedings brought against him in respect of the inclusion in the Licensed Service of any defamatory, seditious, blasphemous or obscene matter or any matter which constitutes an injurious falsehood or slander of title or any tort or an infringement of any copyright, moral right, right in a performance, design right, registered design, service mark, trademark, letters patent or other similar monopoly right or a contravention of the provisions of the Official Secret Acts or of any statutory enactment or regulation for the time being in force or a criminal offence or contempt of Court or breach of Parliamentary privilege.

- (6) The Licensee shall inform Ofcom if he or any individual having control over him within the meaning of paragraph 1(3), Part I of Schedule 2 to the 1990 Act, is sentenced to a term of imprisonment (including a suspended term) on conviction of a criminal offence.
- (7) The Licensee shall ensure that any person authorised in writing by Ofcom is permitted at reasonable times to enter any premises of the Licensee or of any connected person in order to:
  - (a) inspect, examine, operate or test any equipment on the premises which is used in connection with the provision of the Licensed Service; and
  - (b) inspect and examine all statutory books and financial and other business records of the Licensee and to take such copies thereof as may in the opinion of Ofcom be necessary or desirable to enable it to discharge its functions under the 1990 Act, the 1996 Act, or the Communications Act.

### 13.

#### **Provision of information relating to a change of control**

Section 5(2) of the 1996 Act (see also paragraph 78(3) of Part 2 of Schedule 15 to the Communications Act

- (1) Where the Licensee is a body corporate, the Licensee shall notify Ofcom:
  - (a) of any proposals affecting shareholdings in the Licensee or any body corporate which controls the Licensee, or the directors of the Licensee or any body corporate which controls the Licensee, and of any proposals to enter into any arrangements of the type referred to in Condition 13(2) below, by giving advance notice of such proposals where they are known to the Licensee forthwith; and
  - (b) of any changes, transactions or events affecting shareholdings in the Licensee or any body corporate which controls the Licensee, or the directors of the Licensee or any body corporate which controls the Licensee (irrespective of whether proposals for them have fallen to be notified) within 28 days of any such change, transaction or event.

Paragraph 1(3) (b), (c) and (3A) of Part 1 to Schedule 2 to the 1990 Act (see also Section 357 of the Communications Act)

(2) (a) The Licensee shall notify Ofcom within 28 days if any person:

- (i) holding or being beneficially entitled to 50 per cent. of the equity share capital in the Licensee or in any body corporate which controls the Licensee; or
- (ii) possessing 50 per cent. of the voting power in the Licensee or any body corporate which controls the Licensee

enters into an arrangement with any other participant in the Licensee or in any such body corporate which controls the Licensee as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.

(b) For the purposes of Condition 13(2)(a):

- (i) “**arrangement**” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable;
- (ii) a person shall be treated as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and as possessing any voting power possessed by such a body corporate; and
- (iii) “**participant**”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.

## 14.

### Fair and effective competition

Section 316 of the Communications Act

(1) The Licensee shall:

- (a) not enter into or maintain any arrangement, or engage in any practice, which is prejudicial to fair and effective competition in the provision of licensed services or of connected services; and

- (b) comply with any code or guidance for the time being approved by Ofcom for the purpose of ensuring fair and effective competition in the provision of licensed services or of connected services; and
  - (c) comply with any direction given by Ofcom to the Licensee for that purpose.
- (2) In this Condition 14 “**connected services**” and “**licensed service**” have the meanings given to them in Section 316(4) of the Communications Act.

## 15. **Compliance with ownership restrictions**

Section 5(1) and (2) of the 1996 Act

- (1) The Licensee shall comply in all respects with the restrictions and requirements imposed on him by or under Schedule 2 to the 1990 Act and Schedule 14 to the Communications Act to the extent that such requirements apply to him.
- (2) The Licensee shall comply with any direction of Ofcom requiring him to take, or arrange for the taking of, any steps specified by Ofcom for the purposes of complying with the requirements referred to in Condition 15(1) above.
- (3) The Licensee shall inform Ofcom of any circumstances or events which may give rise to a breach of the Licensee’s obligations imposed on him by or under Schedule 2 to the 1990 or a contravention of the requirements imposed by or under Schedule 14 to the Communications Act immediately upon becoming aware of such circumstances or events.

