
STATUTORY INSTRUMENTS

2008 No. 1420

**The Television Multiplex Services
(Reservation of Digital Capacity) Order 2008**

Multiplex 2

Variation of the Multiplex 2 licence

8.—(1) If, but only if, OFCOM (by means of variations to the Multiplex B licence made under article 4) reserve digital capacity on Multiplex B, they must also vary the Multiplex 2 licence in accordance with this article.

(2) OFCOM must vary the Multiplex 2 licence so that, as from the time when the variations reserving capacity on Multiplex B take effect, the Multiplex 2 licence includes such conditions as OFCOM consider appropriate for securing—

- (a) that the holder of the Multiplex 2 licence will use the digital capacity reserved on Multiplex 2 as mentioned in paragraph (3) for the broadcasting of services provided by Channel 3 licence holders and C4C, respectively; and
- (b) that in consideration for the making by the holder of a licence to provide Channel 5, the Welsh Authority and the public teletext provider, respectively, of such payments as are from time to time—
 - (i) agreed between the broadcaster and the holder of the Multiplex 2 licence, or
 - (ii) in default of agreement, determined by OFCOM,

the holder of the Multiplex 2 licence will use the digital capacity reserved on Multiplex 2 as mentioned in paragraph (3) for the broadcasting of services provided by those broadcasters.

(3) The digital capacity to be reserved by virtue of paragraph (2)—

- (a) for the holder of a Channel 3 licence, is—
 - (i) 48.5 per cent. of the digital capacity available on the frequencies on which Multiplex 2 is broadcast, throughout the appropriate area, less
 - (ii) digital capacity sufficient for the broadcasting (as a standard definition television service) of Channel 5, throughout the British Islands; and
- (b) for C4C, is—
 - (i) 48.5 per cent. of the digital capacity available on the frequencies on which Multiplex 2 is broadcast, throughout the British Islands, less
 - (ii) digital capacity sufficient for the broadcasting (as a standard definition television service) of the service known as S4C Digital (or S4C Digidol), throughout Wales;
- (c) for the holder of a licence to provide Channel 5, is the capacity referred to in sub-paragraph (a)(ii);
- (d) for the Welsh Authority, is the capacity referred to in sub-paragraph (b)(ii);

- (e) for the public teletext provider, 3 per cent. of the digital capacity available on the frequencies on which Multiplex 2 is broadcast, throughout the British Islands.
- (4) In paragraph (3)(a)(i), “the appropriate area” means—
 - (a) in relation to the holder of a national Channel 3 licence, the British Islands; and
 - (b) in relation to the holder of a regional Channel 3 licence, the area for which the service provided pursuant to that licence is authorised to be provided.
- (5) At any time when there is digital capacity on Multiplex 2 reserved for a relevant public service broadcaster other than the public teletext provider—
 - (a) an appropriate broadcaster, or
 - (b) the holder of the Multiplex 2 licence,or both (or all) of them, may refer to OFCOM for determination any question arising as to the amount of digital capacity which is sufficient for the broadcasting of S4C Digital or (as the case may be) Channel 5 (in either case, as a standard definition service).
- (6) In paragraph (5), “appropriate broadcaster” means—
 - (a) in relation to capacity reserved under paragraph (3)(a) or (c), the holder of any Channel 3 licence or of a licence to provide Channel 5, and
 - (b) in relation to capacity reserved under paragraph (3)(b) or (d), C4C or the Welsh Authority.