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**Invitation to Apply for the Local  
TV Multiplex Licence**

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This document is a draft of Ofcom's Invitation to Apply for the Local TV Multiplex Licence. It is published now as part of the Licensing Local Television consultation process to provide information on Ofcom's current thinking, and comments are welcome.

Subject to consultation responses which we receive on local television, after the consultation has closed, Ofcom hopes to publish a final version of this Invitation to Apply. Given that Ofcom is currently consulting, and that Ofcom's thinking and final decisions will depend on feedback received under the consultation process, the final version may differ from this draft.

**NB.** The Orders referred to in paragraph 1.4 have not yet been passed by Parliament.

**Publication date:** 27 January 2012

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## Section 1

# Local TV Multiplex – Invitation to Apply

## Introduction

- 1.1 In accordance with section 7 of the Broadcasting Act 1996 (“The 1996 Act”) this document constitutes Ofcom’s invitation to persons wishing to apply for a licence to provide a local TV multiplex service. Ofcom is required to reserve a single 8 MHz channel of GI spectrum at each identified location, for the purpose of broadcasting local TV services using frequency blocks between channels 21 to 30 and channels 39 to 60. This licence is offered for a service designed to cover the UK, subject to frequency and transmitter siting constraints and will be granted for a period of up to 12 years, from the commencement of broadcasting.
- 1.2 In Section 1 we provide some background information on our approach to the award and the available spectrum. Section 2 describes the eligibility criteria for applicants, and in Section 3 we set out the assessment process and the criteria that will apply for the licence award. Finally Section 4 provides details on the licence draft terms and conditions that the successful applicant will have to abide by throughout the term of the licence.

## Background

- 1.3 *[This document adopts throughout the proposals set out in Ofcom’s Licensing Local Television consultation. Some changes may be incorporated as a result of feedback received by Ofcom through the consultation process. The final version of this ITA will be published alongside the consultation statement.]*
- 1.4 Following the Government’s decision to introduce a new sector of local digital television services<sup>1</sup>, three Orders have been passed by Parliament *[NB: these Orders are currently going through Parliamentary procedure. This document assumes that they will be passed by Parliament as currently drafted.]* They establish the required statutory framework within which local TV can be licensed:

1.4.1 The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2011

This Order is made under section 5 of the Wireless Telegraphy Act 2006 (and is referred to in this document as the ‘s.5 Order’).

It requires Ofcom to reserve a single 8MHz channel of geographic interleaved (GI) spectrum<sup>2</sup> at suitable sites across the UK for the purpose of broadcasting local TV. The capacity reserved will be sufficient to broadcast a local TV channel (‘video stream’) along with other services.

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<sup>1</sup>DCMS Consultations: <http://www.culture.gov.uk/consultations/8298.aspx>

<sup>2</sup> Geographic Interleaved spectrum refers to unused portions of spectrum amongst the frequencies used by the six UK-wide digital terrestrial television multiplexes.

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## 1.4.2 The Local Digital Television Programme Services Order 2011

This Order is made under Section 244 of the Communications Act 2003 (and is referred to in this document as the 's.244 Order'). It modifies the Broadcasting Act 1996 and the Communications Act 2003.

It sets out the statutory framework for licensing local services.

## 1.4.3 Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order 2011

This Order is made under Section 310(5) of the Communications Act 2003 (and is referred to in this document as the 's.310 Order'); it modifies the Communications Act 2003.

The Order adds local digital television services licensed under the s.244 Order to the Code of Practice on Electronic Programme Guides specified in the Communications Act. The effect is to make such local television services eligible for appropriate EPG prominence in recognition of their meeting public service broadcasting purposes.

- 1.5 Under the powers conferred by the Broadcasting Act 1996 (the "1996 Act") and the Communications Act 2003 (the "2003 Act") as amended by the s.244 Order, Ofcom has been given the power to implement a new licensing regime, including the award of a licence to use reserved G1 spectrum, with the primary aim of providing local digital television services at different locations across the UK.
- 1.6 Specifically, the s.5 Order requires Ofcom to reserve sufficient spectrum for the broadcasting of one standard definition local digital television service and two further digital television programme services at each identified location across the UK.
- 1.7 The capacity that is not used for providing local digital television services can, subject to normal licensing requirements, be used by the licensee on a commercial basis.

## Summary of this Notice

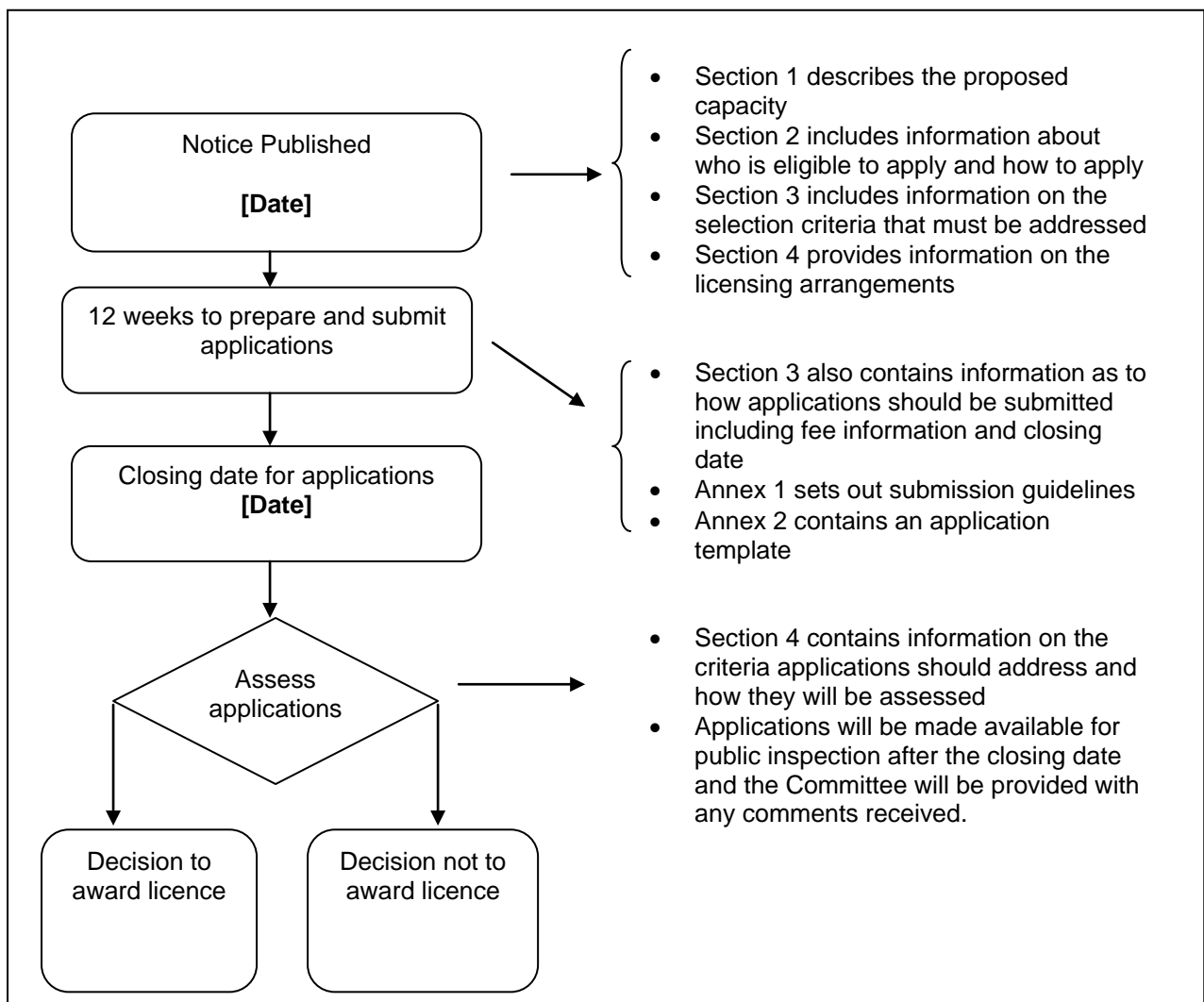
- 1.8 Further to the s.5 and s.244 Orders described above, Ofcom is now exercising its powers and obligations by publishing today on our website this Notice in writing for the purposes of bringing it to the attention of all persons to whom it may be of interest. We are therefore inviting applications from organisations to operate a multiplex service carrying local television programme services using G1 spectrum.
- 1.9 The remainder of this Notice specifies details provided for the purpose of making such applications (including about the proposed capacity and coverage area) as well as requirements that applications must meet to comply with the Orders. We also draw applicants' attention to certain licensing information to be taken into account when making their applications, although applicants should seek their own legal advice for this purpose.
- 1.10 The closing date for receipt of completed applications will be *[to be confirmed in final ITA.]* Applicants are referred to Section 2 and the Annexes for further submission

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details. A fee of £10,000 will be payable for each application submitted. This fee will not be refundable in any circumstances.

- 1.11 All non-confidential aspects of applications will be published on our website ([www.ofcom.org.uk](http://www.ofcom.org.uk)) for public inspection after the closing date.
- 1.12 If the applicant intends to apply for BBC funding, then it should note and provide consent for confidential submissions to be shared as necessary with the BBC Trust in order to establish the applicants' eligibility for funding. Applicants should also note that the BBC Trust may share confidential information with Ofcom for the purposes of assessing applications for funding. Any decision the BBC takes in relation to willingness to provide funding for potential applicants will be taken into account in Ofcom's final decision.
- Figure 1 below summarises the process that will apply following the publication of this Notice.

**Figure 1: Application process overview**



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## Alterations and disclaimer

- 1.13 Ofcom reserves the right to alter or correct any part of this Notice at any stage before the closing date for applications. Any additional documents referred to in this Notice may also be amended from time to time. Any such alterations, corrections or supplementary information will be made available on our website [www.ofcom.org.uk](http://www.ofcom.org.uk)
- 1.14 The information given in this Notice is not an exhaustive account of the statutory and licensing requirements and should not be regarded as a complete and authoritative statement of the law. Nor does any information we issue whether in this Notice or elsewhere, imply any judgement by us as to commercial prospects for the applications, or that licensed services will be profitable.
- 1.15 Persons wishing to apply for the award of the reserved capacity for the purposes of this Notice must make their own independent assessment after taking their own professional advice and making such further investigations as they deem necessary on all relevant matters.
- 1.16 We make no representation or warranty, expressly or implied, with respect to information contained in this Notice (together with other documents referred to in this Notice as well as any other information we publish related to matters relevant to this Notice, including such information that we may publish in relation to applications received) or with respect to any written or oral information made or to be made available to any potential applicant or its professional advisors. Any liability therefore is expressly disclaimed and we do not therefore accept liability for any losses, expenses or damage otherwise suffered or incurred as a result of preparing any applications bases on or pursuant to this Notice or otherwise relying on information set out herein, whether or not applications are submitted, and whether or not they are successful.

## General Matters

- 1.17 In July 2011 the Government published its consultation, *A New Framework for Local TV in the UK, Local TV: Pioneer Sites*. In that document Government set out its policy objectives for establishing local TV services and sought views from stakeholders.
- 1.18 This was followed in August 2011 with an Ofcom publication '*Indicative Locations for Local TV*'. This document provided a technical assessment of how local TV could be established at up to 65 different locations across the UK using geographically interleaved (GI) spectrum.<sup>3</sup>
- 1.19 In carrying out that assessment, we made certain assumptions around the technical planning requirements necessary to support local TV at these locations. These assumptions have informed much of the preliminary analysis we have undertaken,

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<sup>3</sup>GI spectrum is spectrum that is unused by the national DTT broadcasters.

