



# Broadcasting Act 1996

## 1996 CHAPTER 55

### PART I

#### DIGITAL TERRESTRIAL TELEVISION BROADCASTING

##### *Digital additional services provided on television broadcasting frequencies*

#### 24 Digital additional services.

- (1) In this Part “digital additional service” means any service [<sup>F1</sup>(or dissociable section of a service)] which—
- [<sup>F2</sup>(a) is provided by a person with a view to its being broadcast in digital form (whether by him or some other person) so as to be available for reception by members of the public;
  - (b) is so provided with a view either—
    - (i) to the broadcasting being by means of a television multiplex service or by means of a general multiplex service; or
    - (ii) to the members of the public in question being or including members of the public in [<sup>F3</sup>a CTT State] other than the United Kingdom, or in an area of such a State;
- and
- (c) is not a Channel 3 service, Channel 4, Channel 5, a public television service of the Welsh Authority, the digital public teletext service, a digital programme service, a digital sound programme service, an ancillary service or a technical service.]
- (2) In this Part “ancillary service” means any service which is provided by the holder of a digital programme licence or by an [<sup>F4</sup>a relevant public service broadcaster] and consists in the provision of—
- [<sup>F5</sup>(a) assistance for disabled people in relation to some or all of the programmes included in a digital programme service or qualifying service provided by him;

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- (b) a service (apart from advertising) that relates to the promotion or listing of programmes included in such a service or in a digital sound programme service so provided; or
  - (c) any other service (apart from advertising) that is ancillary to one or more programmes so included, and relates directly to their contents.]
- (3) In this Part “technical service” means a service which—
- (a) is provided for technical purposes connected with the encryption or decryption of one or more digital programme services [F6, digital sound programme services] or digital additional services, and
  - (b) is of a description specified in an order made by the Secretary of State.
- [F7(3A) In this section—
- “assistance for disabled people” has the same meaning as in Part 3 of the Communications Act 2003;
- “available for reception by members of the public” shall be construed in accordance with section 361 of that Act;
- “public television service of the Welsh Authority” means—
- (a) S4C Digital; or
  - (b) any television programme service the provision of which by the Authority is authorised by or under section 205 of that Act and which is provided in digital form;
- “relevant public service broadcaster” means any of the following—
- (a) a person licensed under Part 1 of the 1990 Act to provide a Channel 3 service;
  - (b) the Channel 4 Corporation;
  - (c) a person licensed under Part 1 of the 1990 Act to provide Channel 5;
  - (d) the BBC;
  - (e) the Welsh Authority;
  - (f) the public teletext provider.]
- (4) An order under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** Words in s. 24(1) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **3(b)**
- F2** S. 24(1)(a)-(c) substituted for s. 24(1)(a)(b) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 93(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F3** Words in s. 24(1)(b)(ii) substituted (31.12.2020) by [The Broadcasting \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/224\)](#), reg. 1(2), **Sch. 1 para. 5** (with reg. 6) (as amended by S.I. 2020/1536, reg. 5(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 24(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 93(3)(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F5** S. 24(2)(a)-(c) substituted for s. 24(2)(a)(b) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 93(3)(b)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F6** Words in s. 24(3)(a) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 93(4)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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**F7** S. 24(3A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 93\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**[<sup>F8</sup>24A Duty to prevent access to seriously harmful extrinsic material**

- (1) In carrying out their functions, OFCOM must do all that they consider appropriate to prevent digital additional services from enabling members of the public to access seriously harmful extrinsic material.
- (2) “Seriously harmful extrinsic material”, in relation to a digital additional service, means material that—
  - (a) is not included in the service, and
  - (b) appears to OFCOM—
    - (i) to have the potential to cause serious harm, or
    - (ii) to be likely to encourage or incite the commission of crime or lead to disorder.]

**Textual Amendments**

**F8** [S. 24A](#) inserted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 92, 118\(6\)](#); [S.I. 2017/765, reg. 2\(x\)](#)

**25 Licensing of digital additional services.**

- (1) An application for a licence to provide digital additional services (in this Part referred to as a “digital additional services licence”) shall—
  - (a) be made in such manner as [<sup>F9</sup>OFCOM] may determine, and
  - (b) be accompanied by such fee (if any) as they may determine.
- (2) At any time after receiving such an application and before determining it, [<sup>F9</sup>OFCOM] may require the applicant to furnish such additional information as they may consider necessary for the purpose of considering the application.
- (3) Any information to be furnished to [<sup>F9</sup>OFCOM] under this section shall, if they so require, be in such form or verified in such manner as they may specify.
- (4) Where an application for a digital additional services licence is made to [<sup>F9</sup>OFCOM] in accordance with the provisions of this section, they shall grant the licence unless precluded from doing so by section 3(3)(a) or 5(1).

[<sup>F10</sup>(4A) A digital additional services licence is not required for a service that is or is comprised in a qualifying service.]

<sup>F11</sup>(5) .....

<sup>F12</sup>(6) .....

