



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 [^{F1}, by means of a television multiplex service or by means of a general 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 [^{F2}OFCOM] 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, [^{F2}OFCOM] 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 [^{F2}OFCOM] under this section shall, if they so require, be in such form or verified in such manner as they may specify.

Status: Point in time view as at 27/06/2017.

Changes to legislation: Broadcasting Act 1996, Cross Heading: Digital sound programme services is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Where an application for a digital sound programme licence is made to [F2OFCOM] 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).
- [F3(6A) Section 89 of the 1990 Act (disqualification from being licence holder or concerned with the provision of a programme service if convicted of a transmitting offence) shall apply in relation to a licence under this section as it applies to a licence under Part 3 of that Act, but with the omission of paragraph (b) of subsection (3) of that section and of the word “or” immediately before that paragraph.]
- F4(7)
- F4(8)
- F4(9)
- F4(10)

Textual Amendments

- F1** Words in s. 60(1)(a) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 260(1)**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F2** Words in s. 60 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 119(2)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** S. 60(6A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 119\(3\)\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F4** S. 60(7)-(10) 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)

Modifications etc. (not altering text)

- C1** Pt. 2: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 1 para. 5** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C2** Pt. 2 modified (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 258**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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 [F5OFCOM] to be appropriate for requiring the holder of the licence—
- (a) on entering into any agreement with [F6the provider of a radio multiplex service, of a television multiplex service or of a general multiplex service] for the provision of a digital sound programme service to be broadcast [F7by means of the multiplex service] , to notify [F5OFCOM] —
- (i) of the identity of the [F8multiplex 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,

Status: Point in time view as at 27/06/2017.

Changes to legislation: Broadcasting Act 1996, Cross Heading: Digital sound programme services is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 [F5OFCOM] of the variation so far as relating to those matters, and
- (c) where he is providing a digital sound programme service to [F9the provider of a radio multiplex service, of a television multiplex service or of a general multiplex service] in accordance with such an agreement as is mentioned in paragraph (a) but intends to cease doing so, to notify [F5OFCOM] of that fact.

F10(3)

F10(4)

Textual Amendments

- F5 Words in s. 61(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 120\(2\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F6 Words in s. 61(2)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 120\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F7 Words in s. 61(2)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 120\(2\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F8 Words in s. 61(2)(a)(i) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 120\(2\)\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F9 Words in s. 61(2)(c) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 120\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F10 S. 61(3)(4) 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](#))

62 Enforcement of digital sound programme licences.

- (1) If [F11OFCOM] 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 [F11OFCOM] 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 [F11OFCOM] ,
 - (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 [F12the maximum penalty given by subsection (2A).]

[F13(2A) The maximum penalty is whichever is the greater of—

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

(4) In [F14subsection (2A)] “relevant accounting period”, in relation to a [F15relevant multiplex service, means the last accounting period of the multiplex provider] .

Status: Point in time view as at 27/06/2017.

Changes to legislation: Broadcasting Act 1996, Cross Heading: Digital sound programme services is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) Where, in the case of any [^{F16}relevant multiplex service] , the first accounting period of the [^{F17}multiplex provider] throughout which the holder of the digital sound programme licence provides a digital sound programme service for broadcasting by means of [^{F18}that relevant multiplex service] (“the first period”) has [^{F19}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 sound programme licence in relation to [^{F18}that relevant multiplex service] for the relevant accounting period shall be taken to be the amount which [^{F11}OFCOM] estimate to be the share of multiplex revenue attributable to him for the first period.

[^{F20}(5A) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to national radio multiplex services is to be in accordance with section 57(2) and (3).

(5B) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to television multiplex services or general multiplex services is to be in accordance with section 15(2) and (3).]

[^{F21}(5B) For the purposes of this section, a service is a relevant multiplex service if it is—

- (a) a national radio multiplex service;
- (b) a television multiplex service; or
- (c) a general multiplex service.

(5C) In this section, “multiplex provider”—

- (a) in relation to a national radio multiplex service, means the multiplex provider within the meaning of section 56; and
- (b) in relation to a television multiplex service or a general multiplex service, means the multiplex provider within the meaning of section 14.]

(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 [^{F22}£250,000] .

(7) [^{F11}OFCOM] 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), [^{F11}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 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 [^{F11}OFCOM] 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), [^{F23}sections 109, 111 and 111B of the 1990 Act (enforcement)] 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.

Status: Point in time view as at 27/06/2017.

Changes to legislation: Broadcasting Act 1996, Cross Heading: Digital sound programme services is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 [F11OFCOM] 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 [F11OFCOM] of their powers under section 109 of the 1990 Act in respect of that failure.

Textual Amendments

- F11** Words in s. 62 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F12** Words in s. 62(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(1\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F13** S. 62(2A) substituted for s. 62(3) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(2\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F14** Words in s. 62(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(3\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F15** Words in s. 62(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F16** Words in s. 62(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(4\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F17** Words in s. 62(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(4\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F18** Words in s. 62(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(4\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F19** Words in s. 62(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(4\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F20** S. 62(5A)(5B) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(5\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F21** S. 62(5B)(5C) inserted (29.12.2003) by virtue of [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 121\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F22** Word in s. 62(6) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 20\(6\)\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)
- F23** Words in s. 62(10) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 91\(2\), 118\(2\)](#)

Modifications etc. (not altering text)

- C3** S. 62(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\(e\)](#) (with art. 5)

Status:

Point in time view as at 27/06/2017.

Changes to legislation:

Broadcasting Act 1996, Cross Heading: Digital sound programme services is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.