



Broadcasting Act 1996

1996 CHAPTER 55

PART II

DIGITAL TERRESTRIAL SOUND BROADCASTING

Digital sound programme services

60 Licensing of digital sound programme services.

- (1) For the purposes of this Part a digital sound programme service is—
 - (a) a “national digital sound programme service” if it is provided for broadcasting by means of a national radio multiplex service, and
 - (b) a “local digital sound programme service” if it is provided for broadcasting by means of a local radio multiplex service.
- (2) A licence to provide digital sound programme services (in this Part referred to as a “digital sound programme licence”) may be either—
 - (a) a licence to provide national digital sound programme services (in this Part referred to as a “national digital sound programme licence”), or
 - (b) a licence to provide local digital sound programme services (in this Part referred to as a “local digital sound programme licence”).
- (3) An application for a digital sound programme licence shall—
 - (a) be made in such manner as the Authority may determine, and
 - (b) be accompanied by such fee (if any) as they may determine.
- (4) At any time after receiving such an application and before determining it, the Authority may require the applicant to furnish such additional information as they may consider necessary for the purpose of considering the application.
- (5) Any information to be furnished to the Authority under this section shall, if they so require, be in such form or verified in such manner as they may specify.

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- (6) Where an application for a digital sound programme licence is made to the Authority in accordance with the provisions of this section, they shall grant the licence unless precluded from doing so by section 42(2)(a) or 44(1).
- (7) Subject to subsection (8), section 90 of the 1990 Act (general provisions relating to services licensed under Part III of that Act) shall apply in relation to a digital sound programme service licensed under this Part of this Act as it applies in relation to a national or local service (within the meaning of Part III of the 1990 Act).
- (8) In its application in relation to a digital sound programme service licensed under this Part, section 90 of the 1990 Act shall have effect with the omission of subsection (7) and with the substitution for subsections (3) and (4) of the following—
- “(3) The appropriate requirement referred to in subsection (2)(a) is—
- (a) in the case of a national digital sound programme service, that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
- (b) in the case of a local digital sound programme service, that undue prominence is not given in its programmes to the views and opinions of particular persons or bodies on such matters.
- (4) In applying subsection (3)(a) to a national digital sound programme service a series of programmes may be considered as a whole; and in applying subsection (3)(b) to a local digital sound programme service the programmes included in that service shall be taken as a whole.”
- (9) Subject to subsection (10), sections 91 to 96 of the 1990 Act (general provisions relating to services licensed under Part III of that Act) shall apply in relation to a digital sound programme service licensed under this Part as they apply in relation to a licensed service (within the meaning of Part III of the 1990 Act).
- (10) In its application in relation to a digital sound programme service, section 96(1)(b) shall have effect as if the reference to the Authority’s functions under Chapter II of Part III of the 1990 Act included a reference to their functions under this Part.

61 Duration and conditions of digital sound programme licence.

- (1) Subject to the provisions of this Part and to section 111 of the 1990 Act as applied by section 62(10), a digital sound programme licence shall continue in force until it is surrendered by its holder.
- (2) A digital sound programme licence shall include such conditions as appear to the Authority to be appropriate for requiring the holder of the licence—
- (a) on entering into any agreement with the holder of a radio multiplex licence for the provision of a digital sound programme service to be broadcast by means of a radio multiplex service, to notify the Authority—
- (i) of the identity of the radio multiplex service,
- (ii) of the characteristics of the digital sound programme service to which the agreement relates, and
- (iii) of the period during which it will be provided,

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- (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 Authority of the variation so far as relating to those matters, and
 - (c) where he is providing a digital sound programme service to the holder of a radio multiplex licence in accordance with such an agreement as is mentioned in paragraph (a) but intends to cease doing so, to notify the Authority of that fact.
- (3) A digital sound programme licence shall also include such conditions as appear to the Authority to be appropriate for requiring the holder of the licence, on entering into any such agreement as is mentioned in subsection (2)(a), to submit to the Authority proposals for training or retraining persons employed or to be employed by him in order to help fit them for employment in, or in connection with, the making of programmes to be included in his service.
- (4) Where the holder of a digital sound programme licence has submitted proposals to the Authority in accordance with a condition included in the licence by virtue of subsection (3) or has failed to comply with such a condition, the Authority may, after consulting him, vary the licence so as to include in the licence such further conditions as they consider appropriate in relation to the matters referred to in that subsection.

62 Enforcement of digital sound programme licences.

- (1) If the Authority are satisfied that the holder of a digital sound programme licence has failed to comply with any condition of the licence or with any direction given by the Authority 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 Authority,
 - (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, and
 - (c) a notice suspending the licence for a specified period not exceeding six months.
- (2) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of a national digital sound programme licence shall not exceed whichever is the greater of—
- (a) £50,000, and
 - (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 sound programme 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 national radio multiplex services in respect of relevant accounting periods (as determined in accordance with section 57), 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) “relevant accounting period”, in relation to a national radio multiplex service, means the last accounting period of the holder of the national radio multiplex licence.

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- (5) Where, in the case of any national radio multiplex service, the first accounting period of the holder of the national radio multiplex licence throughout which the holder of the digital sound programme licence provides a digital sound programme service for broadcasting by means of the radio 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 sound programme licence in relation to that radio multiplex service for the relevant accounting period shall be taken to be the amount which the Authority estimate to be the share of multiplex revenue attributable to him for the first period.
- (6) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of a local digital sound programme licence shall not exceed £50,000.
- (7) The Authority shall not serve on any person any notice under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (8) 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 Authority 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.
- (9) Where the Authority serve a notice on a BBC company under any provision of this section, they shall send a copy of the notice to the Secretary of State.
- (10) Subject to subsections (11) and (12), section 109 (power to require scripts etc. or broadcasting of correction or apology or not to repeat programme) and section 111 (power to revoke licences) of the 1990 Act shall apply in relation to a digital sound programme licence as they apply in relation to a licence under Chapter II of Part III of the 1990 Act.
- (11) In its application in relation to a digital sound programme licence, section 109(1) of the 1990 Act shall have effect with the substitution for the reference to a direction under Part III of that Act of a reference to a direction under this Part.
- (12) In its application in relation to a digital sound programme licence, section 111 of the 1990 Act shall have effect—
 - (a) with the substitution for the reference in subsection (1)(a) to Part III 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).
- (13) It is hereby declared that any exercise by the Authority of their powers under subsection (1) in respect of any failure to comply with any condition of a digital sound programme licence shall not preclude any exercise by the Authority of their powers under section 109 of the 1990 Act in respect of that failure.

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