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including an independent analysis that we commissioned from consultants FTI<sup>4</sup> of the commercial viability and sustainability of a local TV multiplex licensee's business.

- 1.20 FTI's work identifies that the number of locations that might be viable varies considerably depending upon the business model proposed by the local TV multiplex operator and whether external funding is available.
- 1.21 The Government and the BBC have agreed that up to £25m will be available from the licence fee settlement to fund transmission for local TV. The main principles of the BBC's proposed funding arrangements for the local TV multiplex operator are set out in the most recent DCMS publication *Local TV: Making the Vision Happen*<sup>5</sup>. The BBC Trust will have oversight of the funding, and a responsibility to ensure value for money.

## Coverage and rollout requirement

- 1.22 In our consultation<sup>6</sup> we proposed a minimum coverage requirement of 20 locations.
- 1.23 However, we also consider that applicants are likely to be able to develop business models that could support a greater number of locations. We have identified 24 further locations where it would be technically feasible to provide a local TV service and there is evidence of interest to provide services or a demand for them. The full list of 44 sites is set out at paragraph 1.40 of this document. It may be possible to provide local services at other locations too (and we have also previously published a technical analysis indicating that local TV coverage could be technically possible at up to 65 locations.)<sup>7</sup> Proposals by applicants to adopt additional locations above the minimum requirement will be taken into consideration by Ofcom when assessing applications.
- 1.24 Applicants must provide details in their applications of how they propose to satisfy requirements for coverage and roll-out of local TV services. See Section 4.
- 1.25 The technical planning information presented in this Invitation to Apply is based upon certain technical assumptions, such as the availability of space on the broadcast masts at a certain height to carry local TV antennas. These assumptions have aimed to be conservative so as not to overstate the coverage that might potentially be achieved. Applicants can base their applications upon these assumptions, but must engage with transmission companies to develop their own technical plans.
- 1.26 In particular, it may be possible to improve coverage significantly in some locations by adopting an alternative DTT transmission arrangement (for example operating further up the mast or using different antenna patterns). Ofcom is willing to accept alternative proposals that improve upon the indicative coverage provided, although these will need to be assessed by Ofcom against the requirement not to materially

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<sup>4</sup> FTI Report: <http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Annex6.pdf>

<sup>5</sup> DCMS statement: [http://www.culture.gov.uk/images/consultation\\_responses/local-tv\\_making-the-vision-happen.pdf](http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf)

<sup>6</sup> Licensing Local TV: <http://stakeholders.ofcom.org.uk/consultations/local-tv/>

<sup>7</sup> Indicative Locations for Local Television Multiplexes: <http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf>

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increase the interference experienced by other multiplexes and that they conform to international agreements.

- 1.27 It is also possible that it may not in practice be possible to build some of the sites either owing to practical constraints on a particular site or because it is not possible to achieve international clearance to operate in some locations. Applicants should therefore apply relevant sensitivity tests in the business plan to provide a margin in the event of a reduction of coverage, or delay in roll-out of the transmission plan.
- 1.28 Pursuant to our spectrum management duties which have to take into account a wide number of considerations, changes to or deletions from any provisionally agreed frequency plan could occur after the award of the licence has taken place. Although the likelihood of this is low over the next few years, there could be changes to the use of the UHF band in the longer term that may result in Ofcom having to change or even revoke some of the frequency assignments for the local multiplex. This is necessary both in terms of the statutory limits placed on the reservation of spectrum for local TV services (see 4.34 and 4.35 below) and in order to give certainty to the relevant local TV service providers as to when they will be able to launch their services. It is for the applicant to form its own view, taking such professional advice as it considers necessary, as to the likelihood of such changes or deletions occurring. Further details are provided in section 4 of this document.

## Licensing

- 1.29 The Orders described in paragraph 1.4 above provide, inter alia, the statutory framework which will empower Ofcom to licence local digital television services (both the individual programme services, and the multiplex(es) on which they will be carried), and for Ofcom to make spectrum available in specified areas. Ofcom is now inviting applications to apply for a single local multiplex licence to provide a local multiplex service in various locations in the UK.
- 1.30 The s.244 Order creates a class of licences called 'local digital television programme service' (L-DTPS) licences and also modifies existing legislation to create a local multiplex licence. The legislation states that the latter means a multiplex service for the broadcast of the former.
- 1.31 The process for awarding the first L-DTPS licences will operate separately from the award of the multiplex licence, but both will happen simultaneously. These L-DTPS licences will be advertised for the Phase 1 locations that determine the minimum coverage obligation for the multiplex operator. Subsequent L-DTPS licences will be advertised for the areas where the successful applicant for the local TV multiplex licence commits to extending its coverage.
- 1.32 Ofcom will award the local TV multiplex licence in an open competitive process, details of which are set out in Section 3. Applications will be assessed by a Committee that will have delegated authority from the Ofcom Board to discharge its functions in relation to matters covered by this Notice. Once established, terms of reference for the committee and its membership will be published on the Ofcom website.

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- 1.33 The Orders set out that at each location, sufficient capacity is to be made available for carrying three services, one of which must be available to carry the local digital programme service. There will be a mutual dependency in the form of an obligation on the local TV multiplex operator to carry a nominated local TV service at each location it serves. Similarly, the local TV service provider will be under an obligation to provide a video feed at each location for carriage by the local TV multiplex operator. The local TV multiplex operator will be able to utilise the remaining capacity that is not required to broadcast local services (sufficient to accommodate two video streams) on a commercial basis.
- 1.34 Other licence conditions will oblige the local TV multiplex operator to co-operate and co-ordinate with the local TV service providers (which will be under a mirror condition placed in the L-DTPS licences) and any other appropriate body as directed by Ofcom, in the interests of promoting and extending the provision of local television services across the UK.
- 1.35 The local TV multiplex licence will be issued for a term of twelve years starting from a date to be agreed with the licensee on which the service will commence. This commencement date must be not later than *[date to be included in final ITA]* Further discussion on the licence term, including our ability to issue an early termination notice is set out in section 4 of this document.
- 1.36 The licence will be awarded by Ofcom in the manner set out in this Invitation to Apply. Ofcom may, having assessed the applications received, decide not to award a licence.
- 1.37 Ofcom may also seek to include in the licence any commitments made by the successful applicant that Ofcom considers are necessary for the provision of the licensed service as offered as part of the application process. These will include:
- Timetable for building the required minimum 20 locations – Phase 1
  - Commitment to building additional locations – Phase 2
  - Proposals for promoting and supporting local TV

## Locations and coverage area

- 1.38 Under section 7 of the 1996 Act (as amended) in publishing proposals to award a multiplex licence, Ofcom is required to specify the frequencies on which the services will be provided and the locations where the frequencies will be available.
- 1.39 The s.5 Order lists those frequencies used for television broadcasting and from which Ofcom is required to reserve a single 8 MHz channel of G1 spectrum at each identified location, for the purpose of broadcasting local TV services. They are as follows:

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<i>Broadcasting channel number</i>	<i>Frequency range (MHz)</i>
21	470 to 478
22	478 to 486
23	486 to 494
24	494 to 502
25	502 to 510
26	510 to 518
27	518 to 526
28	526 to 534
29	534 to 542
30	542 to 550
39	614 to 622
40	622 to 630
41	630 to 638
42	638 to 646
43	646 to 654
44	654 to 662
45	662 to 670
46	670 to 678
47	678 to 686
48	686 to 694
49	694 to 702
50	702 to 710
51	710 to 718
52	718 to 726
53	726 to 734
54	734 to 742
55	742 to 750
56	750 to 758
57	758 to 766
58	766 to 774
59	774 to 782
60	782 to 790

- 1.40 Ofcom has published technical information on the coverage that might be achieved by the local TV multiplex at 44 locations in the Coverage Note that accompanies this Invitation to Apply. However, not all frequencies will be available for use at every location. Details of the frequencies initially identified for use to provide the local TV multiplex service appear in the Coverage Note.
- 1.41 We have categorised the 44 locations into two groups: an initial 20 locations which will form the minimum multiplex coverage area which we refer to as 'Phase 1' and 24 additional locations from which the applicant can choose to commit to building additional transmitters, which we refer to as Phase 2.
- 1.42 The table below lists the 44 locations included in Phase 1 and Phase 2 of the build-out programme. *[The number of locations, the list of locations and the phasing of*

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*those locations reflect proposals set out in Ofcom's Licensing Local Television consultation and are therefore subject to change as a result of feedback received by Ofcom through the consultation process.]*

**Table 1: Primary and secondary conurbations within local areas**

<b>Primary Location</b>	<b>Area also includes</b>
<b>Phase 1</b>	
Belfast	Lisburn
Birmingham	Part of Wolverhampton, Walsall, Dudley
Brighton & Hove	
Bristol	
Cardiff	Newport, Bridgend
Edinburgh	
Glasgow	East Kilbride, Motherwell, Paisley
Grimsby	parts of Kingston upon Hull
Leeds	Dewsbury, Halifax, Huddersfield, Wakefield
Liverpool	St Helens, Widnes, Wigan, Wirral
London	Greater London area
Manchester	Bolton, Bury, Oldham, Rochdale, Salford, Stockport
Newcastle	Gateshead, South Shields, Sunderland
Norwich	
Nottingham	
Oxford	Abingdon, Didcot
Plymouth	
Preston	Blackpool
Southampton	Eastleigh, Fareham, parts of Isle of Wight, parts of Portsmouth, Winchester
Swansea	Llanelli

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Primary Location	Area also includes
<b>Phase 2</b>	
Aberdeen	
Ayr	Kilmarnock
Bangor	
Barnstaple	
Basingstoke	
Bedford	Sandy
Cambridge	
Carlisle	
Derry/Londonderry	
Dundee	Arbroath, Perth
Guildford	parts of Woking
Hereford	
Inverness	
Kidderminster	
Limavady	parts of Ballymoney & Coleraine
Luton	
Maidstone	
Malvern	
Mold	Denbigh, Ruthin
Salisbury	
Sheffield	parts of Rotherham
Stoke on Trent	Newcastle under Lyme
Stratford upon Avon	
York	

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- 1.43 Applicants must include proposals for the provision of a local TV multiplex at each of the 20 Phase 1 locations in their Technical Plan together with a schedule specifying the dates from which they anticipate each location being ready to start broadcasting. **The list of Phase 1 locations represents a minimum coverage obligation and will be included in the successful applicant's licence along with the build-out schedule.**
- 1.44 The L-DTPS licences will be awarded at the same time as the award of the local TV multiplex licence and we expect that the multiplex operator will liaise with the successful L-DTPS licensees (the local TV service providers), to ensure that as far as possible, services can begin broadcasting in accordance with the anticipated schedule.
- 1.45 Applicants should also set out proposals for the number of additional locations where they propose to establish the local TV multiplex. These additional locations can be taken from the 24 additional locations set out under Phase 2 in the table above.
- 1.46 Applicants may also suggest other locations in addition to those in the list of 24 if supported with evidence of technical feasibility and interest from potential local TV service providers.
- 1.47 Should it not be possible for Ofcom to license a local content provider in a particular location for either Phases 1 or 2, then we reserve the right to substitute an alternative location on a 'like for like' basis – i.e. locations would be of a similar population size and be chosen to support the geographic spread of local TV services. Substitution of locations would take place through a licence variation, the process of which will be set out in the licence.
- 1.48 The Coverage Note<sup>8</sup> provides an indication of the coverage that could be achieved at each location based upon certain technical assumptions. The modelling aims to provide a conservative, but achievable estimate of the likely coverage in each location. One key assumption is that broadcasting antennas will be mounted at half mast height. We have chosen this assumption as in many cases it will not be possible to share the main transmitting antenna mounted at the top of the masts as the local multiplexes will often have to respect power restrictions in certain directions to avoid interference to the UK-wide multiplexes.
- 1.49 The actual coverage that could be achieved may vary from these figures depending upon the actual technical arrangement that the local TV multiplex licensee is able to put in place. The transmission arrangements proposed by the applicant should at least meet the levels of coverage set out in the Coverage Note.
- 1.50 Applicants are free to propose alternative technical planning proposals after consultation with their transmission company on what it is practical to build. For example, it may be possible to achieve greater coverage if it is possible to mount the transmitting antenna higher than half mast height. In such cases the applicant will

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<sup>8</sup>Local TV Coverage Note:

[http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Note\\_on\\_Local\\_TV\\_coverage.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Note_on_Local_TV_coverage.pdf)

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need to satisfy Ofcom that any alternative proposals do not result in a material increase in interference to the other multiplexes.