## 16. **Transferability of the Licence**

Sections 3(6) & (7) of the 1996 Act

This Licence is not transferable except with the prior consent in writing of Ofcom. Without prejudice to the generality of the foregoing, such consent shall not be given unless Ofcom is satisfied that the person or persons to whom it is proposed to transfer the Licence would be in a position to comply with all of the Conditions whilst it remains in force.

## 17.

**Compliance**

Section 4(2) of the 1996 Act and Section 335 of the Communications Act

- (1) The Licensee shall comply with any direction given to him by Ofcom in respect of any matter, subject or thing which direction is in the opinion of Ofcom appropriate, having regard to any duties which are or may be imposed on it, or on the Licensee by or under the 1990 Act, the 1996 Act, the Communications Act or any relevant international obligations.

Section 4(1)(a) and (c) of the 1996 Act and Sections 321(4) and 325(1) of the Communications Act

- (2) The Licensee shall adopt procedures and ensure that such procedures are observed by those involved in providing the Licensed Service for the purposes of ensuring that programmes included in the Licensed Service comply in all respects with the provisions of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance. The Licensee shall, without prejudice to the generality of the foregoing, ensure that:

- (a) there are sufficient persons involved in providing the Licensed Service who are adequately versed in the requirements of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance and that such persons are able to ensure compliance with such requirements on a day to day basis;

- (b) adequate arrangements exist for the immediate implementation of such general and specific directions as may from time to time be given to the Licensee by Ofcom;

*Articles 4 and 5 of the European Broadcasting Directive*

- (c) that, except where Ofcom otherwise agrees, a majority of its transmission hours, excluding news, sports events, games, advertising, teletext and home shopping, is allocated to European programmes. At least 10 per cent. of such transmission hours must be reserved for European independent productions and an adequate proportion must be recent works;

- (d) adequate arrangements exist for the advance clearance of advertisements of such types and for such products as Ofcom shall determine;

- (e) that in each department of the Licensee where any of the procedures referred to in this Condition are to be



implemented the member of staff responsible is of sufficient seniority to ensure immediate action and that issues relating to compliance may be brought where necessary directly before senior management for consideration.

- |  |  |
|--|--|
|  | (3) The Licensee shall supply Ofcom with details of the procedures (and of any revision of such procedures) adopted by him and required to be observed by those involved in providing the Licensed Service for the purposes of Condition 17(2) above.  |
| Section 335(4) of the Communications Act | (4) For the purposes of this Condition and Section 335 of the Communications Act, all other Conditions of this Licence that are included by virtue of Part 3, Chapter 4 (regulatory provisions) of the Communications Act are in addition to and subject to the requirements of this Condition insofar as they relate to compliance with relevant international obligations. |
| Section 4(1)(c) of the 1996 Act          | (5) The Licensee shall supply to Ofcom post-transmission data in relation to the programmes included in the Licensed Service covering such information and in such form as Ofcom shall specify, to be delivered to Ofcom as soon after transmission of the programmes to which they relate as Ofcom may require.   |

