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STATUTORY INSTRUMENTS

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**1996 No. 2760**

**The Independent Analogue Broadcasters  
(Reservation of Digital Capacity) Order 1996**

**PART II**

**THE C3/C4 MULTIPLEX LICENCE**

**Disapplication of 1996 Act**

2. Sections 7, 8, 9 and 10 of the 1996 Act shall not apply to the C3/C4 multiplex licence except as provided in articles 3 and 4, which shall have effect in place of those provisions.

**Applications for the Licence**

3.—(1) Where the Commission propose to grant the C3/C4 multiplex licence, they shall publish, in such manner as they consider appropriate, a notice—

- (a) inviting an application for the licence and specifying the closing date for such an application;
- (b) specifying the frequency on which the service is to be provided and the area or areas in the United Kingdom in which the frequency is to be available;
- (c) stating that no percentage of multiplex revenue would be payable by the applicant in pursuance of section 13 of the 1996 Act if he were granted the licence, and
- (d) containing general guidance as to requirements to be met by proposals as to the matters referred to in paragraphs (i) and (ii) of sub-paragraph (2)(a) and in sub-paragraph (2)(e), and such other general guidance as they consider appropriate.

(2) An application for the C3/C4 multiplex licence may be made only by a body corporate controlled by the Channel 3 companies and Channel Four taken together and must be in writing and accompanied by—

- (a) a technical plan relating to the service which the applicant proposes to provide and indicating—
  - (i) the proposed coverage area of the service,
  - (ii) the timetable in accordance with which that coverage would be achieved, and
  - (iii) the technical means by which it would be achieved;
- (b) the applicant's proposals as to the number of digital programme services to be broadcast, as to the characteristics of each of those services and as to the areas in which they would be provided;
- (c) the applicant's proposals as to the timetable in accordance with which the broadcasting of each of those services would begin;
- (d) the applicant's proposals as to the broadcasting of digital additional services;

- (e) the applicant's proposals for promoting or assisting the acquisition, by persons in the proposed coverage area of the service, of equipment capable of receiving all the multiplex services available in that area;
  - (f) the applicant's proposals for the broadcasting and reception of the Channel 3 services and Channel 4 in digital form and of the qualifying teletext service;
  - (g) such information as the Commission may reasonably require as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force; and
  - (h) such other information as the Commission may reasonably require for the purpose of considering the application.
- (3) At any time after receiving such an application and before determining it, the Commission may require the applicant to furnish additional information under paragraph (2).
- (4) Any information to be furnished to the Commission under paragraphs (2) and (3) shall, if they so require, be in such form or verified in such manner as they may specify.
- (5) The Commission shall, as soon as reasonably practicable after the date specified under paragraph (1) as the closing date for an application, publish in such manner as they consider appropriate—
- (a) the name of the person who has made that application to them;
  - (b) the proposals submitted by him under sub-paragraph (2)(b); and
  - (c) such other information connected with his application as the Commission consider appropriate.

#### **Award of Licence**

- 4.—(1) Where an application for the C3/C4 multiplex licence has been duly made to the Commission in accordance with article 3(2), they may only (subject to sections 3(3) and 5(1) of the 1996 Act) refuse the application if they are not satisfied that—
- (a) the proposed service would comply with the requirements specified in article 3(1);
  - (b) the applicant would be able to maintain that service throughout the period for which the licence would be in force;
  - (c) the applicant would not charge viewers for the reception of any qualifying service; or
  - (d) the arrangements proposed for the broadcasting of the qualifying teletext service would meet the reasonable requirements of the public teletext provider in relation to the provision of that service.
- (2) Where the Commission have awarded the C3/C4 multiplex licence to any person in accordance with this article, they shall, as soon as reasonably practicable after awarding the licence—
- (a) publish in such manner as they consider appropriate—
    - (i) the name of the person to whom the licence has been awarded, and
    - (ii) such other information as the Commission consider appropriate; and
  - (b) grant the licence to that person.

#### **Modifications of 1996 Act**

- 5.—(1) Sections 11, 12, 13 and 16 of the 1996 Act shall apply to the C3/C4 multiplex licence with the omissions and modifications set out in this article.
- (2) Section 11 of the 1996 Act shall apply to the C3/C4 multiplex licence with the omission of section 11(3)(b) and (4).

(3) Section 12 of the 1996 Act shall apply to the C3/C4 multiplex licence with the following modifications:—

- (a) as if the references in section 12 to sections 7(4)(b), (c), (d), (e) and (f) were references to sub-paragraphs (a), (b), (c), (d) and (e) of article 3(2), and
- (b) with the omission of section 12(1)(f).

(4) The C3/C4 multiplex licence shall also include such conditions as appear to the Commission to be appropriate for securing the broadcasting of the Channel 3 services and Channel 4 in digital form and of the qualifying teletext service.

(5) Section 13(1) of the 1996 Act shall apply to the C3/C4 multiplex licence as if it had been granted in pursuance of a notice under section 7(1) of that Act.

(6) Sections 13(2) and (3) of the 1996 Act shall not apply to the C3/C4 multiplex licence.

(7) Section 16 of the 1996 Act shall apply to the C3/C4 multiplex licence with the following modifications:—

- (a) as if the references to section 7(1) were references to article 3(1) and the references to paragraph (f) of section 7(1) were references to sub-paragraph (c) of article 3(1);
- (b) as if the reference to section 7(2)(b) were omitted;
- (c) as if the references to section 7(4)(b) and (f) were references to sub-paragraphs (a) and (e) of article 3(2);
- (d) as if section 16(8) were omitted and replaced by—

““On the grant of such an application the Commission may, with the consent of the Secretary of State, and shall if so required by him, specify a percentage as the percentage of multiplex revenue for each accounting period of his that will be payable by the applicant in pursuance of section 13(1) during the period for which the licence is to be renewed.”; and”

- (e) as if section 16(9) were omitted.

### **Variation of Channel 3 and Channel Licences**

6.—(1) The Commission shall vary the licences under which the Channel 3 services and Channel 4 are provided in analogue form so as to include such conditions as appear to the Commission to be appropriate for imposing on the holders of such licences, in specified circumstances, an obligation to provide the relevant qualifying service and such other consequential and transitional provisions as the Commission may consider appropriate.

(2) The Commission shall also include such conditions in any other licence under which the corresponding analogue service is subsequently provided.

(3) The Commission may further vary any licence under which any Channel 3 service is provided by including such transitional provisions as they may determine exempting the holder of that licence from providing his qualifying service during such hours of the day as they may specify throughout any part of the area for which that service is provided for a period not exceeding two years beginning on the date of the variation.

### **Use of Digital Capacity**

7. The holder of the C3/C4 multiplex licence shall not, without the prior consent of the Commission, use any of the digital capacity reserved for the Channel 3 companies and Channel Four by direction of the Secretary of State to the Commission under section 28(2)(b)(ii) of the 1996 Act for the broadcasting of any digital programme services or digital additional services provided under licences which are not held by any of the Channel 3 companies, or by any body corporate controlled

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by a Channel 3 company, or by more than one of the Channel 3 companies taken together, or by a qualifying company controlled by Channel Four.