- 1.51 Based on initial planning figures, we estimate that a network comprising the initial 20 locations could achieve a total coverage of up to 42% of UK households. As noted above, it may be possible to increase this figure through optimisation of actual transmission characteristics.

## Proposed transmission and coding technologies

- 1.52 In choosing transmission parameters there are a number of balances to be struck between coverage, capacity and compatibility with receivers. Any new service making use of GI spectrum has the potential to cause interference to other DTT services. It is therefore desirable to keep transmitter powers modest to minimise the impact on the other multiplexes. This will also have the effect of minimising operating costs.
- 1.53 The DVB standards used in the UK for digital television feature a wide variety of signal modes to suit differing circumstances. The newer standards such as DVB-T2 and MPEG-4 offer both good capacity and efficient encoding of video signals which maximises the number of services that could be carried within a multiplex. There are further advantages in that DVB-T2 Free view HD receivers all come with the capability to connect to the internet which may assist in bridging the transition from DTT to IP delivery for local services.
- 1.54 However, although the number of receivers that can receive the newer DVB-T2 signals is increasing in the UK<sup>9</sup>, most DTT receivers are still only compatible with the older DVB-T standard still used by five of the six UK-wide multiplexes. To maximise the chance that households will be able to receive the local services, we propose that the local TV multiplex uses DVB-T rather than DVB-T2 signals. For the same reason, video encoding should be MPEG-2 rather than the newer MPEG-4.
- 1.55 QPSK has not been used in the UK previously for DTT transmission of the national DTT multiplexes. Although all DTT receivers should be able to receive QPSK signals, manufacturers do not routinely test every signal mode. We have therefore commissioned the DTG to test the compatibility of DTT receivers with QPSK signals *[The report will be published during February 2012 and the conclusions will be summarised in the final version of this ITA]*
- 1.56 Local TV multiplexes will be required to use the rugged XXX *[rate XX to be confirmed following consultation]* modulation mode which offers good coverage for the local multiplexes and sufficient capacity to accommodate up to three video streams. **This requirement will be included as a licence condition.**
- 1.57 The local TV multiplex licensee will also need to ensure that its services are compatible with the technical arrangements described in the *Reference parameters for Digital Terrestrial Transmissions in the United Kingdom*<sup>10</sup>. This includes a

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<sup>9</sup>There are estimated to be 3m DVB-T2 receivers in UK homes (add date/source)

<sup>10</sup>[http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt\\_uk.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt_uk.pdf)

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requirement to cross-carry Service Information with the other DTT multiplexes to ensure reliable operation of the DTT EPG on viewers' receivers.

- 1.58 Further information on the Technical Standards to be adopted by the local TV multiplex licensee is provided in Section 2.

### After Award of Licence

- 1.59 Licence conditions will oblige the local TV multiplex operator to assist in the development and expansion of local TV. We expect there will be occasions where the multiplex operator will be approached by local TV service providers to extend coverage to alternative sites other than those to which it has committed.
- 1.60 In such instances, under a licence condition which can be imposed under the s.244 Order, the local TV multiplex operator is required to facilitate any extension of coverage that is requested by a local TV service provider, as long as the local TV service provider meets the cost of extending coverage. Extension of local TV coverage in this way would be reflected in the licence through a licence variation.

### Additional Frequencies

- 1.61 In addition to the locations identified in the Technical Plan, it is expected that the local TV multiplex licensee will have an ongoing role in identifying potential additional locations in order to extend the network of local digital television services.
- 1.62 The local TV multiplex licensee may itself wish to initiate an increase in coverage. Alternatively, the s.244 Order sets out a requirement for the multiplex licensee to facilitate extending the network of local television services by working with such persons wishing to provide local services in different locations.

### Extension of areas – requests by the multiplex operator

- 1.63 Post licence award, the local TV multiplex operator may wish to extend coverage beyond that set out in the Technical Plan. Coverage extension might take the form of increasing the coverage of the service in existing areas (perhaps due to being able to secure a better position upon the broadcast mast than anticipated) or through building supplementary relay transmitters.
- 1.64 The local TV multiplex operator may alternatively wish to target additional areas, perhaps in response to an evolution of its business plan.
- 1.65 Ofcom will consider requests from the local TV multiplex operator for extensions to coverage taking into account the impact on other spectrum users (e.g. interference to other DTT multiplexes) and also on local TV service providers. In the latter case, we will need to consider if the increase in coverage represents a natural extension of an existing area (with an existing local TV service provider carried in the extended area) or whether the extension results in a material difference to the originally licensed service, in which case it may be appropriate to consider an award for a separate local TV service provider. For example, extension of coverage of a town to a county-wide service might be acceptable, whereas increasing overspill into an adjacent

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conurbation where another local TV service provider is operating might not be acceptable.

- 1.66 Reservations of additional frequencies must have completed by the end of 2018. After that time, the obligation on Ofcom to make spectrum available for use of local TV services will cease.
- 1.67 The local TV multiplex operator should also bear in mind the cost implications to the local TV service provider of extending coverage. Carriage fees are dealt with in section 4.

### **Extension of areas – requests by local TV service providers**

- 1.68 The s.244 Order makes provisions for the situation where the local TV service provider might wish to increase coverage beyond what the local TV multiplex operator is obliged to provide in the Technical Plan<sup>11</sup>.
- 1.69 This may be through the extension of coverage at sites proposed by the multiplex operator, or through the building of relay transmitters to fill in coverage in otherwise un-served areas.
- 1.70 Ofcom will consider applications for extension of coverage from a local TV service provider through the local TV multiplex operator and take the same considerations set out above into account.
- 1.71 In the event that coverage is extended either in response to requests originated by the local TV multiplex operator or the local TV service provider, the new coverage area will be formalised as an update to the Technical Plan and added to the multiplex licence as a licence variation.

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<sup>11</sup> Section (7)(m) and (n)

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## Section 2

# Technical Requirements

## Technical Standards

The technical standards applicable to local TV multiplexes are set out in the following paragraphs.

- 2.1 The Ofcom document “*Reference Parameters for Digital Terrestrial Television Transmissions in the United Kingdom*”<sup>12</sup> describes the currently applicable transmission standards used by all licensees providing a service under an Ofcom Multiplex Service Licence issued under the Broadcasting Act 1996. It describes a reference system for digital terrestrial television transmissions and specifies the minimum necessary to ensure that DTT receivers can demodulate and decode all services.
- 2.2 Local TV multiplex licensees must ensure that their transmissions are compliant with the requirements set out in the *Reference Parameters* in order to maximise the likelihood that the local services will be received by existing receivers and to minimise the possibility that the local multiplexes will cause difficulties to viewers’ receivers.
- 2.3 While the *Reference Parameters* set out a set of minimum requirements, compliance with the *Reference Parameters* does not in itself guarantee compatibility between broadcast signals and receivers. In particular, some elements of the broadcast chain lie outside Ofcom’s regulatory locus and we do not therefore have any basis upon which we can impose formal requirements.
- 2.4 Industry bodies have done much work since before the introduction of digital television in the UK to seek to ensure compatibility throughout the broadcast chain, including those areas that lie outside the *Reference Parameters*. In particular, applicants should be aware of a publication produced by the Digital Television Group (DTG) entitled ‘*Digital Terrestrial Television, Requirements for Interoperability*’<sup>13</sup> (The D-Book). The D-book sets out requirements for the entire signal chain from production through to domestic receivers.
- 2.5 Equipment manufacturers and the existing multiplex operators have used the D-Book as the basis of developing their services and products for many years. Multiplex operators should therefore ensure that their services are compliant with the requirements of the D-Book to ensure that the local multiplexes are compatible with these established standards. Otherwise there is a risk that the new services will not be receiveable or might cause receivers to malfunction which could threaten reception of other multiplex services.

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<sup>12</sup>[http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt\\_uk.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/dttt_uk.pdf)

<sup>13</sup> The D-Book is available to members of the DTG, details are available at [www.dtg.org.uk](http://www.dtg.org.uk)

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## Transmission signal format

- 2.6 The *Reference Parameters* were developed with the requirements of Digital Switchover and UK-wide multiplexes in mind. In particular, the Modulation and Channel Coding parameters are key considerations as they have a direct impact upon the coverage and capacity of the multiplexes. One of the Government's criteria for switchover was that the public service broadcaster programmes must continue to be available to the same number of households after switchover as could receive them in analogue form (estimated to be 98.5% of households). As there is a direct trade-off between the coverage and capacity that a digital multiplex can achieve, work was carried out to identify a transmission mode that would maximise the capacity available within the Government's coverage constraint. The UK-wide multiplexes are therefore adopting variants of either 64QAM DVB-T or 256 QAM DVB-T2 modes.
- 2.7 As the coverage objectives for local multiplexes are somewhat different to the UK-wide multiplexes, it is appropriate to review the choice of transmission mode. In particular it is desirable for transmitter powers to be modest in order to minimise the effect of interference upon the UK-wide multiplexes and also to keep operating costs reasonable. To provide the opportunity for the multiplex operator to earn additional income, the multiplex should nevertheless offer sufficient capacity to accommodate more than one videostream.
- 2.8 In view of the balance between the coverage that a local service might achieve and the additional capacity that is available to the multiplex operator, the local multiplexes should operate using *[DVB-T QPSK XX - final mode to be determined following consultation. Ofcom will be publishing further research and a proposed mode prior to the closing of the consultation]*. QPSK modulation provides a robust signal and good coverage with the planned transmitter powers while offering sufficient capacity for two videostreams in addition to the local service. Applicants can suggest alternatives if they are able to provide evidence that coverage will be at least that indicated in this Coverage Note and that there will be no material increase in the impact on coverage of the UK-wide multiplexes.
- 2.9 Neither the *Reference Parameters* nor the *D-Book* currently include *[DVB-T QPSK XX]*. In the longer term we intend carrying out a revision of the *Reference Parameters* and will consider whether to add the QPSK mode and possibly others in consultation with directly affected stakeholders. In the short term, the *Reference Parameters* contains flexibility for multiplex operators to adopt alternative modes by prior agreement with Ofcom.
- 2.10 We have been in discussion with DTG over the inclusion of alternative modes within the *D-Book* with the aim that the intended mode be included in the *D-Book* in due course.
- 2.11 QPSK is one of the permitted signal modes set out in the specifications for digital terrestrial television in Europe. It has not been used in the UK for a full-time broadcast service before and, although all existing receivers should be compatible with QPSK signals, applicants should be aware that not all receivers are in practice able to decode QPSK signals. We have commissioned DTG Testing to carry out tests of the compatibility of all of its extensive collection of receivers with QPSK