## 18.

### **Government directions and representations**

Section 336 of the Communications Act

- |   |  |  |     |  |
|---|--|--|-----|--|
| (1) The Licensee shall if so directed by Ofcom :  |  |  |     |  |
| <table border="0"> <tr> <td>(a)</td> <td>include in the Licensed Service, at such times as may be specified to Ofcom by the Secretary of State or any other Minister of the Crown, such announcement as may be specified by a notice given pursuant to Section 336(1) of the Communications Act; or</td> </tr> <tr> <td>(b)</td> <td>refrain from including in the programmes included in the Licensed Service any matter or description of matter specified to Ofcom by the Secretary of State by a notice given pursuant to Section 336(5) of the Communications Act.</td> </tr> </table> | (a)  | include in the Licensed Service, at such times as may be specified to Ofcom by the Secretary of State or any other Minister of the Crown, such announcement as may be specified by a notice given pursuant to Section 336(1) of the Communications Act; or | (b) | refrain from including in the programmes included in the Licensed Service any matter or description of matter specified to Ofcom by the Secretary of State by a notice given pursuant to Section 336(5) of the Communications Act. |
| (a)   | include in the Licensed Service, at such times as may be specified to Ofcom by the Secretary of State or any other Minister of the Crown, such announcement as may be specified by a notice given pursuant to Section 336(1) of the Communications Act; or |  |     |  |
| (b)   | refrain from including in the programmes included in the Licensed Service any matter or description of matter specified to Ofcom by the Secretary of State by a notice given pursuant to Section 336(5) of the Communications Act.                         |  |     |  |
| (2) The Licensee may when publishing an announcement in the Licensed Service in accordance with Condition 18(1)(a) above indicate that the announcement is made in pursuance of a direction by Ofcom.   |  |  |     |  |

*Section 335 of the  
Communications Act*

- (3) The Licensee shall comply with all directions given to him by Ofcom pursuant to a direction of the Secretary of State for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any international obligations of the United Kingdom.
- (4) Where Ofcom:
  - (a) has given the Licensee a direction to the effect referred to in Condition 18(1)(b) above; or
  - (b) in consequence of the revocation by the Secretary of State of the notice giving rise to the issuing of such a direction, has revoked that direction or where such a notice has expired, the Licensee may include in the Licensed Service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.

**19.**

**Standards complaints**

Section 325(1)(b) and  
328(1) of the  
Communications Act

- (1) The Licensee shall ensure that procedures acceptable to Ofcom for the handling and resolution of Standards Complaints in respect of programmes included in the Licensed Service are established and maintained and shall ensure that such procedures are duly observed.
- (2) Without prejudice to the requirements of Condition 11(1) above, the Licensee shall for a period of at least 12 months keep a written record of any complaints referred to in Condition 19(1) above, a recording of the programme complained about and a written record of any response given by the Licensee in relation to any such complaint and shall make such records available to Ofcom at such times as Ofcom may reasonably require.

**20.**

**Fairness and privacy complaints**

Sections 115 and 119 of  
the 1996 Act (see also  
Section 327 of the  
Communications Act

- (1) The Licensee shall comply with such directions and requests for information as may be given to him by Ofcom following receipt by him from Ofcom of a copy of a fairness complaint that relates to the provision of the Licensed Service, and in particular the Licensee shall, if so requested:

- (a) provide Ofcom with a recording in sound and vision of the programme, or any specified part of it, to which the complaint relates if and so far as such a recording is in his possession;
- (b) make suitable arrangements for enabling the complainant to view any such recording, or any specified part of it, to which the complaint relates if and so far as such a recording is in his possession;
- (c) provide Ofcom and the complainant with a transcript of so much of the programme, or any specified part of it, to which the complaint relates, as consisted of speech, if and so far as the Licensee is able to do so;
- (d) provide Ofcom and the complainant with copies of any documents in the possession of the Licensee that are originals or copies of any correspondence between the Licensee and the person affected or the complainant in connection with the complaint;
- (e) provide Ofcom with such other things that Ofcom may specify or describe and that appear to Ofcom to be relevant to its consideration of the complaint and to be in the possession of the Licensee;
- (f) furnish to Ofcom and the complainant a written statement in answer to the complainant;
- (g) attend Ofcom and assist it in its consideration of the complaint;
- (h) take such steps as he reasonably can to ensure compliance with any request made by Ofcom to any other person under Section 115(7) of the 1996 Act.

