

D R A F T

LICENCE NO. DL [Number]

OFFICE OF COMMUNICATIONS LOCAL RADIO MULTIPLEX LICENCE

LICENCE GRANTED TO * * TO PROVIDE A LOCAL
RADIO MULTIPLEX SERVICE (*AREA*) UNDER PART II OF THE
BROADCASTING ACT 1996 ON AN APPLICATION COMPLYING WITH
SECTION 50 OF THE BROADCASTING ACT 1996

THE LICENCE

1. The Office of Communications ("Ofcom") in exercise of the powers conferred upon it by Part II of the Broadcasting Act 1996 as amended by the Communications Act 2003 hereby grants to *
* (the "Licensee") a licence (the "Licence") subject to the conditions set out in the Schedule and the Annex (the "Conditions") to provide the local radio multiplex 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 [DATE] are true.
3. The Licensee must not operate the Licensed Service unless and until he is complying with 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 I of Schedule 18 thereto and by the Communications Act 2003), any requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 or the Digital Technical Code to the extent that it applies to him.

4. This Licence shall come into force on the Commencement Date (as defined in the Conditions) and, subject to the Conditions, shall be for a term of twelve years.
5. Notwithstanding the provisions of clause 4 above, the Conditions specified in Part V of the Annex shall come into force on the date appearing below, upon which this Licence is granted by Ofcom (the "Date of Grant").
6. The Schedule and the Annex to this Licence form part of it.

SIGNED FOR AND
ON BEHALF OF
OFCOM BY

[POSITION OF SIGNATORY]

DD...MMM...YYYY

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THE SCHEDULE

PART 1

DEFINITIONS AND INTERPRETATION RELATING TO THE LICENCE

1.

Definitions and interpretation

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

"the 1990 Act" means the Broadcasting Act 1990 (as amended);

"the 1996 Act" means the Broadcasting Act 1996 (as amended);

"Commencement Date" means ***DD...MMM...YYYY*** or such other date as may be agreed in writing between Ofcom and the Licensee;

"the Communications Act" means the Communications Act 2003;

"digital additional service" shall be interpreted in accordance with Section 63 (1) of the 1996 Act;

"digital sound programme service" shall be interpreted in accordance with Section 40 (5) of the 1996 Act;

"Digital Technical Code" means the code or codes governing technical standards and practice in the provision of licensed services as drawn up and from time to time revised by Ofcom and to the extent that such code or codes has not or have not been drawn up by Ofcom or is not or are not in force a digital technical code drawn up by the Radio Authority and in force immediately before the radio transfer date is to have effect as if it were a digital technical code issued by Ofcom;

"Frequencies" means the frequencies

specified in Part IV of the Annex;

"Initial Licence Period" means the period of twelve years from and including the Commencement Date or, if shorter, the period from and including the Commencement Date until such date as the Licence is revoked in accordance with these Conditions;

"Licence Period" means the Initial Licence Period or any Subsequent Licence Period, as the context shall require;

"Licensed Area" means the area or locality specified in the notice published by Ofcom in relation to the Licence pursuant to Section 50 (2) (c) of the 1996 Act;

"licensed services" means services licensed by Ofcom under Part II of the 1996 Act;

"local digital sound programme service" shall be interpreted in accordance with Section 60 (1) (b) of the 1996 Act;

"local radio multiplex service" shall be interpreted in accordance with Section 40 (4) of the 1996 Act;

"programme" unless otherwise stated, includes an advertisement and anything included in the Licensed Service;

"programme-related service" shall be interpreted in accordance with Section 54 (2) (a) of the 1996 Act;

"Questions" refer to the numbered questions in the Radio Authority's document, "Information Required from Applicants" Annex I to the Radio Authority's Notes of Guidance for Applicants – Local Digital Radio Multiplex Service Licences (being the relevant document in force at the time the Licensee's application for the Licence was

submitted);

"the radio transfer date" has the meaning given to it in Section 405 of the Communications Act;

"Relevant Date" means the date which Ofcom determines to be that by which it would need to publish a notice under Section 50 (2) of the 1996 Act if it were to grant, as from the date on which the Licence would expire if not renewed, a fresh licence to provide the Licensed Service as from the end of the Initial Licence Period;

"Station" is defined by reference to the technical characteristics set out in Part IV of the Annex;