**Textual Amendments**

**F9** Words in s. 25(1)-(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 94\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

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- F10** S. 25(4A) inserted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 94(3)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F11** S. 25(5) repealed (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 94(4)**, **Sch. 19(1)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F12** S. 25(6) repealed (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 94(4)**, **Sch. 19(1)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

## 26 Duration and conditions of digital additional services licence.

- (1) Subject to the provisions of this Part and to section 42 of the 1990 Act as applied by section 27(8), a digital additional services licence shall continue in force until it is surrendered by its holder.
- (2) A digital additional services licence shall include such conditions as appear to the Commission to be appropriate for requiring the holder of the licence—
- (a) on entering into any agreement with [<sup>F13</sup>the provider of a television multiplex service or general multiplex service] for the broadcasting of digital additional services [<sup>F14</sup>by means of that provider’s service] , to notify [<sup>F15</sup>OFCOM] —
    - (i) of [<sup>F16</sup>the identity of the service by means of which it will be broadcast] ,
    - (ii) of the period during which the services will be provided,
    - (iii) where under the agreement the holder of the digital additional services licence will be entitled to the use of a specified amount of digital capacity, of that amount,
  - (b) when any such agreement is varied so far as it relates to any of the matters mentioned in paragraph (a)(i), (ii) or (iii), to notify [<sup>F15</sup>OFCOM] of the variation so far as relating to those matters, and
  - (c) where he is providing digital additional services to [<sup>F17</sup>the provider of a television multiplex service or general multiplex service] in accordance with such an agreement as is mentioned in paragraph (a) but intends to cease doing so, to notify [<sup>F15</sup>OFCOM] of that fact.
- [<sup>F18</sup>(3) A digital additional services licence which authorises the provision of an electronic programme guide (“the guide”) shall also include such conditions as appear to OFCOM to be appropriate for ensuring that, at any time when the guide is a regulated electronic programme guide as defined by section 211A of the Communications Act 2003, the only digital programme services that are listed or promoted by, or which can be accessed through, the guide are digital programme services that—
- (a) are provided by or under a licence under this Part, or
  - (b) do not fall, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by OFCOM.]

### Textual Amendments

- F13** Words in s. 26(2)(a) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 95(2)(b)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F14** Words in s. 26(2)(a) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 95(2)(c)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F15** Words in s. 26(2) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 95(2)(a)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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- F16** Words in s. 26(2)(a)(i) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 95\(2\)\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F17** Words in s. 26(2)(c) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 95\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F18** [S. 26\(3\)](#) inserted (31.12.2020) by [The Broadcasting \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/224\), reg. 1\(2\), Sch. 1 para. 6](#) (with [reg. 6](#)) (as amended by [S.I. 2020/1536, reg. 5\(2\)\(3\)](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

## 27 Enforcement of digital additional services licences.

- (1) If <sup>F19</sup>[OFCOM] are satisfied that the holder of a digital additional services licence has failed to comply with any condition of the licence or with any direction given by <sup>F19</sup>[OFCOM] under or by virtue of any provision of this Part, they may (subject to the following provisions of this section) serve on him—
- a notice requiring him to pay, within a specified period, a specified financial penalty to <sup>F19</sup>[OFCOM], or
  - a notice providing that the licence is to expire on a specified date, which shall be at least one year from the date of service of the notice.

- (2) The amount of any financial penalty imposed on any person in pursuance of subsection (1)(a) shall not exceed <sup>F20</sup>[the maximum penalty given by subsection (2A).]

<sup>F21</sup>(2A) The maximum penalty is whichever is the greater of—

- £250,000; and
- 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to television multiplex services and general multiplex services in respect of relevant accounting periods.]

- (4) In <sup>F22</sup>[subsection (2A)] “relevant accounting period”, in relation to a <sup>F23</sup>[television multiplex service or general multiplex service, means the last accounting period of the multiplex provider] .

- (5) Where, in the case of any <sup>F24</sup>[television multiplex service or general multiplex service, the first accounting period of the multiplex provider] throughout which the holder of the digital additional services licence provides a digital additional service for broadcasting by means of the multiplex service (“the first period”) has <sup>F25</sup>[not ended when the penalty is imposed, then for the purposes of this section] the share of multiplex revenue attributable to the holder of the digital additional services licence in relation to that multiplex service for the relevant accounting period shall be taken to be the amount which <sup>F19</sup>[OFCOM] estimate to be the share of multiplex revenue attributable to him for the first period.

<sup>F26</sup>(5A) In subsections (4) and (5) “multiplex provider” has the same meaning as in section 14.]

<sup>F27</sup>(5B) Section 15(2) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (5) above.]

- (6) <sup>F19</sup>[OFCOM] shall not serve on any person such a notice as is mentioned in subsection (1)(a) or (b) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

- (7) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), <sup>F19</sup>[OFCOM] may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if

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they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.

- (8) Subject to subsection (9), sections 40(1) to (4) and section 42 of the 1990 Act shall apply in relation to a digital additional services licence as they apply in relation to a Channel 3 licence.
- (9) In its application in relation to a digital additional services licence, section 42 of the 1990 Act shall have effect—
- (a) with the substitution for the reference in subsection (1)(a) to Part I of that Act of a reference to this Part, and
  - (b) with the omission of subsection (4) and of the reference to that subsection in subsection (6).
- (10) It is hereby declared that any exercise by <sup>F19</sup>[OFCOM] of their powers under subsection (1) in respect of any failure to comply with any condition of a digital additional services licence shall not preclude the exercise by them of their powers under section 40 of the 1990 Act in respect of that failure.

#### Textual Amendments

- F19** Words in s. 27 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 96\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F20** Words in s. 27(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 15\(1\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F21** S. 27(2A) substituted for s. 27(3) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 15\(2\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F22** Words in s. 27(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 15\(3\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F23** Words in s. 27(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 96\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F24** Words in s. 27(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 96\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F25** Words in s. 27(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 15\(4\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F26** S. 27(5A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 96\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F27** S. 27(5B) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 15\(5\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C1** S. 27(1) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 4\(c\)](#) (with art. 5)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 97(1)-(2A) substituted for s. 97(1)(2) by [2003 c. 21 s. 299\(1\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 97(5A)(5B) inserted by [2003 c. 21 s. 299\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(1)-(1D) substituted for s. 101(1) by [2003 c. 21 s. 300\(2\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(5) inserted by [2003 c. 21 s. 300\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)