Sections 119 and 120 of the 1996 Act (see also Section 327 of the Communications Act)

- (2) The Licensee shall comply with such directions as may be given to him by Ofcom to publish, in such manner, and within such period as may be specified by Ofcom, in any direction given pursuant to Section 119(1) of the 1996 Act, a summary of any fairness complaint with regard to a programme included in the Licensed Service, together with Ofcom's findings on the fairness complaint or a summary of such findings. The form and content of any such summary shall be such as may be approved by Ofcom.

(3) References in Condition 20(1) to the publication of any matter shall be references to the publication of that matter without its being accompanied by any observations made by a person other than Ofcom and relating to the fairness complaint.

(4) Where Ofcom has given a direction under Section 119(1) in relation to a fairness complaint and either the Licensee and/or any other person responsible for the making or the provision of the relevant programme has or have taken any supplementary action (interpreted in accordance with Section 120(5) of the 1996 Act) the Licensee shall promptly send to Ofcom a report of that action.

Section 326 of the  
Communications Act

(5) The Licensee shall ensure that the provisions of the Fairness Code are observed in the provision of the Licensed Service and in relation to the programmes included in the Licensed Service.

## 21.

### **Publicising Ofcom's functions**

Section 328 of the  
Communications Act

The Licensee shall comply with such directions as may be given to him by Ofcom to secure that:

- (a) the procedures which are established and maintained for handling and resolving complaints about the observance of standards as set out in Section 319 of the Communications Act; and
- (b) Ofcom's functions under Part V of the 1996 Act in relation to the Licensed Service

are brought to the attention of the public (whether by means of broadcasting or otherwise).

## 22.

### **Power of Ofcom to vary licence conditions**

Section 3(4)  
of the 1996 Act

Ofcom may by a notice served on the Licensee vary the Licence in any respect provided that the Licensee has been given a reasonable opportunity to make representations to Ofcom concerning the proposed variation.

**23.****Notices and service**

Section 394 of the  
Communications Act

- (1) Any notification or document (as defined in Section 394(7) of the Communications Act) to be served, given or sent under or in relation to this Licence may be delivered to the party to be served or sent by first class post to him at his proper address (as defined in Section 394(7) of the Communications Act) or left at that address.
- (2) Any such notification or document shall be deemed to have been served:
  - (a) if so delivered or left, at the time of delivery or leaving; or
  - (b) if so posted, at 10.00 a.m. on the second business day after it was put into the post.
- (3) In proving such service it shall be sufficient to prove that delivery was made or that the envelope containing such notification or document was properly addressed and posted as a prepaid first class letter or was left at the proper address, as the case may be.

Section 395 of the  
Communications Act

- (4) Notices and documents may also be served or given by Ofcom on or to the Licensee and by the Licensee on or to Ofcom in electronic form in accordance with Sections 395 and 396 of the Communications Act.

**24.****Surrender**

Section 19(1) of the  
1996 Act

The Licensee may by notice served on Ofcom and taking effect either from the time of service or on a date specified in the notice, surrender the Licence.

**25****Equal opportunities and training**

Section 337 of the  
Communications Act

- (1) The Licensee shall make and from time to time shall review arrangements for:
  - (a) promoting, in relation to employment with the Licensee:
    - (i) equality of opportunity between men and women and between persons of different racial

groups; and

- (ii) the equalisation of opportunities for disabled persons; and
  - (b) training and retraining persons whom he employs in or in connection with the provision of the Licensed Service or the making of programmes for inclusion in the Licensed Service.
- (2) The Licensee shall take appropriate steps to make those affected by the arrangements to be made in accordance with Condition 25(1) aware of them including publishing the arrangements in such manner as Ofcom may require.
  - (3) In particular (but without limiting the generality of the foregoing), the Licensee shall from time to time (and at least annually) publish, in such manner as he considers appropriate, his observations on the current operation and effectiveness of the arrangements required by virtue of this Condition.
  - (4) The Licensee shall, in making and reviewing the arrangements made in accordance with Condition 25(1), have regard to any relevant guidance published by Ofcom as revised from time to time.
  - (5) This Condition 25 shall apply if the requirements of Sections 337(7) and (8) of the Communications Act are satisfied in the case of the Licensed Service.
  - (6) Ofcom will treat the Licensee's obligations under Conditions 25(1) to (5) above as discharged where a member of a group of companies to which the Licensee belongs has discharged those obligations in relation to employment with the Licensee.

