



Broadcasting Act 1996

1996 CHAPTER 55

PART II

DIGITAL TERRESTRIAL SOUND BROADCASTING

Radio multiplex services

54 Conditions attached to national or local radio multiplex licence.

- (1) A radio multiplex licence shall include such conditions as appear to [^{F1}OFCOM] to be appropriate for securing—
- (a) that the licensed service is established by the licence holder in accordance with the timetable and other proposals indicated in the technical plan submitted under section 46(4)(b) or 50(4)(b),
 - (b) the implementation of any proposals submitted by the licence holder under section 46(4)(c) to (f) or 50(4)(c) to (e),
 - (c) that all digital sound programme services broadcast under the licence are provided—
 - (i) in the case of a national radio multiplex licence, by the holder of a national digital sound programme licence under section 60, and
 - (ii) in the case of a local radio multiplex licence, by the BBC or the holder of a local digital sound programme licence under that section,
 - [^{F2}(ca) that all television licensable content services broadcast under the licence are provided by the holder of a licence under Part 1 of the 1990 Act to provide such a service or by an EEA broadcaster (within the meaning given by section 12(3A));]
 - (d) that all digital additional services broadcast under the licence are provided by the holder of a licence under section 64,
 - (e) that in the terms on which the holder of the licence contracts, or offers to contract, for the broadcasting of digital sound programme services [^{F3}, television licensable content services] or digital additional services, he does

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not show undue discrimination either against or in favour of a particular person providing such a service or a class of such persons,

- (f) that the holder of the licence does not, in any agreement with a person providing a digital sound programme service [^{F4}, television licensable content service] or digital additional services which entitles that person to use a specified amount of digital capacity on the frequency or frequencies to which the licence relates, restrict that person’s freedom to make arrangements with some other person as to the use of any of that digital capacity (except to the extent that the restriction is reasonably required for the purpose of ensuring the technical quality of the broadcasts or for the purpose of securing compliance with any other condition of the licence),
- (g) that the signals carrying the radio multiplex service attain high standards in terms of technical quality and reliability throughout so much of the area or locality for which the service is provided as is for the time being reasonably practicable, and
- [^{F5}(h) that, while the licence is in force, at least the required percentage of the digital capacity on the frequency or frequencies on which the service is broadcast is used, or left available to be used, for the broadcasting of services falling within subsection (1A).]

[^{F6}(1A) The services falling within this subsection are—

- (a) digital sound programme services;
- (b) simulcast radio services;
- (c) programme-related services; and
- (d) relevant technical services.]

(2) In [^{F7}subsection (1A)] —

- (a) “programme-related service” means any digital additional service consisting in the provision of services (apart from advertising) which—
 - (i) are ancillary to the programmes included in one or more digital sound programme services, simulcast radio services or local or national services [^{F8}(within the meaning of section 245 of the Communications Act 2003)] and are directly related to the contents of those programmes, or
 - (ii) relate to the promotion or listing of such programmes, and
- (b) “relevant technical service” means any technical service which relates to one or more digital sound programme services.

[^{F9}(2A) In subsection (1)(h), the reference to the required percentage is a reference to such percentage equal to or more than [^{F10}70 per cent.] as OFCOM—

- (a) consider appropriate; and
- (b) specify in the condition.]

- (3) The Secretary of State may, after consulting [^{F1}OFCOM] , by order amend [^{F11}subsection (2A)] by substituting a different percentage for the percentage for the time being specified in [^{F12}that subsection] .
- (4) No order under subsection (3) shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (5) Any conditions imposed in pursuance of subsection (1)(a) or (b) may be varied by [^{F1}OFCOM] with the consent of the licence holder (and section 42(3)(b) shall accordingly not apply to any such variation).

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- [^{F13}(6) Where the licence holder applies to OFCOM for the variation of a condition which—
- (a) was imposed under subsection (1)(b), and
 - (b) relates to the characteristics of digital sound programme services to be broadcast under the licence,
- then (subject to subsections (6A) and (6B)) OFCOM must vary the condition in accordance with the application.
- (6A) OFCOM are not to vary a national radio multiplex licence in accordance with an application under subsection (6) if it appears to them that, if the application were granted, the capacity of the digital sound programme services broadcast under the licence to appeal to a variety of tastes and interests would be unacceptably diminished.
- (6B) OFCOM are to vary a local radio multiplex licence in accordance with such an application only if they are satisfied—
- (a) that the variation would not unacceptably narrow the range of programmes available by way of local digital sound programme services to persons living in the area or locality for which the licensed multiplex service is provided;
 - (b) that the variation would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or
 - (c) that there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the variation.]

^{F14}(7)

Textual Amendments

- F1** Words in s. 54 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 113](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F2** S. 54(1)(ca) inserted (25.7.2006) by [The Television Licensable Content Services Order 2006 \(S.I. 2006/2131\)](#), arts. 1(1), [5\(8\)\(a\)](#)
- F3** Words in s. 54(1)(e) inserted (25.7.2006) by [The Television Licensable Content Services Order 2006 \(S.I. 2006/2131\)](#), arts. 1(1), [5\(8\)\(b\)](#)
- F4** Words in s. 54(1)(f) inserted (25.7.2006) by [The Television Licensable Content Services Order 2006 \(S.I. 2006/2131\)](#), arts. 1(1), [5\(8\)\(c\)](#)
- F5** S. 54(1)(h) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(2\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F6** S. 54(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F7** Words in s. 54(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(4\)\(a\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F8** Words in s. 54(2)(i) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(4\)\(b\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F9** S. 54(2A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(5\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F10** Words in s. 54(2A) substituted (25.7.2006) by [The Radio Multiplex Services \(Required Percentage of Digital Capacity\) Order 2006 \(S.I. 2006/2130\)](#), arts. 1(1), [2](#)
- F11** Words in s. 54(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(6\)\(a\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F12** Words in s. 54(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 259\(6\)\(b\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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- F13** S. 54(6)-(6B) substituted for s. 54(6) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 315, 411(2)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F14** S. 54(7) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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