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signals. *[Report to be published in February 2012 and the results will be summarised in the final version of this ITA]*

## Multiplex capacity

- 2.12 The choice of transmission signal mode determines the capacity within a DTT multiplex. There is a direct trade-off between capacity and coverage for a given transmitter power and choice of a mode offering greater capacity reduces signal robustness (and hence coverage).
- 2.13 The s.5 Order requires that the multiplex has sufficient capacity to accommodate three video services. In order to inform the decision on an appropriate signal mode, Ofcom has commissioned some research into the capacity that is necessary to support three videostreams within a modest capacity multiplex. *[Report to be published in February 2012 and conclusion summarised in the final version of this ITA]*
- 2.14 The Ofcom document “Data limits on digital terrestrial television multiplexes<sup>14</sup>” provides guidance on the currently applicable data limits for DTT multiplexes. Local multiplexes will not be subject to the same limit on the amount of data that they can carry as the limit imposed upon the UK-wide multiplexes under section 12(b)(h) of the Broadcasting Act 1996 have been disapplied by the s.244 Order that establishes the licensing regime for local television services. The capacity that is not needed to broadcast the local service and Service Information is therefore available for the multiplex licensee to use flexibly

## Out of band emissions

- 2.15 The level of out of band emissions must be contained within the limits set out in Section 4 of *UK Interface Requirement 2022 for broadcast transmitters operating in frequency bands administered by Ofcom*<sup>15</sup>. These channels can be offset to minimise interference to or from adjacent multiplexes as set out in IR2022. For local multiplexes that use the ‘band edge’ channels (21, 30, 39 or 60), the centre frequency of the multiplexes may be offset away from the band edge as described in IR2022 where adjacent channel usage permits, or in the cases where an existing adjacent UK wide multiplex is not offset, critical mask filtering will need to be applied.

## Planning and building a network

- 2.16 The transmission characteristics set out in Annex 1 of the accompanying Coverage Note provide a starting point for designing a network of local television multiplexes. The coverage illustrations are based upon notional antenna heights and antenna patterns and serve to provide an indication of the kind of coverage that could be achieved in various locations. Applicants will need to engage with transmission specialists to develop detailed proposals for the actual network that they propose to build.

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<sup>14</sup><http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/tech-guidance/guidance.pdf>

<sup>15</sup>[http://www.ofcom.org.uk/radiocomms/ifi/tech/interface\\_req/ir2022.pdf](http://www.ofcom.org.uk/radiocomms/ifi/tech/interface_req/ir2022.pdf)

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- 2.17 Choices such as the location of the transmitter and the height of the transmitting antenna and its pattern will have a significant influence on the coverage that might be achieved by a local multiplex. Obtaining confirmation from transmission specialists of the transmission arrangements that could be built is therefore a key task for the applicants and feeds directly into applicant's Technical Plan.
- 2.18 *[Ofcom has requested that Arqiva provides Reference Offers for Network Access and Managed Transmission Services for the 44 Phase 1 and Phase 2 locations. These are expected to be published during February 2012 and will provide an indication of the actual availability of space on the mast for additional antennas to carry local television services. Applicants will nevertheless be at liberty to propose alternative transmission arrangements that Ofcom will consider against the requirements to serve at least the minimum locations and not to materially impact on the reception of the UK-wide multiplexes.]*
- 2.19 In some locations it may be possible to share antennas with the UK-wide multiplexes. Whether this will be possible will require a site by site analysis of the infrastructure that is already on site and comparison with the requirements of the local multiplex.

### Choice of transmission company

- 2.20 Applicants will need to engage with a transmission company to produce detailed technical proposals for inclusion in the applicant's Technical Plan. Applicants can engage with the transmission company of their choice to provide managed transmission services. Applicants can produce proposals based upon the coverage plans set out in Section 3 and Annex 1 of the Coverage Note or may suggest alternative arrangements, so long as the core areas remain the same and coverage is broadly equivalent, or exceeds that shown in the indicative coverage maps.
- 2.21 If alternative transmitter sites are proposed that are not collocated with the UK-wide multiplexes, the applicant should set out how they propose to deal with any cases of interference to reception to other DTT services that may arise due to adjacent channel interference or receiver blocking.

### RBL remedial works

- 2.22 The PSB multiplexes use an extensive network of relay transmitters to extend the coverage of their main transmitters to areas that would otherwise be un-served by the main transmitters. There are over 1,000 relay transmitters that serve approximately 9% of the population.
- 2.23 Most relay transmitters receive signals from a main transmitter or other relay, which they boost and transmit to households in the coverage deficiency. It is important that the signals coming into the relay transmitters (known as Re-Broadcast Links or RBLs) are substantially free from interference.
- 2.24 New services making use of G1 spectrum have the potential to increase the amount of interference to RBLs and we have asked the planners to carry out an assessment of whether there is likely to be any material impact upon planned RBLs. *[This information will be published in the final version of this ITA].* The local multiplex

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licensee will be liable for remedial works to any RBL that is predicted to be degraded below the broadcasters' normal operating thresholds.

## Interface with Local Content Operator

- 2.25 Applicants should assume that the interface point for insertion of the local service will be at the relevant transmitter site unless otherwise agreed with the local TV service provider.
- 2.26 The interface shall be to an appropriate industry standard for which equipment is readily available at reasonable cost.

## Bringing transmitters on air

### Test transmissions

- 2.27 The local TV multiplex licensee will need to comply with the *Ofcom Guidance Note on Test Transmissions*<sup>16</sup> when bringing transmitters into service. The Guidance Note sets out the procedure for bringing a transmitter on air for the first time.

## Impact on reception of other DTT multiplexes

- 2.28 Transmission characteristics for the local TV multiplexes have been chosen with the aim of minimising any impact on reception of the UK-wide multiplexes. As set out in Section 2 of the Coverage Note, there remains a possibility that a small number of households might experience a change in reception of an existing multiplex when a local TV transmitter enters service. Examples of where this may occur are if affected households are:
- using equipment that falls below the standard assumed by the planning model (e.g. aerials are not of good quality and mounted outside at the appropriate height)
  - receiving signals from a different transmitter to that predicted in a coverage overlap area
- 2.29 Affected households may experience a reduction in the quality of their reception of one multiplex. In extreme cases they may experience a complete loss of reception of that multiplex. In the examples above, it should be possible to restore reception by making changes to receive aerials – either to bring them up to the required standard or to install an aerial pointing at the appropriate transmitter.
- 2.30 The local TV multiplex licensee will be responsible for managing the impact of its services upon reception of the UK-wide multiplexes. Should cases of interference arise during the testing or putting into service of a local TV transmitter, the local TV multiplex licensee should ensure that it is able to provide information on restoring reception for those affected households. This should be achieved through the

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<sup>16</sup> Document to be made available on Ofcom website when available

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provision of a contact number and sufficient resources to be able to provide advice to viewers. For the avoidance of doubt, the licensee will not be liable for the cost of any remedial aerial work.

## **Retuning information for viewers**

- 2.31 Viewers of digital television services rely upon the information contained within the Electronic Programme Guide (EPG) to be able to navigate between programme services, to browse through schedule information to find out what programmes are on and when and also to set recording equipment. While many recent receivers are able to detect when new services begin broadcasting and automatically add them to the channel listings, a large proportion of the receivers already in homes need to have a manual channel scan initiated to enable them to find new services.
- 2.32 The procedure for initiating a channel scan is fairly straightforward; usually a few button presses for which details are given in the instructions for every receiver. However, some viewers will need help to carry out this operation. As a minimum, viewers would at least need to be informed when the new services have launched and be informed that they should carry out a channel scan on their receivers. If this is not done, the local TV services and any other services carried in the local TV multiplex will not appear on many viewers' receivers and the potential audience for the new services be greatly reduced.
- 2.33 The local TV multiplex operator should therefore make plans for providing information for viewers on the need to carry out a channel scan at the time the new services launch. This duty may be discharged in partnership with the local TV content providers through (for example) local publicity campaigns to raise awareness of the presence of the new services.

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## Section 3

# Eligibility and application requirements

## Persons to whom a licence may be awarded

- 3.1 The s.244 Order does not place limits on whom Ofcom may award the local TV multiplex licence; only that the person or body be a legal entity. Therefore the award of the local TV multiplex licence is open to all persons who may be interested in running a multiplex operation using GI spectrum as long as they are appropriately able to satisfy the eligibility criteria.

## Closing date for receipt of applications

- 3.2 The closing date for the receipt of applications complying with the application requirements set out in paragraphs 2.8 to 2.11 below will be **17.00** on the ***[to be confirmed in the final ITA.]*** We reserve the right to determine as invalid and give no consideration to any applications received after the closing date.
- 3.3 It is the applicant's responsibility to ensure that any application submitted is complete and conforms fully to the application requirements. While we may require applicants to furnish additional information about their proposals, applications may neither be amended, nor new material introduced, once we have received them (see Section 3 for further information about the assessment process).

## Non-refundable fee payable for applications

- 3.4 Section 7(1)(e) of the 1996 Act requires that Ofcom set the fee payable on application for a multiplex licence. Ofcom has determined that a fee of £10,000 must accompany any application for the local TV multiplex licence. This fee will not be refundable in any circumstances, including whether or not the application is successful.
- 3.5 Payment of the application fee must also be received (i.e. the funds must be present in our bank account) by the closing date specified in paragraph 2.2 of this Notice.
- 3.6 Applicants may submit their payment by either of the following methods:
- Payment by BACS into the Ofcom bank account (sort code 30-97-90, account number 00740372, account name: Ofcom.) Please note that any payments made using this method may take at least three working days to reach the account.
  - Payment by CHAPS into the Ofcom bank account (details as above). Please note that, although this is a 'same day' payment method, applicants intending to submit their payment on the closing date itself should confirm with their bank the deadline for ensuring that we receive payment on that date.
- 3.7 Payment must be notified in advance to [Ofcom.remittances@ofcom.org.uk](mailto:Ofcom.remittances@ofcom.org.uk) with the notification including the following information:

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- the words “ITA Local TV Multiplex Licence” (in the mandate reference field);
- the amount submitted;
- the payee name;
- the bank sort code;
- the account name; and
- the anticipated receipt date.

## Application requirement

3.8 In accordance with section 7(4)(b) of the 1996 Act , any application we receive by the closing date specified in paragraph 2.2 of this Notice is only valid if it is made in writing and accompanied by the terms listed under this paragraph

3.8.1 the non-refundable fee specified pursuant to paragraphs 2.4 to 2.7 of this Notice;

3.8.2 a Technical Plan setting out the applicants proposals to provide the local TV multiplex service which should include:

a) applicants proposals for meeting the required minimum coverage requirement (Phase 1) as specified in paragraph 1.55

b) applicants proposals for building out to additional locations (Phase 2)

c) the timetable by which build-out would be achieved

d) details of the technical means that would be adopted by the applicant in order to deliver on its proposals:

3.8.3 details of any proposals to improve coverage above the indicative minimum set out in the Coverage Note

3.8.4 detailed explanation of the applicant’s proposals for promoting local digital television services;

3.8.5 such other information as we require for the purposes of considering the application as is set out below.