**PART 3****EXCEPTIONS AND LIMITATIONS ON LICENSEE'S OBLIGATIONS****26.****Force majeure**

Section 4(1)(d) of the  
1996 Act

The Licensee shall not be in any way responsible for any failure to comply with any Conditions of this Licence directly or indirectly caused by or arising from any circumstances beyond the control of the Licensee including (without limitation) accident or breakdown of any equipment or apparatus (caused otherwise than by the wrongful act neglect or default of the Licensee his servants or agents) force majeure war damage by the Queen's enemies, riot, rebellion, civil commotion, interference by strike, lockout, sit-in, picket or other industrial dispute or action.

**PART 4****CONDITIONS RELATING TO ENFORCEMENT OF THE LICENCE****27.****Interest on late payments**

Section 4(1)(b) and (d)  
of the 1996 Act

- (1) Any payment due from the Licensee under or in respect of this Licence shall carry interest at three per cent. per annum over the base rate for the time being of Lloyds TSB Bank plc (or if unavailable then the rate published by another clearing bank as selected by Ofcom) from the date such payment was due until the date of actual payment.
- (2) The Licensee's liability to pay to Ofcom the amounts payable by him under Condition 27(1) shall accrue from day to day and shall be calculated on the basis of a year of 365 days and for the actual number of days elapsed.

**28.****Sanctions for breach of condition**

Section 40 of the 1990  
Act (see also Section  
344 of the  
Communications Act)

- (1) (a) If Ofcom is satisfied that the Licensee has failed to comply with any Condition of the Licence and that failure can be appropriately remedied by the inclusion in the Licensed Service of a correction or a statement of findings (or both) and Ofcom has given the Licensee a reasonable opportunity to make representations to it about the matters complained of, Ofcom may direct the Licensee to include in the Licensed Service a correction or statement of findings (or both) in such form, and at such time or times as Ofcom may determine.
- (b) The Licensee may, when including a correction or statement of findings (or both) in the Licensed Service in pursuance of a direction from Ofcom, announce that he is doing so in pursuance of such a direction.
- (2) The Licensee shall comply with any direction from Ofcom not to include in the Licensed Service on any future occasion any programme whose inclusion in the Licensed Service Ofcom is satisfied has involved a failure by the Licensee to comply with any Condition of this Licence.

Section 23 of the 1996

- (3) (a) If Ofcom is satisfied that the Licensee has failed to



Act (see paragraph 14 of Part 2, Schedule 13 to the Communications Act

comply with any Condition of the Licence or has failed to comply with any direction given by Ofcom under the Licence and it has given him a reasonable opportunity of making representations to it about the matters complained of, it may serve on the Licensee a notice requiring him to pay to Ofcom, within a specified period, a specified financial penalty.

- (b) Subject to Condition 28(3)(e), the amount of any financial penalty imposed pursuant to Condition 28(3)(a) shall not exceed whichever is the greater of:
  - (i) £250,000 (or such other sum as the Secretary of State may by order specify under Section 36 of the 1996 Act); and
  - (ii) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to the Licensee in relation to multiplex services in respect of the relevant accounting periods.
- (c) For the purposes of Condition 28(3)(b) “**relevant accounting period**” in relation to a television multiplex service or general multiplex service, means the last accounting period of the multiplex provider.
- (d) Where in the case of any television multiplex service or general multiplex service, the first accounting period of the multiplex provider throughout which the Licensee provides the Licensed Service for broadcasting by means of the multiplex service (the “**first period**”) has not ended when the penalty is imposed, then for the purposes of this Condition 28(3)(b), the share of multiplex revenue attributable to the Licensee in relation to that multiplex service for the relevant accounting period shall be taken to be the amount which Ofcom estimates to be the share of multiplex revenue attributable to him for the first period.
- (e) Where the financial penalty imposed pursuant to Condition 28(3)(a) relates to a failure to comply with a Condition or direction occurring before the commencement of paragraph 14(6) of Part II, Schedule 13 to the Communications Act, Condition 28(3)(b)(i) shall be read as if the reference to