"Subsequent Licence Period" means the period of [TWELVE YEARS if Date of Grant before 1 October 2002; EIGHT YEARS if Date of Grant on or after 1 October 2002 (see Section 261 of the Communications Act)] from and including the date on which the Licence is renewed in accordance with Condition [10] or, if shorter, the period from and including the date on which the Licence is renewed until such date as it is revoked in accordance with these Conditions;

"Technical Plan" means the technical plan relating to the Licensed Service which accompanied the Licensee's application for the Licence pursuant to Section 50 (4) (b) of the 1996 Act, as varied from time to time by agreement between Ofcom and the Licensee; and

"technical service" shall be interpreted in accordance with Section 63 (3) of the 1996 Act and **"relevant technical service"** shall be interpreted in accordance with Section 54 (2) (b) of the 1996 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 have 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 of this Licence 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 local radio multiplex service by the Licensee**

- (1) The Licensee shall provide the Licensed Service for the Licence Period in the Licensed Area and in accordance with the Conditions set out in the Annex.
- Section 54 (5) of the 1996 Act (2) Subject to the Conditions set out in the Annex, the Licensee shall ensure that the licensed services are transmitted from the stations specified in, and otherwise in accordance with, Parts III and IV of the Annex.
- Section 43 (1) (b) of the 1996 Act (3) The Licensee shall ensure that the provisions of the Digital Technical Code are observed in the provision of the Licensed Service to the extent such provisions apply to him.
- (4) The Licensee shall not be authorised by or under the Licence to broadcast or procure the broadcasting of anything other than the Licensed Service.

3. Fees

- Sections 43 (1) (c), 43 (1) (d), 43 (3) and 43 (4) of the 1996 Act (1) The Licensee shall pay to Ofcom such fees as Ofcom may determine in accordance with the tariff fixed by it and for the time being in force under Section 43 (3) of the 1996 Act, as Ofcom shall from time to time publish in such manner as it considers appropriate.
- (2) Payment of the fees referred to in Condition [3 (1)] shall be made in such manner and at such times as Ofcom shall specify.

- (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 [3 (1)] above.

4.

V.A.T.

Section 43 (1) (c) and (f) 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 [4 (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 [4] "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.

5.

Transmission arrangements, technical standards and requirements

Section 54 (1) of the 1996 Act

The Licensee shall do all he can to ensure that the signals carrying the Licensed Service attain high standards in terms of technical quality and reliability throughout so much of the Licensed Area as is for the time being reasonably practicable. In particular (but without prejudice to the generality of the foregoing), the Licensee shall ensure that the relevant provisions of the Digital Technical Code and Parts III and IV of the Annex to the Licence are observed in all operations under his direct control and by any third parties involved in the provision of programmes in the licensed services broadcast in the Licensed Service or in the provision and operation of a system for the distribution and transmission of the Licensed Service.

6. **Availability of capacity on the Frequencies**

- Section 49 of the 1996 Act
- (1) Subject to the other provisions of this Condition, the Licensee shall ensure that the amount of digital capacity reserved for the BBC on the Frequencies by Ofcom under Section 49 (1) of the 1996 Act is available for the broadcasting of BBC local radio services and BBC radio services for Wales, Scotland or Northern Ireland, provided that the BBC makes such payments to the Licensee as are from time to time agreed between the BBC and the Licensee, or (in default of agreement) determined under Section 49 of the 1996 Act, in relation to that capacity.
- Section 54 of the 1996 Act
- (2) The Licensee shall ensure that, during the Licence Period, at least 80 per cent. (or such other percentage as the Secretary of State may from time to time by order specify pursuant to Section 54 (3) of the 1996 Act) of digital capacity on the Frequencies is used or left available to be used for the broadcasting of digital sound programme services, programme-related services and relevant technical services.
- (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 sound programme services, simulcast radio services, programme-related 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.

7. **General provision of information to Ofcom**

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| Section 43 (1) (d) 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): |
| Sections 44 (1) (a) and 143 (4) of the 1996 Act | (a) a declaration as to its affairs/corporate structure in such form and at such times as Ofcom shall specify; and |
| Section 350 (2) of the Communications Act | (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee is on any ground 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 whether a requirement imposed by or under Schedule 14 to the Communications Act is contravened in relation to his holding of the Licence. |
| Section 44 (5) of the 1996 Act | (2) 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 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 control of the Licensee shall do or be subject to any of the events specified in Conditions [7 (2) (a) to (c)] above; or
- (e) anything analogous to or having a substantially similar effect to any of the events specified in Conditions [7 (2) (a) to (d)] above shall occur under the laws of any applicable jurisdiction.