3.9 We draw applicants’ attention to the following parts of this Notice:

3.9.1 Annex 1 setting out our guidelines for the submission of applications; and

3.9.2 Annex 2 setting out the structure and format of an application.

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- 3.10 Only in exceptional circumstances will we regard as valid an application which does not comply with the requirements set out in Annexes 1 and 2. Our decision on whether an application complies with such requirements is final.
- 3.11 In addition to the above, any application should include:
- 3.11.1 a statement by the applicant confirming that, excepting any confidential information redacted and presented as we prescribe in Annexes 1 and 2, that it agrees that we may publish on our website or otherwise disclose the applicant's original application, together with its response(s) to any request from us to furnish additional information about its proposals (apart from any part of such a response that the applicant has requested that we should keep confidential and which part has been included in a separate annex (or other agreed form) to the response clearly and visibly marked 'confidential');
  - 3.11.2 consent for Ofcom to share such information as it sees fit with the BBC Trust for the purposes of assessing the application and the likely willingness of the BBC to provide funding to the applicant if successful in securing a licence (only if the applicant is intending applying to the BBC for funding to establish the local TV multiplex).
- 3.12 We are open to receiving comments from the public on any non-confidential aspects of the published application, however in making its assessment, the Committee will not rely on comments of endorsement or otherwise, of any particular applicant.
- 3.13 As soon as reasonably practicable after an initial review of applications against the above mentioned application requirements, we will provide written confirmation to any applicant whose application we judge to be invalid and confirm that we will not be able to give that application further consideration. However, if it appears to us that an application on its face complies with those requirements, we will assess the application in accordance with the process set out in Section 3 of this Notice.
- 3.14 If it emerges at any time after receiving an application that any information supplied to us by an applicant is false in any material aspect (whether the applicant knows it to be false or is reckless as to whether or not it is false) or an applicant has withheld material information knowingly or recklessly, we may reject the application at that stage. Section 5 of this Notice sets out the action we may take at any time after making a decision to award a licence (including after granting or varying any licence) if we are satisfied that the applicant has provided such false or misleading information or so withheld material information.

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## Section 4

# Assessment of applications

## Assessment process

- 4.1 The Ofcom Board will establish an appropriate Committee with delegated authority to carry out Ofcom's functions with reference to discharging its duties in relation to the reservation of spectrum and licensing of a local TV multiplex operator and local TV content providers. Once established, details of the Committee will be published, including members and terms of reference, on the Ofcom website.
- 4.2 Pursuant to s.8(2) of the 1996 Act (as amended) the Committee will consider applications for the award of the local TV multiplex licence using reserved GI spectrum. In making its assessment, the Committee will consider the following criteria:
  - 4.2.1 The extent of the coverage area proposed to be achieved by the applicant, the timetable for achieving this coverage and the technical means for delivering the coverage as identified in the Technical Plan submitted by the applicant;
  - 4.2.2 Proposals by the applicant for promoting local digital television services; and
  - 4.2.3 The ability of the applicant to establish the proposed service and to maintain it throughout the period for which the licence will be in force.
  - 4.2.4 **Commitments relating to the first two criteria (4.2.1 and 4.2.2 above) will be incorporated into the multiplex licence as licence conditions.**
- 4.3 These assessment criteria are discussed in more detail in paragraphs 4.30 to 4.58 below. Whilst the assessment criteria have been specifically derived by reference to our duties under the s.244 Order, we are required to further (as well as have regard to) those duties in carrying out our general duties<sup>17</sup>,
- 4.4 We will assess applications against these assessment criteria and our general duties based upon the information and proposals provided by applicants in their completed applications. As noted in Section 2, it is the applicant's responsibility to ensure that submitted applications are complete and conform fully to those requirements. Once received, applications may neither be amended nor new material introduced.
- 4.5 However, in the course of assessing applications, we may seek clarification and/or amplification of the information or proposals in any application and require any applicant to furnish such additional information in such form or verified in such

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<sup>17</sup>The 2003 Communications Act sets out our general and specific duties  
<http://www.legislation.gov.uk/ukpga/2003/21/contents>

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manner as we may specify. This will usually be done through correspondence by a single letter, which will be sent to the contact nominated in the application. If appropriate, we may make further enquiries by phone, email or letter.

- 4.6 In addition and in exceptional circumstances only, we may meet with any applicant in order to seek clarification of aspects of their application. Limited notice (possibly less than 24 hours) might be given but, if possible, we will indicate by e-mail to the applicant's nominated contact person the issue(s) to be covered in the meeting, so that the applicant can bring relevant staff or advisers. One or more members of the committee, together with our staff and advisers, may be present at such meetings. We may take a transcript of any such meeting or, alternatively, a file note to be agreed by the applicant.
- 4.7 To provide as much transparency as possible and allow for public inspection<sup>18</sup>, all applications (save for confidential information) that we receive will be published on our website following the closing date of applications. The Committee may take into account any comments received from the public, which can be made for two weeks following publication of the applications. Applications will be published as soon as is reasonably practicable after the closing date. Non-confidential responses to any clarifications or amplifications will also be published on our website, alongside the original application.
- 4.8 As required by the 1996 Act, we will also need to be satisfied that an applicant is a fit and proper person to hold a multiplex licence and is not disqualified from doing so, where we consider it necessary to grant such a licence.

## Procedures for decision-making

- 4.9 A summary of each applicant's proposals, highlighting issues of relevance under each of the criteria drawn both from the original application and any subsequent questioning, will also be prepared and presented to the members of the Committee for consideration.
- 4.10 This brief will be used as a guide by the Committee rather than for the specific purpose of determining the successful applicant. In deciding on the licence award, the Committee must have regard to Ofcom's general duties as far as they are relevant to the licensing process.
- 4.11 The members of the Committee will receive a copy of each valid application submitted in response to this Notice. Executives will assist the Committee's assessment of applications by highlighting the different strengths and weaknesses of each application when preparing briefing material for the Committee.
- 4.12 The Committee will consider each application by having regard in particular to the extent to which the proposals appear in the Committee's opinion to meet the assessment criteria as discussed in more detail in paragraphs 3.29 to 3.57 below.

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<sup>18</sup>We consider that our guidelines of November 2007 on how we consult do not apply in this context as the policy underlying this Notice has previously been publicly consulted upon

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- 4.13 It should be noted that the Committee will be looking at applications in the round and will consider how the sum of the parts of an application meets the aims and objectives for the establishment and ongoing development of local television services.
- 4.14 After it has considered all valid applications, the Committee will finally decide either:
- to award the local TV multiplex licence to the successful applicant, or
  - not to make an award.
- 4.15 Where the Committee makes a decision to award the multiplex licence, we shall, in accordance with section 8 of the 1996 Act, as soon as is reasonably practicable after making our determination public, in such manner as we consider appropriate, the name of the applicant(s) to whom the licence has been awarded and such other information as we consider appropriate.
- 4.16 We expect to announce the name of the successful applicant soon after the Committee has made its determination (see further from paragraph 4.20 below as to our provisional timetable). However, the time we require to make that announcement will depend on the circumstances, such as any other information as we may consider appropriate to publish alongside that announcement (including the key determining factors under each of the criteria which led to the Committee's decision), taking account of matters such as the volume of applications and responses we receive.
- 4.17 After the announcement of the award, we would expect there to be a grace period of approximately *[three months]* while the applicant produces any necessary guarantees that formed part of the business plan that were contingent on winning the award.
- 4.18 In the event of an award to a body relying on support from the BBC Trust fund, during this time we would seek confirmation that all relevant criteria have been met and the BBC is able to provide agreement for the provision of funding.
- 4.19 If it transpires that an applicant is unable to complete on all of the commitments and guarantees made during the application stage, it can either refuse the award or Ofcom can withdraw the award. If, however during this period all relevant matters can be agreed, then the local TV multiplex licence will be issued.
- 4.20 If the first award should fail for the reasons stated in 4.19 above, Ofcom may re-advertise the licence and invite applications.
- 4.21 In the event we decide not to award a licence we shall publish our decision (and the reasons for it) as soon as reasonably practicable. We anticipate this would normally occur soon after the Committee has made its decision. The actual time we require to do so will depend on the specific circumstances at that time.

### Timetable for licence award

- 4.22 We currently expect to complete our assessment for the award of a local TV multiplex licence as set out in Section 3 of our published document, *Licensing Local*

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*Television.*<sup>19</sup> [A more definitive timetable will be included in the final version of this ITA.] This timetable is, however, subject to change, such as requiring further time to assess applications received or otherwise deal with any matters arising from the assessment process.

## Purdah rules

- 4.23 An important part of our regulatory principles<sup>20</sup> is to ensure that any interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome. We also consider it is important to ensure that there is no appearance of bias or conflicts of interests in relation to the assessment process to which this Notice relates.
- 4.24 For that reason, a set of so-called 'purdah rules' that will govern the interaction of Ofcom with relevant persons will be published on the Ofcom website when they become available.

## Collusion

- 4.25 We will take any allegations of collusion extremely seriously. We retain the right to exclude an application in its entirety if we are satisfied that any agreement, cooperation or practice has as its object or effect the prevention, restriction or distortion of competition. Applicants should therefore ensure that they have in place effective and actively implemented compliance programmes, which should have the visible and active support of senior management and should be appropriate specifically in relation to matters relevant to applications in response to this Notice.

## Assessment criteria

### Our duties

- 4.26 As noted earlier in this Section, we are required to carry out all of our functions (including those under the s.2442011 Order) in accordance with our general duties under section 3 of the 2003 Act, namely to further the interests of citizens in relation to communications matters, and to further the interests of consumers in relevant markets. Ofcom also has a general duty under the section 3 of the 2003 Act to manage spectrum efficiently.
- 4.27 In performing our duties, we are also required to have regard to a range of other considerations, as appear to us to be relevant in the circumstances. We have, however, a wide measure of discretion in balancing our statutory duties and objectives.

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<sup>19</sup> Licensing Local TV: <http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/summary/condoc.pdf>

<sup>20</sup> <http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>

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## Comparative selection assessment criteria

- 4.28 In addition to the above-mentioned general duties, Article 5(a) of the s.244 Order requires that we have regard to the extent to which the proposals offered by an applicant appear to us to promote the development of local digital television broadcasting in the UK and how they appear to us to further the objectives reflected in the three assessment criteria set out at paragraphs 4.3 to 4.59 below.
- 4.29 Guidance is set out below in relation to each assessment criterion so that applicants' attention may be drawn to certain matters that they are asked to demonstrate in their applications.

### **Selection Criterion 1: The extent of the coverage area proposed to be achieved by the applicant, the timetable for achieving this coverage and the technical means for delivering the coverage as identified in the Technical Plan submitted by him**

- 4.30 Applicants' proposals in relation to criterion 1 will be incorporated into the licence as licence conditions. Applicants' proposals should therefore include a comprehensive Technical Plan that sets out how the applicant proposes to address the technical matters contained in this Invitation to Apply and the accompanying Coverage Note. Specifically the Technical Plan should include:
- A commitment to achieving the minimum roll-out of 20 Phase 1 sites;
  - Confirmation of the extent of commitment to adopting additional Phase 2 sites;
  - A phased build-out programme as referred to in Section 1 and provide a clear description of the method for building the Phase 1 and Phase 2 locations. This should include back-stop dates for completing each Phase;
  - Expected completion dates and expected service commencement dates for each location in the build-out programme. This should include any contingency plan should the local TV service provider not be ready to launch, or if it should become necessary to re-sequence the build-out programme. Should any of the additional sites selected deviate from the previously consulted upon list, please explain the rationale for making an alternative selection;
  - A description of the technical arrangement proposed by the applicant. This should include details of system architecture, signal distribution, proposed equipment configurations and how these arrangements will interface with systems provided by other parties such as the local TV service providers. Details should also be provided for the management of service information and EPG data. Applicants should give due regard to interoperability with other DTT multiplex operators and with viewers' receivers.
- 4.31 Should applicants' proposals depart from the indicative characteristics contained in the Coverage Note, then it will be for the applicant, in its submission, to satisfy the Committee that its proposals will deliver the required service and comply with the necessary technical standards. Ofcom would be interested in any identified benefits or coverage enhancements that the applicant considers an alternative arrangement would benefit local TV. Where any such proposals incur additional costs, it will be for

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the applicant to provide the Committee with justification for consideration of the alternative plan and if applicable, provide validation for the additional costs incurred.