£250,000 was a reference to £50,000 and where such a penalty has not previously been so imposed on the Licensee during any period for which the Licence has been in force, Condition 28(3)(b)(ii) shall be read as if the reference to five per cent was a reference to three per cent.

- (f) For the purposes of this Condition 28(3) “**multiplex provider**” has the meaning given to it in Section 14(9) of the 1996 Act.

Section 102 of the 1996  
Act

- (4) (a) If Ofcom:

- (i) is satisfied that the Licensee has failed to comply with Condition 7(2) or Condition 7(6); and
- (ii) is not satisfied that in all the circumstances it would be unreasonable to expect the Licensee to have complied with that Condition,

it may serve on the Licensee a notice requiring him to pay to Ofcom, within a specified period, a specified financial penalty.

- (b) If Ofcom is satisfied that, in connection with an application for consent under Condition 7(2) or Condition 7(6), the Licensee:

- (i) has provided Ofcom with information which is false in a material particular, or
- (ii) has withheld any material information with the intention of causing Ofcom to be misled,

it may serve on the Licensee a notice requiring him to pay to Ofcom, within a specified period, a specified financial penalty.

- (c) The amount of any financial penalty imposed pursuant to Condition 28(4)(a) or Condition 28(4)(b) shall not exceed the amount produced by multiplying the relevant consideration by the prescribed multiplier.

- (d) For the purpose of Condition 28(4)(c):

- (i) the “**relevant consideration**” means an amount determined by Ofcom as representing so much of any consideration paid by the Licensee as is attributable to the acquisition of the rights to televise the event in question; and
    - (ii) the “**prescribed multiplier**” means such number as the Secretary of State may from time to time by order prescribe under Section 102(4)(b) of the 1996 Act.
  - (e) Where any such financial penalty is imposed pursuant to Condition 28(4), Ofcom shall not impose a further financial penalty under Condition 28(3) in respect of the same circumstances.
- Section 23(1)(b) of the 1996 Act
- (5) (a) If Ofcom is satisfied that the Licensee has failed to comply with any Condition of this Licence or with any direction given to him hereunder and it has given him a reasonable opportunity of making representations to it about the matters complained of, it may serve on the Licensee a notice providing that the Licence is to expire on a specified date at least one year from the date on which the notice is served on the Licensee.
- Section 23(7) of the 1996 Act
- (b) Where the Licence is due to expire on a particular date by virtue of a notice served on the Licensee under Condition 28(5)(a), Ofcom may, on the application of the Licensee, by a further notice served on him at any time before that date, revoke that notice if such revocation is justified by virtue of the conduct of the Licensee in relation to the operation of the Licenced Service since the date of the earlier notice.
- (6) (a) Any exercise by Ofcom of its powers under Condition 28(3) or 28(5) shall be without prejudice to Ofcom's powers under Condition 28(1) and 28(2).
  - (b) Any exercise by Ofcom of its powers under Condition 38(4) shall be without prejudice to Ofcom's powers under Condition 28(1), (2) and (5).
- (7) Prior to exercising its powers under Condition 28(4) in respect of a failure to comply with Condition 7(6), Ofcom

shall consult such persons (who may include competent authorities in other EEA States) as appear to Ofcom to be appropriate.