Section 43 (1) (d) of the 1996 Act (3) 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 Secrets Act 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.

Sections 44 (5) and 43 (1) (d) of the 1996 Act (4) 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.

8. **Provision of information to Ofcom relating to a change of control**

Sections 43 (1) (d) and 44 (2) of the 1996 Act (see also Paragraph 104 (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 [8 (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.

Section 43 (1) (d) of the 1996 Act and Paragraph 1 (3) (c) and (3A) of Part I to Schedule 2 to the 1990 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 any 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 [8 (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 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.

9. **Powers of inspection**

Section 43 (2) (b) of the 1996 Act The Licensee shall permit any employee of, or person authorised by, Ofcom to enter any premises used in connection with the broadcasting or delivery of the Licensed Service and to inspect, examine, operate or test any equipment on the premises which is used in that connection.

10. **Renewal of the Licence**

Section 58 (3) of the 1996 Act (see also Section 261 of the Communications Act) (1) The Licensee may apply to Ofcom for renewal of the Licence not earlier than four years before the end of the Initial Licence Period and not later than the day falling three months before the Relevant Date.

Section 58 (6) of the 1996 Act (2) If the Licensee makes an application Ofcom may postpone consideration of it for as long as Ofcom thinks appropriate, having regard to Section 58 (10) of the 1996 Act.

- Section 58 (4) of the 1996 Act (3) If the Licensee makes an application Ofcom may require the Licensee to furnish a technical plan which supplements the Technical Plan and notify the applicant of the requirements which must be met by the supplementary technical plan referred to in this Condition and which relate to the matters referred to in Section 50 (4) (b) (i) and (ii) of the 1996 Act.
- Section 58 (7) of the 1996 Act (4) Ofcom shall only refuse an application for renewal of the Licence by the Licensee made in accordance with the 1996 Act and this Condition if:-
- (a) it appears to Ofcom that the Licensee has failed to comply with any of the Conditions in this Licence; or
 - (b) any supplementary technical plan submitted by the Licensee under Condition [10 (3)] fails to meet the requirements notified to the Licensee under Condition [10 (3)]; or
 - (c) Ofcom is not satisfied that the Licensee would, if the Licence were renewed, provide a service which complied with the Conditions to be included in the Licence, as renewed.
- (5) On the grant of any such application Ofcom shall include in the Licence, as renewed, such further conditions as appear to Ofcom to be appropriate for securing the implementation of any supplementary technical plan submitted under Condition [10 (3)].
- Section 58 (10) of the 1996 Act (6) Where Ofcom has granted an application of the Licensee for renewal of the Licence it shall formally renew his Licence from the date on which it would otherwise expire.

- (7) Where the Licence is renewed pursuant to this Condition, it shall continue in full force and effect.

11. **Fair and effective competition**

Section 316 of the Communications Act (1) The Licensee shall:-

- (a) not enter into or maintain any arrangements, 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.

Section 54 (1) of the 1996 Act (2) The Licensee shall not enter into any agreement or offer to enter into any agreement with a person providing digital sound programme services or digital additional services for the broadcasting of those services where the terms of that agreement show undue discrimination either against or in favour of a particular person providing such a service or a class of such persons.

- Section 54 (1) of the 1996 Act (3) The Licensee shall not enter into any agreement with a person providing a digital sound programme service or digital additional services (the "**service provider**") which entitles the service provider to use a specified amount of digital capacity on the Frequencies and contains a restriction of the nature referred to in Condition [11 (4)], save to the extent that the restriction is reasonably required for the purpose of ensuring the technical quality of the broadcasts or for the purpose of securing compliance with any other Condition in the Licence.
- Section 54 (1) of the 1996 Act (4) The restriction referred to in Condition [11 (3)] is such that it restricts the service provider's freedom to make arrangements with some other person as to the use of any of the digital capacity on the Frequencies which the service provider is entitled to use.
- (5) Condition [11 (3)] shall be without prejudice to the Licensee's obligations to satisfy the Conditions set out in the Annex.
- (6) The Licensee shall, in the case of an agreement falling within Condition [11 (7) (a)], for the period during which such agreement is in force, and in the case of an offer falling within Condition [11 (7) (b)], for one year after such offer is made or received, as appropriate, retain copies of all documentation which has been prepared by it or received by it and which is in connection with such agreement or such offer, as appropriate.
- (7) (a) The agreements referred to in Condition [11 (6)] are any agreements entered into by the Licensee with a person providing digital sound programme services or digital additional services for the broadcasting of those services.