- 4.32 There are time limits upon both Ofcom's duty to reserve spectrum for local TV services<sup>21</sup> and the likely availability of funding from the BBC<sup>22</sup>. Achieving a timely roll-out of the local TV multiplex infrastructure is a significant consideration for the Committee. As a guide, we have stated that we would expect transmission to begin in the first location no later than one year from the date of the licence award and that most, if not all of the remaining Phase 1 locations, to commence broadcasting within two years.
- 4.33 In this regard applicants are reminded that the s.5 Order obligation on Ofcom in relation to reservation of spectrum for local TV services is only in place until the end of December 2018. After that time, at locations where no reservation has been made, or the spectrum remains unused, the obligation placed on Ofcom falls away.

## **Selection Criterion 2: A business plan that demonstrates applicants' ability to establish, manage and sustain the local TV multiplex service throughout the term of the licence**

- 4.34 This criterion reflects a key duty placed on Ofcom to ensure the ability of the applicant to establish the proposed service and maintain the service set out in Section 8(2)(c) of the Broadcasting Act 1996. In this regard applicants' should give particular attention to paragraph 5.30 which sets out the circumstances in which Ofcom might consider revoking a licence, including failure to begin to provide the licensed service and the financial penalty that may result.
- 4.35 Applicants are therefore required to:
- 4.35.1 Submit the required financial information set out in 4.40 to 4.57 below in order for the Committee to make an assessment of applicants' suitability under this requirement.
- 4.36 Funding is being made available to pay for the establishment of the local TV multiplex infrastructure by the BBC Trust and the terms and conditions under which this arrangement will work will be published and available on the BBC's website. The applicant will be responsible for determining the eligibility of its proposal to receive funding from the BBC and be able to provide evidence to Ofcom of its eligibility to access funds from the BBC Trust if its proposals require making use of such funding.
- 4.37 Ofcom may in the of assessment of applications, share certain information with the BBC Trust to determine the willingness of the BBC to provide funding to applicants whose business plans depend upon being in receipt of such funding.
- 4.38 Applicants that intend applying for funding from the BBC should therefore:

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<sup>21</sup> The obligation on Ofcom to carry out reservation of spectrum ceases after 2018 in locations where it is not being used for local TV

<sup>22</sup> It is expected that funds from the BBC Trust will only be available for up to three years following the award of the local TV multiplex licence.

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- 4.38.1 Declare that their business plan will rely on obtaining BBC funding;
  - 4.38.2 Provide their consent for Ofcom to share such information as it sees fit with the BBC Trust.
- 4.39 Applicants are not obliged to accept funding from the BBC and the Committee will also welcome applications from organisations that may choose to self-fund. Whichever model is chosen by the applicant, it will be for the applicant to demonstrate to the Committee, through the information provided, how the model meets this assessment criterion.

### **Business Plan**

- 4.40 The key questions in this area concern the business plan and financial resources of the applicant, together with its proposals for promoting local digital television programme services.
- 4.41 The onus is on the applicant to provide all the information which is necessary for Ofcom to consider whether it is satisfied that the applicant would be able to establish and maintain the service for which the application is made for the duration of the licence. In particular, the applicant should provide the following:
- 4.41.1 Funding proposals.
  - 4.41.2 Financial projections (in the form of a business plan)
- 4.42 These are explained in more detail below.

#### Funding proposals

- 4.43 Where the applicant is an existing company, or a subsidiary of an existing company, the applicant should provide its and/or its ultimate parent's last three years' statutory accounts.
- 4.44 We require the applicant to detail the sources and amount of finance that will be used to fund the licence, under the following headings:
- i) Share capital
  - ii) Loan stock
  - iii) Bank overdraft
  - iv) Other lending
  - v) Leasing/HP facilities (capital value)
  - vi) Subsidies, grants and/or donations
  - vii) Other (please specify)
- 4.45 Where relevant, applicants should provide information on:

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- i) The source of funds available to the proposed shareholders including, for incorporated proposed shareholders, their most recent statutory accounts;
- ii) Any preferential dividend or other payment rights attaching to share capital;
- iii) Lending terms (e.g. term, interest rate, repayment terms, redemption/conversion terms, details of any guarantees or security granted);
- iv) Conditions or other terms attaching to any subsidies, grants or donations;
- v) Any other material terms.

### Financial projections

- 4.46 Applicants should provide financial projections for the pre-operational period, and on an annual basis for the full licence period. These projections must include:
- i) Profit and loss accounts;
  - ii) Balance sheets;
  - iii) Cashflow forecasts; and
  - iv) Appropriate supporting schedules.
- 4.47 These forecasts should be provided on an Excel spreadsheet or similar, and guidance notes should be provided. These notes must include a full list of the underlying assumptions on which the projections are based.
- 4.48 For the revenue or other income estimates, each source of revenue should be separately detailed. The applicant should detail how each of the revenue and other income figures are derived and the underlying assumptions upon which they are based.
- 4.49 For the cost estimates, sufficient detail should be included to enable us to ensure that applicants have considered all relevant operating and capital costs, and understand which costs are fixed costs and which costs are variable costs
- 4.50 Ofcom accepts that assumptions for revenues and costs will vary from one applicant to another. To assist Ofcom, the applicant is asked to:
- 4.50.1 Declare and to justify the key assumptions made in formulating the business plan;
  - 4.50.2 Provide any relevant supplementary documents, such as research studies or consultancy reports with the application.
- 4.51 It is vital that the financial information submitted by applicants demonstrates that the business plan has sufficient resilience for the service to be maintained despite adverse movements in revenues and costs arising from more difficult trading conditions than expected, including the temporary incomplete utilisation of capacity

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arising from the failure of one or more programme or additional service licensees. The plan must therefore:

- 4.51.1 Incorporate a set of sensitivity tests. Applicants are required to provide information on the sensitivity tests applied.
- 4.52 Ofcom recognises that what constitutes a reasonable degree of resilience, or safety margin, in a business plan must depend in part on considerations such as the degree of optimism, caution or risk which is built into the base case projections to which any sensitivity tests are applied. In its assessment of applications, therefore, Ofcom reserves the right not to limit its consideration to the sensitivity tests applied by the applicant, but to employ any other tests or analysis which it believes to be relevant.

### BBC Support Funding

- 4.53 In July 2011 the Government confirmed that a contribution of up to £25m from the BBC Trust will be available to fund the capital costs of establishing the local television multiplex service.<sup>23</sup>This arrangement is expected to be in place for a period of no more than three years from the award of the licence and to contribute to up to five phases of build out.
- 4.54 The Government document *Local TV: Making the Vision Happen*,<sup>24</sup> published in December 2011 envisages the establishment of a committee presided over by the BBC Trust, with advice from Ofcom in order to distribute the support funding. While the joint committee is not yet set up, the publication set out initial guidelines for the funding allowance. We would expect that where relied upon in the business plan, applicants should demonstrate that they have applied the criteria for eligibility of funding appropriately. This will provide assurance in the first instance to the licensing Committee that the applicant understands how the funding programme works, thus informing the strength of the business plan.
- 4.55 As a minimum requirement, we would expect applicants to provide Ofcom with evidence of their ability to meet the BBC Trust's eligibility criteria for access to the public funds.
- 4.56 Details of any pre-conditions or other prior obligations should be clearly described. The Committee needs to be sure that the applicant is not subject to any prior obligation that might preclude it from being considered for BBC funding, or otherwise impact on its ability to fund itself.
- 4.57 Applicants should be aware that any funding support from the BBC Trust will be subject to appropriate scrutiny by the BBC Trust to take account of 'value for money' considerations.

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<sup>23</sup> A new Framework for local TV in the UK: [http://www.culture.gov.uk/images/consultations/Local-TV-Framework\\_July2011.pdf](http://www.culture.gov.uk/images/consultations/Local-TV-Framework_July2011.pdf)

<sup>24</sup> Local TV: Making the Vision Happen: [http://www.culture.gov.uk/images/consultation\\_responses/local-tv\\_making-the-vision-happen.pdf](http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf)

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## **Selection Criterion 3: Proposals by the applicant for promoting local digital television services**

- 4.58 This criterion reflects the statutory duty placed on Ofcom to ensure that, in awarding the multiplex licence, it gives regard to the extent of applicants' proposals for promoting local TV services (s.244 Order). Applicants' proposals in this regard will therefore be incorporated into the licence as licence conditions.
- 4.59 Applicants may choose to satisfy this criterion in a number of ways and some examples are presented below:
- providing technical or financial assistance to local TV service providers;
  - developing marketing proposals for local TV;
  - proposals for identification and constructive engagement with local TV service providers that are not currently engaged in the provision of local TV services and locations beyond the initially identified Phase 1 and Phase 2 areas, with a view to extending local TV services into areas outside the core locations;
  - extending local services within proposed locations (e.g. through building relays)
- 4.60 This is by no means a prescriptive criterion and while applicants should not be constrained in their proposals of schemes they believe will facilitate this type of engagement, the Committee will be looking for evidence of how any such engagement is likely to produce measurable outcomes in terms of more local TV, in more locations across the UK and a raised public awareness of local TV services.

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## Section 5

# Licensing information for applicants

## Terms and conditions in relation to the reserved spectrum

- 5.1 This section provides an overview of some of the licensing requirements and some of the key conditions that the local TV multiplex operator will be subject to. It does not purport to be an exhaustive account of the licence conditions or relevant legislation and applicants should take their own legal advice.
- 5.2 Applicants should also note that, as set out in Section 4, the commitments made by the applicant under the selection criteria will be incorporated into the licence as licence conditions, with which the multiplex licence holder will be required to comply.

## Licensing Requirements

### Determining who should hold the Licence

- 5.3 Restrictions apply to who can legitimately hold a licence. Schedule 2 of the 1990 Act sets out the statutory provisions in relation to ownership matters and providing the criteria for exclusion. Failure by the licensee to comply with these provisions will constitute a breach of the licence and could result in revocation in accordance with the terms of the licence. In this regard, applicants are advised to seek their own professional advice on these matters.

### Control of the Service

- 5.4 Control, in relation to a body corporate is defined in Part I of Schedule 2 to the 1990 Act. Although a person will always control a body corporate if he holds or is beneficially entitled to more than 50 per cent of the equity share capital or the voting power, the definition does include the possibility of control with a shareholding of 50 per cent or less of equity share capital or voting power.

## Licensing Conditions

### Fees under the Licence

- 5.5 Annual licence fees are set in accordance with our charging principles and published tariff table<sup>25</sup>. The multiplex licence will fall under Category D (Digital Multiplex Licences) as a subset of that category and the annual fee has been set at £5000.
- 5.6 Under Section 13 of the Broadcasting Act 1996, Ofcom may require television multiplex licensees to pay a charge under the licence in respect of Percentage

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<sup>25</sup> Ofcom Tariff Tables 2011/2012: [http://stakeholders.ofcom.org.uk/binaries/research/Tariff\\_Tables\\_2001112.pdf](http://stakeholders.ofcom.org.uk/binaries/research/Tariff_Tables_2001112.pdf)

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Multiplex Revenue (PMR)<sup>26</sup>. This amount is in addition to any amounts payable as licence fees referred to in paragraph 5.5 above.