## 29.

### Revocation

Section 42 of the 1990 Act (see Section 23(9) of the 1996 Act)

- (1) (a) If Ofcom is satisfied that the Licensee is failing to comply with any Condition of the Licence or with any direction given by Ofcom under the Licence and that failure is such that, if not remedied, it would justify the revocation of the Licence, it shall serve on the Licensee a notice:
  - (i) stating that Ofcom is so satisfied;
  - (ii) specifying the respects in which, in the opinion of Ofcom, the Licensee is failing to comply with any such Condition or direction; and
  - (iii) stating that, unless the Licensee takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, Ofcom will revoke the Licence.
- (b) If at the end of the period specified in any notice served under Condition 29(1)(a) above Ofcom is satisfied that the Licensee has failed to take the steps specified in the notice and that it is necessary in the public interest to revoke the Licence, Ofcom shall serve on the Licensee a notice revoking the Licence.

- (2) Ofcom may revoke the Licence by notice in writing served on the Licensee and taking effect either from the time of service or on a date specified in the notice, in any of the following circumstances:

Section 5(1)(a), (5) and (7) of the 1996 Act

- (a) if the Licensee becomes a disqualified person in relation to the Licence by virtue of Part II of Schedule 2 to the 1990 Act or a requirement imposed by or under Schedule 14 to the Communications Act is contravened in relation to his holding of the Licence; or

Section 4(5)(b) of the 1996 Act

- (b) if Ofcom is satisfied that the Licensee:
  - (i) in purporting to comply with any of the

Conditions of this Licence has provided information which is false in a material particular or has withheld any material information with the intention of causing Ofcom to be misled; or

Section 42(5) of the 1990 Act (see also Section 23(8) and (9) of the 1996 Act)

(ii) in connection with his application for the Licence, provided Ofcom with information which was false in a material particular or withheld any material information with the intention of causing Ofcom to be misled.

Section 5(5) and 5(7) of the 1996 Act

(c) if, where the Licensee is a body, a change in the nature or characteristics of the Licensee, or any change in the persons having control over or interests in the Licensee, or any change giving rise to a disqualification under Part II of Schedule 2 to the 1990 Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act takes place (whether before or after the Commencement Date), which change is such that, if it fell to Ofcom to determine whether to award the Licence to the Licensee in the new circumstances of the case, it would be induced by the change to refrain from awarding the Licence to the Licensee;

Section 3(3)(b) of the 1996 Act

(d) if Ofcom ceases to be satisfied that the Licensee is a fit and proper person to hold the Licence;

Section 3(8) of the 1996 Act

(e) if the Licensee provides the Licensed Service in whole or in part whilst failing to comply with any requirement to hold or have held on his behalf a licence under Section 1 of the Wireless Telegraphy Act 1949 (as amended) or if the Licensee ceases to comply with requirements applicable to the licensed service imposed by or under Chapter 1 of Part 2 of the Communications Act;

(f) if, for any reason, the service provided by the Licensee does not constitute a digital television programme service for the purposes of the 1996 Act and the Communications Act; and

Section 4(1)(d) of the 1996 Act (see also Section 12(3A) of the

(g) if Ofcom is satisfied that the Licensee is established in a country other than the United Kingdom.

1996 Act)

Section 42(8)  
of the 1990 Act

- (3) Ofcom shall before serving any notice revoking the Licence under Conditions 29(1) and (2), notify the Licensee of the matters constituting its grounds for revoking the Licence and give the Licensee a reasonable opportunity to make representations to it about those matters.

Section 145 of the 1996  
Act

- (4) If the Licensee is convicted of an offence under Section 144 of the 1996 Act and the court by which the Licensee is convicted makes an order disqualifying him from holding a licence during a period specified in the order, or if the Licensee is disqualified from holding a licence pursuant to Section 145(3) of the 1996 Act in consequence of an order disqualifying an individual from holding a licence, this Licence shall be treated as being revoked with effect from the time when the order takes effect.

**ANNEX TO  
LICENCE No.: DTPS  
[       ]**

**THE LICENSED SERVICE**

Section 18 of the 1996  
Act

The service known as [

] [service description]