- (b) The offers referred to in Condition [11 (6)] are any offers made or received by the Licensee to enter into any agreement with a person referred to in Condition [11 (7) (a)].
- (8) In Condition [11(1)] above **"connected services"** and **"licensed service"** have the meaning given to them in Section 316 (4) of the Communications Act.

12.

Compliance with ownership restrictions

Section 44 (1) and (2) of the 1996 Act

- (1) The Licensee shall comply in all respects with the restrictions and requirements imposed on or in relation to him by or under Schedule 2 to the 1990 Act and Schedule 14 to the Communications Act to the extent that they 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 [12 (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 Act or the requirements imposed by or under Schedule 14 to the Communications Act being contravened in relation to his holding of the Licence immediately upon becoming aware of such circumstances or events.

13. **Transferability of the Licence**

Section 42 (5) and (6) of the 1996 Act The 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 to whom it is proposed to transfer the Licence would be in a position to comply with all of the Conditions thereof throughout the remainder of the Licence Period.

14. **Compliance**

Section 43 (2) (a) of the 1996 Act 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 or the Communications Act.

15. **Prohibition on conveyance of unlicensed services**

Section 54 (1) (c) and (d) of the 1996 Act The Licensee shall ensure that:-

- (a) all digital sound programme services broadcast under this Licence are provided by the BBC or the holder of a local digital sound programme licence under Section 60 of the 1996 Act; and
- (b) all digital additional services broadcast under this Licence are provided by the holder of a licence under Section 64 of the 1996 Act.

16. **Government directions and representations**

Section 336 of the Communications Act (1) The Licensee shall if so directed by Ofcom:

- (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 [16 (1) (a)] above indicate that the announcement is made in pursuance of a direction by Ofcom.
- (3) Where Ofcom:
- (a) has given the Licensee a direction to the effect referred to in Condition [16 (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 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.

17. **Power of Ofcom to vary Licence Conditions**

(1) Ofcom may by a notice served on the Licensee:-

Section 42 (3A) of the 1996 Act (a) vary the Licence Period provided that the Licensee consents to such variation (and without prejudice to Ofcom's powers and duties under Section 59 of the 1996 Act);

Section 54 (5) of the 1996 Act (b) vary any Conditions set out in Parts I, II and III of the Annex provided that the Licensee consents to such variation; and

Section 42 (3B) of the 1996 Act (c) vary the Licence in any respect not mentioned in Conditions [17 (1) (a) and (b)] above provided that the Licensee has been given a reasonable opportunity to make representations to Ofcom concerning the proposed variation,

Section 42 (4) of the 1996 Act provided always that Condition [17 (1) (a)] above is without prejudice to Ofcom's power under Section 59 (1) (b) to reduce the Licence Period as set out in Condition [23 (1) (a)].

Section 54 (6) of the 1996 Act (2) If the Licensee applies to Ofcom for the variation of Conditions in Parts I or II of the Annex which relate to the characteristics of the digital sound programme services to be broadcast in the Licensed Service, Ofcom shall permit the variation requested but only if it is satisfied that:

(a) the variation would not unacceptably narrow the range of programmes available by way of local digital sound programme services to persons living in the area or locality for which the Licensed Service is provided;

- (b) the variation would be conducive to the maintenance or promotion of fair and effective competition in that area or locally; or
- (c) there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the variation.

18.

Notices and service

- Section 394 of the Communications Act
- (1) Any notification or document (as defined in Section 394 (9) 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 pre-paid 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.

19.

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
- 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 [19 (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 [19 (1)], have regard to any relevant guidance published by Ofcom as revised from time to time.
- (5) This Condition [19] 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 [19 (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 THE
LICENSEE'S OBLIGATIONS**

20.

