

**2008 No. 1421**

**BROADCASTING**

**The Multiplex Licence (Broadcasting of Programmes in Gaelic)  
Order 2008**

<i>Made</i> - - - -	<i>9th June 2008</i>
<i>Laid before Parliament</i>	<i>10th June 2008</i>
<i>Coming into force</i> - -	<i>2nd July 2008</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 32(1) of the Broadcasting Act 1996(a):

**Citation and commencement**

1. This Order may be cited as the Multiplex Licence (Broadcasting of Programmes in Gaelic) Order 2008 and comes into force on 2nd July 2008.

**Broadcasting of programmes in Gaelic**

2. For article 2 of the Multiplex Licence (Broadcasting of Programmes in Gaelic) Order 1996(b) substitute—

“2.—(1) OFCOM shall secure that there continues to be included in the Multiplex A licence a condition requiring the holder of the licence, when broadcasting programmes for reception wholly or mainly in Scotland, to broadcast programmes in Gaelic for at least 30 minutes per day between 1800 hours and 2230 hours.

(2) In this Article, “the Multiplex A licence” means the licence granted under Part 1 of the Act by the Independent Television Commission(c) on 26<sup>th</sup> May 1998 authorising the provision of the television multiplex service known as “Multiplex A”, which on 9th June 2008 was held by SDN Limited (and which is a multiplex licence in respect of which the Secretary of State has made an order under section 243(3) of the Communications Act 2003(d)).”.

9th June 2008

*Andy Burnham*  
Secretary of State for Culture, Media and Sport

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(a) 1996 c. 55. Section 32 was amended by paragraph 97 in Part 2 of Schedule 15 to the Communications Act 2003.  
(b) S.I. 1996/2758  
(c) The functions of the Independent Television Commission in relation to the licensing etc. of television services were transferred to OFCOM by section 2 of, and paragraph 3 of Schedule 1 to, the Communications Act 2003 (c. 21).  
(d) 2003 c. 21. The Order is the Television Multiplexes (Reservation of Digital Capacity) Order 2008; S.I. 2008/1420.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 32(1) of the Broadcasting Act 1996. The Order makes new provision to continue existing arrangements in respect of the provision of Gaelic broadcasting in Scotland which are required as a result of the reorganisation of multiplex capacity to be effected by the Television Multiplexes (Reservation of Digital Capacity) Order 2008 (“the 2008 Order”). A television multiplex is the name given to the means by which digital terrestrial television channels are transmitted.

But for this Order, article 2 of the Multiplex Licence (Broadcasting of Programmes in Gaelic) Order 1996 (“the 1996 Order”) would require the Office of Communications, through licence conditions, to impose an obligation on the holder of a specified multiplex licence to ensure that Gaelic programming is carried on that multiplex for at least 30 minutes per day between 1800 hours and 2230 hours. The multiplex licence in question is the one granted in respect of the frequency on which digital capacity is reserved for the broadcasting of Channel 5 and S4C Digital.

To date, Channel 5 and S4C Digital services have been carried on Multiplex A. Pursuant to articles 8 to 10 of the 2008 Order, Channel 5 and S4C Digital will lose digital capacity on Multiplex A but gain a corresponding level of capacity on Multiplex 2. But for this Order, this would leave the effect of article 2 unclear. There is no express reference in article 2 of the 1996 Order to Multiplex A, so it is necessary to stipulate whether, following any changes made by virtue of the 2008 Order, the obligation to carry Gaelic programming lies with the holder of the licence for the multiplex on which capacity for S4C Digital and Channel 5 would *then* be reserved – i.e. Multiplex 2 – or whether the obligation remains with the Multiplex A licence holder. This Order provides that the obligation to provide Gaelic programming is to remain on the licence holder of Multiplex A. The obligation itself remains the same.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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