5.7 In line with our wider policy on fees for terrestrial broadcasting spectrum licences, as set out in our statement of June 2007<sup>27</sup>, we plan to propose fees based on our Administered Incentive Pricing (AIP) principles “*the charging of annual fees for the holding of spectrum that reflect the opportunity cost of the holding of that spectrum*” from the end of 2014 onwards.

5.8 As Ofcom has previously confirmed that no licensee should find itself in the position of paying twice for the same spectrum rights, we will set a zero PMR rate for the duration of the local TV multiplex licence, leaving AIP as the sole pricing mechanism to be applied from the end of 2014 onwards. This approach is consistent with the approach taken in respect of other DTT multiplex licensees.

5.9 In determining the level of AIP payable, we will include consideration of the opportunity cost of the spectrum used by local TV and other relevant factors, including the expected impact of fees set at that level, as part of the wider consultation process on AIP for all broadcasting spectrum licences.

## a) Carriage Costs

5.10 The s.244 Order specifies that the holder of the multiplex licence should not charge carriage fees to local TV service providers in excess of the cost of the service being carried.<sup>28</sup> This principle is set out in the DCMS statement of 12 December 2011, which stated that the local TV multiplex operator should not make a profit from the local TV service providers.

5.11 The Order gives Ofcom the role of resolving any disputes where the local TV multiplex operator and local TV service providers cannot agree on the level of carriage cost charged. We expect that the two parties would seek to resolve such matters between themselves wherever possible.

5.12 In the event that Ofcom were to make a determination on carriage cost, it is likely that the following principles would apply:

- It is up to the local TV multiplex operator to demonstrate the basis of their cost calculations.
- Central costs of the local TV multiplex operator should only be reflected in the cost of carriage for a local service if they are not attributable to commercial deployment of the additional two video streams. So office/staff costs might be reflected, but not, for example, national satellite distribution if this is used to carry the two commercial video streams to local sites, or any central multiplexing costs. The main components of costs to the local

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<sup>26</sup> PMR – Percentage Multiplex Revenue Ofcom definition of PMR:

[http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying\\_revenue.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying_revenue.pdf), pg 6

<sup>27</sup> Future pricing of spectrum used for terrestrial broadcasting: A statement, 19 June 2007:

<http://stakeholders.ofcom.org.uk/binaries/consultations/futurepricing/statement/statement.pdf>

<sup>28</sup> Article 7(j) S.244 Order

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service providers are expected to comprise managed transmission services (including network access) and electricity.

- If the BBC funding includes a contribution towards the multiplex operating costs, we would expect this to be reflected in the cost calculation for local services.
- If the business model of the local TV multiplex operator includes gaining revenue from the multiplex capacity not used by a local service (i.e. the two extra video streams) then we would still expect the local TV service provider to make a contribution towards the costs attributable to the local service.
- Conversely, however, if the local service is the only service carried, then all locally attributable costs would need to be covered. The FTI Consulting viability research annexed to the *Licensing Local Television consultation*<sup>29</sup> suggests that in this scenario, the costs would not be too great a burden for local TV service providers to bear.
- Should the local TV multiplex operator seek to increase its coverage through transmitter enhancements that would result in a potential increase in the cost to the local service, then the increase in cost should only be passed on to the local TV service provider if the increase in coverage is of benefit to the local service. For example, increasing coverage in an area where there is no natural affiliation to the local service's core target area may not be of any benefit to the local TV service provider.

5.13 While we will consider each request for a determination on a case by case basis, we would expect any actual determination to quickly indicate a precedent to the local TV multiplex operator and local TV service providers for how we would approach any future dispute of this nature.

## Licence Duration, Renewal and Termination.

5.14 The s.224 Order gives Ofcom the power to award a local TV multiplex licence for a period of up to twelve years.

5.15 The duration of the local multiplex licence is of course a significant factor for an applicant to take into account in their business planning. It will also have a direct impact on the duration for which L-DTPS licences are awarded. There is an option to award the local multiplex licence for less than the statutory maximum period, or we could award the licence for the maximum duration.

5.16 Ofcom is currently seeking to develop a better understanding of future demands for UHF spectrum by different users. Of particular note is an international debate starting to emerge within both the International Telecommunications Union (ITU) and European Union around future spectrum needs for wireless broadband. This debate

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<sup>29</sup> FTI Consulting Report: <http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/annexes/Annex6.pdf>

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will include discussion of access to UHF spectrum that could have an impact on the continued use of GI spectrum by the planned new local multiplex as well as the established national DTT multiplexes.

- 5.17 Changes to the pattern of spectrum use are only likely to take place over the longer term and there are no plans at present to change the balance between broadcasting and non-broadcasting uses and their access to UHF spectrum. While we cannot at this stage be certain if, or when, changes may be required, the subject of future uses of UHF spectrum use is likely to be debated at the World Radio Conference in 2015 or 2016. After this time there should be greater clarity on the scope of changes to UHF spectrum use, the possible impact on existing licensees and the timescales under which they might need to happen. Any final decisions on these matters will be the subject of extensive consultations by both Ofcom and the Government.
- 5.18 The consequence of any such changes might be for Ofcom to modify the transmission characteristics that can be used by licensees (e.g. the frequencies, powers, antenna patterns at certain transmitters) to enable a reorganisation of frequency use to take place. In these circumstances, Ofcom would make reasonable endeavours to identify alternative frequencies for the licensee to use that provide equivalent coverage. Should this not be possible, the licensee may have to cease operation at some or (in extremis) at all transmitters.
- 5.19 We will award the planned local multiplex licence for a twelve-year period, to provide for the opportunity for the multiplex licence to be financially viable.
- 5.20 However, applicants should be aware that Ofcom and the Government may need to make decisions on the use of the UHF band in response to changes that occur internationally over the coming years in the harmonisation of frequencies for non-broadcast uses. Such developments may require us to consider making changes to the frequencies used by the local multiplex before twelve years have elapsed.
- 5.21 Should it become apparent that a rebalancing of frequency use might become likely, Ofcom would consult on the measures that it proposes to take, including managing the impact on existing licensees.
- 5.22 In the event of the need to terminate the multiplex licence, Ofcom may do so by notice served on the licensee, although such notice may be provided not less than five years before the licensee would be required to cease operation. In limited circumstances Ofcom can serve a notice of termination less than five years before the licensee would be required to cease operating; however compensation would be payable.

### Co-operation and Co-ordination

- 5.23 We are aware that meeting stakeholder expectation and providing local services where practicable present some complexities in relation to the sequence of licensing between the multiplex operator and the local TV service providers. We will therefore require that the successful multiplex licensee takes reasonable steps to co-operate with the local TV service providers and any other such person as notified to the local TV multiplex operator by Ofcom. This obligation will be imposed on the multiplex operator through licence conditions. To ensure an effective application of this

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arrangement, a reciprocal condition will be included in the L-DTPS licences held by local TV service provider.

### EPG Listing

- 5.24 The s.310 Order adds local services to the list of channels to be given appropriate prominence on the EPG listings. Therefore the local TV multiplex operator will be required to ensure that the local digital television services provided under the terms of the Order is capable of being appropriately listed on the DTT EPG.

### Transferability of the Licence

- 5.25 The licence is transferable with the prior consent of Ofcom. As the multiplex licence places a positive obligation on the licence holder to provide the multiplex service, in addition to the normal transfer conditions, the transferee company will also be subject to an assessment of its ability to sustain the service for the remainder of the licence period.

### Fair and Effective Competition

- 5.26 Under section 12(1)(e) of the 1996 Act, the local multiplex licence will include a condition requiring that the licensee ensures fair and effective competition in the provision of services carried on the multiplex. This is consistent with all existing multiplex licences awarded under the terms of the 1996 Act.
- 5.27 The matter of the fees charged by the holder of the local multiplex licence for carriage of local digital television programme services is discussed in paragraphs 5.10 to 5.13.

### Licence Variations

- 5.28 Provided that the licensee has been given a reasonable opportunity to make representations, Ofcom may from time to time vary the multiplex licence by notice served on the licensee.
- 5.29 It is therefore worth noting that while the multiplex licence will contain details in the Annex of the minimum coverage requirements that the applicant promised, it may be necessary to vary the licence from time to time by agreement with Ofcom over the term of the licence to reflect changes, e.g. to the sequence of service launch, or to include additional locations that are launched.

### False or misleading information

- 5.30 If we are satisfied at any time after making a licence award that information provided by the applicant in connection with its application was false in any material aspect (whether the applicant knew it to be false or was reckless as to whether or not it was false), or an applicant withheld material information knowingly or recklessly, we may serve a notice revoking the licence in question.

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## Sanctions

- 5.31 As noted in paragraph 1.36 we will capture the commitments made in the successful applicant's proposal as licence obligations. If we are satisfied that a successful applicant has failed to comply with these obligations or is otherwise found to be in breach of any of the additional terms and conditions of the licence given effect under the terms of the s.244 Order, it will be subject to the enforcement provisions and/or sanctions for non-compliance as outlined in its licence, and this may result in regulatory action which may include a sanction including a licence revocation.

## Revocation

- 5.32 In accordance with s.11 Broadcasting Act 1996, revocation of a licence by Ofcom may result in the payment of a financial penalty. Consideration may be given by Ofcom to revoke a licence under several circumstances, including failure to begin to provide the licensed service. Ofcom will consider the circumstances giving rise to the revocation when setting the level of any statutory financial penalty. *[Spectrum management text from PM]*

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## Annex 1

# Guidelines and procedures for submission of applications

- A1.1 The application should be presented in the format prescribed in Annex 2 to this Notice, and it must respond to all of the requirements set out therein. Each page of the application must be numbered. All narrative should contain uniquely numbered paragraphs, and all financial or other tables within the supporting narrative should also be uniquely numbered and referenced using these numbers.
- A1.2 Applications must be written in English and be clear, concise and simple in layout and style. Overly elaborate applications which include videos and/or other supplementary promotional material are strongly discouraged. We will not be influenced by the inclusion of illustrations or other devices designed to enhance the visual appeal of an application. In particular, applications should not include photographs and/or pictures. A limited number of charts are acceptable.
- A1.3 One electronic copy (in Adobe PDF) for each version of the application (e.g. a full version including confidential information as well as (if necessary) a non-confidential publishable version of the application) via email and 15 hard copies of the full version of the application must be received by us by no later than the closing date and time specified in Section 3 of this Notice. Applications received after this time will not normally be accepted.
- A1.4 All applications will be acknowledged upon receipt.
- A1.5 Applications should be delivered to the Riverside House reception and addressed to [XXXX] c/o Riverside House Reception, Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Applications must use and attach the proforma application label as defined in Annex 4 to the outside of their application package. Applicants should note that in relation to item 'List any other enclosures' on the application label they must include each and every item contained within the application package delivered to us. We will use this information to verify that we have received all relevant documentation from each applicant.
- A1.6 We consider that submission of an application indicates a willingness to accept a licence offered on the terms indicated in the proposal.
- A1.7 Failure to comply with any of the above guidelines may render the application invalid.
- A1.8 Any queries regarding applications should be sent to [XXXX.]

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## Annex 2

# Application template

## Introduction

- A2.1 Applicants shall submit an application using the application template below. Particular care should be taken to address the specific requirements given under each numbered heading.
- A2.2 We expect applications to be succinct and thoughtfully compiled to limit excessive length and written in plain English.

## Application for Local TV Multiplex Licence

### 1. Executive summary

Each application must include an executive summary of the full application consisting of no more than [X] pages in length. It should represent a standalone version of the proposal, highlighting the key components of the application.