Force majeure and miscellaneous

Section 43 (1) (f) of the 1996
Act

- (1) 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.
- (2) Nothing in this Licence shall constitute or imply any warranty, representation or obligation on the part of Ofcom as to the size or location of the areas actually capable of receiving the programmes in the licensed services broadcast in the Licensed Service provided by the Licensee pursuant to the Licence or that licensed services and simulcast radio services provided by the holder of any other licence (including a multiplex service licence) shall not be capable of reception in the whole or any part of the Licensed Area.

PART 4

CONDITIONS RELATING TO ENFORCEMENT OF LICENCES

21. Interest on late payments

- (1) Any payment due from the Licensee under or in respect of the Licence shall carry interest at three per cent. per annum over the base rate for the time being of Lloyds TSB 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 [21 (1)] above 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.

22. Sanctions for breach of Condition

Section 59 of the 1996 Act

- (1) (a) If Ofcom is satisfied that the Licensee has failed to comply with any Condition of the Licence or 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, or a notice reducing the Licence Period by a specified period not exceeding two years.

- (b) The amount of any financial penalty imposed pursuant to Condition [22 (1) (a)] on the holder of a local radio multiplex licence shall not exceed £250,000 (or such other sum as the Secretary of State may by order specify under Section 69 of the 1996 Act).
- (c) Where the Licence is due to expire on a particular date by virtue of a notice served on the Licensee under Condition [22 (1) (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 it is satisfied that such revocation is justified by virtue of the conduct of the Licensee in relation to the operation of the Licensed Service since the date of the earlier notice.

Section 43 (1) (e) of the 1996 Act (2)

If Ofcom is satisfied that the Licensee has failed to comply with any Condition of this Licence, Ofcom may require the Licensee to reimburse to Ofcom, in such circumstances as Ofcom may specify, any costs reasonably incurred by Ofcom in connection with the breach of that Condition.

- (3) In particular, but without prejudice to the generality of Condition [22 (2)] above, the Licensee shall re-imburse to Ofcom any reasonable costs incurred by Ofcom in connection with or resulting from a breach of any Condition in the Licence that requires Ofcom at its sole discretion to make arrangements for the verification of the technical performance of the signal transmitted by or on behalf of the Licensee.

23.

Revocation

- Section 111 of the 1990 Act and Section 59 (8) 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 that failure is such that, if not remedied, it would justify the revocation of the Licence, Ofcom 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 under Condition [23 (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.
- Section 53 of the 1996 Act
- (2) Ofcom shall revoke the Licence by notice in writing served on the Licensee and taking effect as from the time of service if:-

- (a) the Licensee indicates to Ofcom before the Commencement Date that he does not intend to provide the Licensed Service; or
 - (b) Ofcom for any other reason has reasonable grounds for believing that the Licensee will not provide the Licensed Service after the Commencement Date and it has served on the Licensee a notice stating its grounds for believing that he will not provide that service after that date.
- (3) 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:-
 - (a) if the Licensee ceases to provide the Licensed Service before the end of the Licence Period and Ofcom are satisfied that it is appropriate to revoke the Licence;
 - (b) if the Licensee agrees in writing with Ofcom that the Licence should be revoked;
 - (c) 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;
 - (d) if Ofcom is satisfied that the Licensee:-

Sections 44 (1) and 143 (4) of the 1996 Act

Section 43 (5) of the 1996 Act

- | | | |
|---------------------------------|------|--|
| | (i) | in purporting to comply with any of the Conditions of the 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 111 (5) 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 44 of the 1996 Act | (e) | 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 in relation to his holding of the Licence 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 42 (2) of the 1996 Act | (f) | if Ofcom ceases to be satisfied that the Licensee is a fit and proper person to hold the Licence; |

- Section 42 (7) of the 1996 Act (g) if the Licensee fails 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 imposed by or under Chapter 1 of Part 2 of the Communications Act.
- Section 44 (6) of the 1996 Act (4) Ofcom shall before serving a notice revoking the Licence or a notice under Condition [23 (2) (b)] notify the Licensee of and give the Licensee a reasonable opportunity to make representations to it about the matters constituting its grounds for revoking the Licence.
- Section 53 (5) of the 1996 Act (5) (a) Where the Licence is revoked pursuant to any provision of Part II of the 1996 Act or is treated as being revoked under Section 145 of the 1996 Act, the Licensee shall within such period as Ofcom shall notify to him, pay to Ofcom a specified financial penalty not exceeding £250,000 (or such other sum as the Secretary of State may by order specify under Section 69 of the 1996 Act).
- (b) The Licensee's liability to pay such penalty shall not be affected by the Licence ceasing (for any reason) to be in force.

