



# 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 which—
  - (a) is provided by any person with a view to its being broadcast in digital form by means of a multiplex service, whether by him or by some other person, but
  - (b) is not a digital programme service, a qualifying 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 independent analogue broadcaster and consists in the provision of—
  - (a) subtitling for the deaf in connection with programmes included in a digital programme service or qualifying service provided by him, or
  - (b) other services (apart from advertising) which—
    - (i) are ancillary to such programmes and directly related to their contents, or
    - (ii) relate to the promotion or listing of such programmes.
- (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 or digital additional services, and
  - (b) is of a description specified in an order made by the Secretary of State.
- (4) An order under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 01/10/1996.*

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## 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 the Commission 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, the Commission 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 the Commission 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 the Commission 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).
- (5) Subject to subsection (6), sections 6 to 12 of the 1990 Act (general provisions relating to services licensed under Part I of that Act) shall apply in relation to any digital additional service which is licensed under this Part of this Act and is broadcast for general reception in, or in any area in, the United Kingdom as they apply in relation to services licensed under Part I of the 1990 Act.
- (6) In its application in relation to a digital additional service—
  - (a) section 6 of the 1990 Act shall have effect with the omission of subsection (8), and
  - (b) section 12(1)(b) of the 1990 Act shall have effect as if the reference to the Commission’s functions under Chapter II of Part I of that Act included a reference to their functions under this Part.

## 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 the holder of a multiplex licence for the broadcasting of digital additional services by means of a multiplex service, to notify the Commission—
    - (i) of the identity of the multiplex service,
    - (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 the Commission of the variation so far as relating to those matters, and
  - (c) where he is providing digital additional services to the holder of a multiplex licence in accordance with such an agreement as is mentioned in paragraph (a) but intends to cease doing so, to notify the Commission of that fact.

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## **27 Enforcement of digital additional services licences.**

- (1) If the Commission 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 the Commission under or by virtue of any provision of this Part, they may (subject to the following provisions of this section) serve on him—
  - (a) a notice requiring him to pay, within a specified period, a specified financial penalty to the Commission, or
  - (b) 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 whichever is the greater of—
  - (a) £50,000, or
  - (b) the amount determined under subsection (3).
- (3) The amount referred to in subsection (2)(b) is—
  - (a) in a case where a penalty under this section has not previously been imposed on the holder of the digital additional services licence during any period for which his licence has been in force, 3 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to multiplex services in respect of relevant accounting periods (as determined in accordance with section 15), and
  - (b) in any other case, 5 per cent. of the aggregate amount of those shares of multiplex revenue (as so determined).
- (4) In subsection (3)(a) “relevant accounting period”, in relation to a multiplex service, means the last accounting period of the holder of the multiplex licence.
- (5) Where, in the case of any multiplex service, the first accounting period of the holder of the multiplex licence 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 not yet ended, then for the purposes of subsection (3) 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 the Commission estimate to be the share of multiplex revenue attributable to him for the first period.
- (6) The Commission 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), the Commission may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if 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—

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- (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 the Commission 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.

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