### 2. Applicant Details

Name: The applicant must be a single legal entity who complies with the eligibility criteria set out in Section 3 of this Notice.

Address

Telephone:

Fax:

Email:

### 3. Main Contact (for Public Purposes)

Name: Please nominate at least one individual to deal with any press or public enquiries.

Address:

Telephone: (office hours, both landline and mobile if applicable)

Email:

### 4. Main Contact (for Ofcom Purposes)

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*The response to this question may be submitted in confidence by placing it in a clearly marked, separate annex to the rest of the application. If an applicant does not submit the response to this question in a separate annex, the response will be published.*

Name: Please nominate one individual to whom questions of clarification and/or amplification should be sent.

Address:

Telephone: (office hours, both landline and mobile if applicable)

Email:

*Throughout the following numbered sections applicants should take care to highlight the commitments they are proposing in order to optimise and develop the use of reserved capacity for delivering local TV across the UK. Commitments are the aspects of the entire proposal that, should it be appropriate, we will incorporate as licence obligations on the successful applicant.*

**5. Selection Criterion 1: The extent of the coverage area proposed to be achieved by the applicant, the timetable for achieving this coverage and the technical means for delivering the coverage as identified in the Technical Plan submitted by him**

**6. Selection Criterion 2: A business plan that demonstrates applicants' ability to establish, manage and sustain the local TV multiplex operation throughout the term of the licence**

**7. Selection Criterion 3: Proposals by the applicant for promoting local digital television services**

## **8. Other supporting information**

8A: Please use this section to provide any additional supporting information for your application.

## **9. Declaration**

I hereby apply for and on behalf of [*INSERT Applicant Name as indicated at Section 3 of this Annex*] (the "Company") to the Office of Communications ("Ofcom") for the Local TV Multiplex Licence (as specified in Section 1 of Ofcom's Notice dated XXXX) in order to provide the multiplex service proposed in this application.

I confirm that the appropriate payment has been submitted for this application. I further confirm that the Company consents to Ofcom publishing this application on its website or otherwise disclosing this application to any person, together with the Company's responses to any request by Ofcom for the Company to furnish additional information about its proposal. This consent does not extend to any part of this application or such responses that the Company has requested that Ofcom should keep confidential by including such information in a separate annex (or other agreed form) that is clearly marked 'confidential'.

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I declare that the information given by the Company in this application form is accurate and up-to-date to the best of my and the Company's knowledge.

I further declare and warrant that the Company is not a disqualified person within the meaning of that expression as defined in Part II of Schedule 2 to the Broadcasting Act 1990 or as a result of a disqualification order under section 145 of the Broadcasting Act 1996, and that having made all reasonable enquiries neither the Company nor any person by which the Company is controlled will, as a result of this application, be in breach of any other requirement of Schedule 2 to the 1990 Act as amended.

Applicant Signature:

Name (BLOCK CAPITALS):

Position:

Date:

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## Annex 3

# Supplementary Documents Referred to in the Invitation to Apply

The following documents are available or will become available shortly.

### Documents referred to in this ITA

1	<i>A new framework for local TV in the UK, Local TV: Pioneer Sites</i> <a href="http://www.culture.gov.uk/images/consultations/Local-TV-Framework_July2011.pdf">http://www.culture.gov.uk/images/consultations/Local-TV-Framework_July2011.pdf</a>
2	<i>Arqiva Reference Offer</i>
3	<i>Indicative Locations for Local TV'</i> <a href="http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf">http://maps.ofcom.org.uk/localtv/downloads/ofcom-uk-local-tv-report-2011.pdf</a>
4	<u><i>Local TV: Making the Vision Happen</i></u> <a href="http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf">http://www.culture.gov.uk/images/consultation_responses/local-tv_making-the-vision-happen.pdf</a>
5	<i>Ofcom Purdah Rules</i>
6	<i>Ofcom Guidance Note on Test Transmissions</i>

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## Annex 4

# Supplementary information on preparing and submitting a summary of the application

The summary referred to in Annex 2(1) should as a minimum cover the following:

- (a) The directors of the applicant.
- (b) The names of the proposed major shareholders in the applicant holding more than 5 per cent of the voting shares.
- (c) The names and, briefly, relevant experience of the senior personnel.
- (d) An outline of the applicant's plans for the development of transmission and roll-out of the service.

Applicants are also invited to include reference to how they would see the award of the licence to them as calculated to promote the development of local digital terrestrial television in the UK.

There may be individuals' names and/or the identities of independent programme suppliers which the applicant wishes to keep confidential in accordance with the Invitation to Apply. However an indication should be given in the summary that such names are not being made public and where possible, some general description of, for example, the qualifications of unnamed key personnel provided.

Each application must be accompanied by [X] copies of the summary. The summary must indicate names and addresses of contacts which the press and public may use in addressing applicants on the contents of their applications. It must not exceed [X] pages and should be in A4 and readily able to be copied by Ofcom. The accuracy of the contents is entirely the responsibility of the applicants. In submitting a summary, the applicant will be deemed to warrant that it is a fair and accurate summary. The text of the summary must be prefaced by the following statement:

"The following is a brief summary of certain matters relating to [the applicant] and its application for [the multiplex licence in question]. It has been prepared by the applicant and it is provided for information only. The summary does not form part of the documentation required to be published pursuant to section 7(8), or any other provision, of the Broadcasting Act 1996. Ofcom is not responsible for, and can accept no liability in respect of, the accuracy or otherwise of its contents."

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## Annex 5

# Glossary

Expression	Meaning
<b>1990 Act</b>	Broadcasting Act 1990 (1990 c 42)
<b>1996 Act</b>	Broadcasting Act 1996 (1996 c 55)
<b>2003 Act</b>	Communications Act 2003 (2003 c 21)
<b>s.5 Order 2011</b>	The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2012 <a href="http://www.legislation.gov.uk/ukdsi/2012/9780111518229/contents">http://www.legislation.gov.uk/ukdsi/2012/9780111518229/contents</a>
<b>s.244 Order 2011</b>	The Local Digital Television Programme Services Order 2012 <a href="http://www.legislation.gov.uk/ukdsi/2012/9780111518212/contents">http://www.legislation.gov.uk/ukdsi/2012/9780111518212/contents</a>
<b>s.310 Order 2011</b>	Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order 2011 <a href="http://www.legislation.gov.uk/uksi/2011/3003/contents/made">http://www.legislation.gov.uk/uksi/2011/3003/contents/made</a>
<b>600 MHz band</b>	A range of frequencies being cleared by digital switchover between 550 MHz and 606 MHz
<b>800 MHz band</b>	A range of frequencies being cleared by switchover between 790 MHz and 865 MHz that is expected to be used by mobile broadband services
<b>Committee</b>	The [Name] Committee to whom the Ofcom Board has delegated authority to discharge our functions in relation to matters covered by this Notice: the Terms of Reference for this Committee will be published on our website
<b>dBuV/m</b>	A measure of field strength
<b>DMOL</b>	DTT Multiplex Operators Ltd – A company owned by the operators of the six UK-wide DTT multiplexes which exists to ensure consistency and interoperability across the DTT platform. DMOL manages the infrastructure that collates the DTT EPG
<b>DPSA</b>	Digital Preferred Service Area – a prediction of the areas where viewers are expected to be watching a particular transmitter
<b>DSO</b>	Digital Switchover Details of the DSO process and timing are available on our website (see <a href="http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/dso/">http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/dso/</a> in relation to transmission details)_and certain other DSO related websites, such as <a href="http://www.digitaluk.co.uk">www.digitaluk.co.uk</a> and <a href="http://www.digitaltelevision.gov.uk">www.digitaltelevision.gov.uk</a>
<b>DTG</b>	Digital Television Group <a href="http://www.dtg.org.uk">www.dtg.org.uk</a>
<b>DTT</b>	Digital Terrestrial Television
<b>DVB-T</b>	Digital Video Broadcasting – Terrestrial. A digital television standard

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	developed for terrestrial transmission
<b>DVB-T2</b>	Digital Video Broadcasting – Terrestrial 2. An updated version of the DVB standard for terrestrial transmission that offers greater capacity than DVB-T for equivalent transmitter powers and coverage.
<b>EPG</b>	Electronic Programme Guide
<b>GE-06</b>	The last regional Radio Conference held in Geneva in 2006 to agree frequency plans for digital switchover across Europe and North Africa
<b>GI Spectrum</b>	Geographically Interleaved Spectrum  Spectrum that is unused by the national DTT broadcasters and does not cause interference to the neighbouring signal.
<b>Gross coverage</b>	The area over which the signals from a transmitter are predicted to be above the planning threshold and sufficiently free from interference for good reception to be possible.
<b>ITU</b>	International Telecommunications Union
<b>L- DTSP</b>	Local Digital Television Programme Service [define as per Order]
<b>MHz</b>	Mega Hertz – a measurement of frequency equal to one million oscillations per second
<b>MPEG-2</b>	A standard for encoding video in a digital form that reduces the bitrate required to broadcast the video while substantially maintaining the picture quality. MPEG-2 is widely used for encoding standard definition digital TV services on the DTT platform
<b>MPEG-4</b>	A newer standard than MPEG-2 that achieves greater reductions in the bitrate needed to broadcast video content. The HD services on the DTT platform are MPEG-4 encoded.
<b>Multiplex</b>	A bundle of programme services and Service Information that is transmitted together
<b>Notice</b>	The Statutory Notice of the Invitation to Apply published in accordance with the s.244 Order 2011
<b>Ofcom</b>	Office of Communications
<b>Petalling</b>	Targeting coverage towards specific locations from a transmitter rather than in all directions. Petalling can enable separate local services to target different towns that are served by the same transmitter.
<b>PMR</b>	Percentage Multiplex Revenue – defined as:  <i>“all payments or other financial benefit received... in consideration of the inclusion in the services carried on the multiplex of advertisements or other programmes, or from charges for the reception of programmes included in those services. It also includes all payments received by the television multiplex licensee, or any connected person, in respect of the broadcasting of any qualifying service by means of the television multiplex licence licensee, or any connected person, in respect of the broadcasting of any qualifying service by means of the television multiplex licence or payments made to enable the television multiplex licence holder to meet its additional</i>

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	<p><i>payments.”</i></p> <p><a href="http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying_revenue.pdf">http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/qualifying_revenue.pdf</a> - pg 6</p>
<b>Public service broadcasting purposes</b>	Meaning the remit given to local TV services under the s.244 Order 2011 to provide a television service that will bring social or economic benefits to an area.
<b>RBL</b>	Re-Broadcast Link – the means by which many of the PSB multiplex operators’ relay transmitters receive their programme feed
<b>Reference Offer</b>	The document produced by Arqiva to help applicants assess the level of costs they may incur
<b>RRC</b>	Regional Radio Conference – a meeting between several nations held when agreement is needed over significant changes to the use of frequencies in those countries. The last RRC was held in Geneva in 2006 to agree plans for digital switchover
<b>SI</b>	Service Information – data that is carried within a DTT multiplex that allows receivers to function correctly. Data to populate the EPG is carried within the SI.
<b>Standard definition television service</b>	The expression is defined in [Article 2] of the 2008 Order as “....a television service which is broadcast in a format designed to display the images comprising a television programme by employing 576 active lines of pixels per frame.”
<b>QPSK</b>	Quadrature Phase Shift Keying – a type of robust signal used by digital television
<b>UHF</b>	Ultra High Frequency – a part of the spectrum a portion of which between 470 MHz to 854 MHz is used for television broadcasting.