Sections 144 and 145 of the (6)
1996 Act

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

PART I

**CONDITIONS RELATING TO DIGITAL
SOUND PROGRAMME SERVICES**

As of the Commencement Date the Licensee shall implement the proposals set out in response to Questions 9 and 10 in relation to the division of multiplex capacity, Question 11 in relation to the description of programme services, Question 16 in respect of target audiences, Question 17 in respect of ancillary services, and Question 19 in respect of encryption of services.

The Licensee shall make available to the BBC 128 kbits/sec for the provision of **BBC [LOCAL SERVICE]**.

The Licensee shall ensure that the following digital sound programme services shall be broadcast on the multiplex with effect from the Commencement Date or such other date as may be agreed in writing between Ofcom and the Licensee and throughout the Licence Period during the hours stated below [./with the exception of [FORMAT NAME] which shall commence no later than DD...MMM...YYYY or such other date as may be agreed in writing between Ofcom and the Licensee and throughout the Licence Period during the hours stated below.]

Digital	Sound	Times of Broadcast
Programme Services		

[FORMAT]	(DSPPS)	24 hours
provider:		

[COMPANY])

[PROGRAMME DESCRIPTION]

Approximately ***[...]*%**

music : ***[...]*%** speech

Unless specifically referred to as a requirement of the format of the digital sound programme service, the identity of the digital sound programme service provider does not form part of the description of the Licensed Service under this Licence.

Version of DD.MM.YYYY

PART II**CONDITIONS RELATING TO DIGITAL
ADDITIONAL SERVICES**

The Licensee shall implement the proposals set out in response to Questions 9 and 10 and Question 20.

PART III**CONDITIONS RELATING TO
IMPLEMENTATION OF THE TECHNICAL
PLAN**

The Licensee shall implement the transmitter assignments noted as ‘required’ in Part IV of this Annex by the dates indicated therein.

The technical characteristics of the transmissions as radiated should fulfil a reasonable proportion of the characteristics permitted (where this represents maxima) as set out in Part IV of this Annex, where “reasonable” includes that account is taken of practical circumstances applying at each transmitter site (e.g. practicable antenna location and design). This transmission should be maintained other than for periods of technical failure or maintenance requirements, the duration of which should not be unreasonably protracted. For the purposes of this condition, in relation to the power of any one transmitter, “reasonable” shall mean typically within 3 to 6 dB.

The digital sound programme services set out in Part I of this Annex shall be transmitted at the protection levels set out in Part IV of this Annex, or better.

The 128 kbits/sec reserved capacity for the BBC is net of related ancillary services (be it variable-length ‘X-PAD’ [extended programme associated data] or a linked sub-channel as defined in the technical standard) and net of capacity used for protection, but inclusive of the 0.667 kbit/sec of ‘fixed’ programme associated data (F-PAD) (0.334 kbit/sec for 24 kHz sampling), and inclusive of the 1.333 kbits/sec of short extended programme associated data (short X-PAD) (0.667 kbit/sec for 24 kHz sampling).

PART IV**DETAILS OF BROADCASTING STATIONS**

Details of radio transmission parameters by site, and multiplex/service identification codes.

PART V**CONDITIONS COMING INTO FORCE ON
THE DATE OF GRANT**

1. Condition 1 (Definitions and interpretation)
2. Condition 3 (Fees)
3. Condition 4 (V.A.T.)
4. Condition 5 (Transmission arrangements, technical standards and requirements)
5. Condition 7 (General provision of information to Ofcom)
6. Condition 9 (Powers of inspection)
7. Condition 11 (Fair and effective competition)
8. Condition 12 (Compliance with ownership restrictions)
9. Condition 13 (Transferability of the Licence)
10. Condition 14 (Compliance)
11. Condition 17 (Power of Ofcom to vary Licence Conditions)
12. Condition 18 (Notices)
13. Condition 20 (Exceptions and limitations on the Licensee's obligations)
14. Condition 21 (Interest on late payments)
15. Condition 22 (Sanctions for breach of Condition)
16. Condition 23 (Revocation)