

**EXPLANATORY MEMORANDUM TO
THE BROADCASTING ACT 1996 (RENEWAL OF LOCAL RADIO MULTIPLEX
LICENCES) REGULATIONS 2015**

2015 No. [XXXX]

- 1.** This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

- 2.1 To allow Ofcom to further renew local radio multiplex licences.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 This instrument uses the powers in section 58A of the Broadcasting Act 1996 (the Act) for the first time.

- 4. Legislative Context**

- 4.1 Section 58 of the Act provides for the duration and renewal of national or local radio multiplex licences. In particular, any licence granted between the commencement of this section (1 October 1996) and 1 October 2006 may only be renewed on one occasion. Licences granted after 1 October 2006 may not be renewed using this power.

- 4.2 Section 58A of the Act (inserted by the Digital Economy Act 2010) allows the Secretary of State to amend section 58 and make further provision about the renewal of radio multiplex licences. This instrument is made under this power and provides for a further renewal of local radio multiplex licences in certain circumstances (as explained below).

- 5. Territorial Extent and Application**

- 5.1 This instrument applies to all of the United Kingdom.

- 6. European Convention on Human Rights**

The Minister of State for Culture and the Digital Economy, Ed Vaizey MP has made the following statement regarding Human Rights:

In my view the provisions of the Broadcasting Act 1996 (Renewal of Local Radio Multiplex Licences) Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 The Government has a long term strategic objective to fully support a listener-led migration from analogue to digital radio and make final decisions about the timetable for a switch-off of analogue networks when national Digital Audio Broadcasting (DAB) coverage is comparable to FM; the local DAB tier reaches 90% of the population and 50% of all radio listening is to digital. This was set out by the previous administration in the 2009 Digital Britain Report and the Digital Economy Act 2010 which created the legal framework for a future switchover.

7.2 In July 2010, the Government confirmed the switchover criteria drawn up in the Digital Britain report and committed to make an in-principle decision on radio switchover by the end of 2013. DCMS launched the joint Government-industry Digital Radio Action Plan to ensure a well-informed decision could be made and it was completed in December 2013 and published in January 2014.

7.3 On 16 December 2013 Ed Vaizey set out the Government's long-term plans for digital radio. He announced that whilst digital listening had been growing steadily it was not the right time to commit to a switchover. He also announced a package of measures to support the next phase of digital radio's development and this included confirmation that Government along with the BBC and commercial radio would support the further expansion of the local DAB network to local commercial FM equivalence – i.e. around 90% of homes.

7.4 The local DAB network comprises of 55 licensed local multiplexes (each local radio multiplex licence specifies a "multiplex area", which is the geographical area covered by the local multiplex) and 2 areas where the licences have not yet been advertised. These local radio multiplex licences were awarded by Ofcom under the Act and either have been renewed under section 58 or do not qualify for renewal as they were issued after 2006. The cumulative effect is that the majority of local radio multiplex licences (with a couple of exceptions) are due to expire between 2022 and 2026 and cannot, under the current legislation, be renewed further.

7.5 As part of the plans announced on 16 December 2013, the Government agreed to exercise the powers in section 58A of the Act to enable Ofcom to further renew local radio multiplex licences where the licensees have built out their network in line with the Ofcom authored local DAB network expansion plan. Allowing local radio multiplex licence holders to apply for a licence renewal to 2030 where coverage requirements (agreed under the Ofcom authored plan) have been met and will be maintained for the duration of the renewed licence, supports the investment in the expanded local DAB network.

7.6 This instrument inserts a new section 58ZA into the Act to allow for such a further renewal and to provide that a licence so renewed expires on 31 December 2030. It will be a condition of any licence renewed by Ofcom under this new section to maintain the coverage attained in a licensed multiplex area following the completion of the network build out throughout the duration of the licence. Failure to do this by the licence holder would be a breach of the multiplex licence conditions and subject to sanction by Ofcom for breach of local multiplex licence conditions in the normal way.

7.7 This instrument amends the Broadcasting Act 1996. The Government has no current plans to consolidate this legislation.

8. Consultation outcome

8.1 Prior to laying this Order before Parliament DCMS sought comments on it from Ofcom, BBC and the local radio multiplex licence holders. They are all fully supportive of the purpose of this instrument.

9. Guidance

9.1 Ofcom does not provide guidance on licence renewal.

10. Impact

10.1 There is a positive impact on business through lower administration costs and greater certainty surrounding the return on their investments.

10.2 There is also a positive impact on the regulator Ofcom through lower administration costs, although they work on a full cost recovery basis in any case.

10.3 An Impact Assessment is attached to this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation applies to small businesses as they stand to gain in the same way larger businesses are expected to.

11.2 This legislation does not impose burdens on small businesses, it actually reduces them through lower administration costs and greater certainty.

12. Monitoring & review

12.1 Ofcom will monitor and review the effectiveness and operation of these provisions from time to time.

13. Contact

Alex Petrovic at the Department for Culture, Media and Sport (DCMS) tel: 0207 211 6529 or email: alex.petrovic@culture.gov.uk can answer any queries regarding the instrument.