

*Draft Order laid before Parliament under section 244(9) of the Communications Act 2003, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**BROADCASTING**

**The Local Digital Television Programme Services Order 2012**

*Made - - - -*

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*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 244 and 402 of the Communications Act 2003<sup>(1)</sup>.

In accordance with subsection (2) of section 244 of that Act this Order is confined to services of a description falling within that subsection.

The Secretary of State is satisfied that the making of this Order in relation to services of the description set out in this Order will make possible, facilitate or encourage the provision of services so falling.

The Secretary of State considers that a local digital television programme service as described in Article 3 of this Order is one in relation to which all of the conditions of section 244(4) of that Act are satisfied.

In accordance with section 244(9) of that Act a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation and commencement**

**1.** This Order may be cited as the Local Digital Television Programme Services Order 2012 and comes into force on the day after the day on which it is made.

**Interpretation**

**2.** In this Order—

“the 1996 Act” means the Broadcasting Act 1996<sup>(2)</sup>;

“the 2003 Act” means the Communications Act 2003;

“digital programme service” has the meaning given in section 1(4)<sup>(3)</sup> of the 1996 Act;

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<sup>(1)</sup> 2003 c.21

<sup>(2)</sup> 1996 c. 55

<sup>(3)</sup> Subsection (4) was amended by the Communications Act 2003, s 360(3), Sch 15, Pt 2, para 74(1) and (3)

“local digital television programme service” has the meaning given by article 3.

### **Description of a local digital television programme service**

**3.—(1)** A local digital television programme service is a digital programme service of the following description —

- (a) it is provided in digital form with a view to its being included in a television multiplex service; and
- (b) it falls within paragraphs (2) and (5).

(2) A service falls within this paragraph if it is a service in relation to which all of the following conditions are satisfied—

- (a) it is intended for reception only within a particular area or locality;
- (b) its provision meets, or would meet, the needs of the area or locality where it is received;
- (c) its provision is or would be likely to broaden the range of television programmes available for viewing by persons living or working in that area or locality; and
- (d) its provision is or would be likely to increase the number and range of the programmes about that area or locality that are available for such viewing, or to increase the number of programmes made in that area or locality that would be so available.

(3) A service is to be taken for the purposes of paragraph (2) to meet the needs of an area or locality if, and only if—

- (a) its provision brings social or economic benefits to that area or locality, or to different categories of persons living or working in that area or locality; or
- (b) it caters for the tastes, interests and needs of some or all of the different descriptions of persons living or working in the area or locality (including, in particular, tastes, interests and needs that are of special relevance in the light of the descriptions of persons who do so live and work).

(4) In paragraphs (2) and (3) the references to persons living or working in an area or locality include a reference to persons undergoing education or training in that area or locality.

(5) A service falls within this paragraph if it includes or would include a range of programmes which—

- (a) facilitate civic understanding and fair and well-informed debate through coverage of local news and current affairs;
- (b) reflect the lives and concerns of communities and cultural interests and traditions in that area or locality; and
- (c) include content that informs, educates and entertains and is not otherwise available through a digital television programme service which is available across the United Kingdom.

### **Application of broadcasting legislation**

**4.** The provisions of Part 1 of the 1996 Act and Part 3 of the 2003 Act have effect in relation to a local digital television programme service with the modifications set out in the Schedule.

Date

*Jeremy Hunt*  
Secretary of State  
Department for Culture, Media and Sport

## SCHEDULE

Article 4

## Modification of legislation in relation to local digital television programme services

## PART 1

## Modifications of the 1996 Act

**Introductory**

1. This Part contains the modifications of Part 1 of the 1996 Act referred to in article 4.

**Definitions and general**

2. Section 1 has effect as if after subsection (4A)(4) there were inserted—

“(4B) In this Part—

“local multiplex service” means a multiplex service for the broadcast of local digital television programme services, and

“local digital television programme service” has the meaning given by article 3 of the Local Digital Television Programme Services Order 2012.”.

3. Sections 7 to 9(5) and 12(6) have effect as if before “multiplex licence”, in each place it occurs, there were inserted “local”.

**Local Multiplex Service Licence**

4. Section 7 (multiplex licences) has effect as if—

(a) in subsection (1), before “multiplex service”, there were inserted “local”,

(b) in subsection (4), paragraphs (c) to (e) were omitted,

(c) in that subsection, for paragraph (f) there were substituted—

“(f) the applicant’s proposals for supporting local digital television programme services,”, and

(d) subsections (5) and (8)(a)(ii) (but not the “and” after it) were omitted.

5. Section 8 (award of multiplex licences) has effect as if—

(a) in subsection (1), for “the development of digital television broadcasting in the United Kingdom otherwise than by satellite” there were substituted “local digital television programme services in the United Kingdom”,

(b) in subsection (2), in paragraph (b), the words “and (d)” were omitted,

(c) in that subsection, after paragraph (c), there were inserted “and” ,

(d) in that subsection, for paragraph (d) there were substituted—

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(4) Section (4A) was inserted by the Television Broadcasting Regulations 1998, [SI 1998/3196](#), reg 2, Schedule, para 8(1) and (3); substituted by the Communications Act 2003 ([c. 21](#)), s 360(3), Sch 15, Pt 2, para 74(1) and (4)

(5) Sections 7, 8 and 9 were amended by the Communications Act 2003 ([c.21](#)) , s 360(3), Sch 15, Pt 2, para 79(1), (2), (3)(a) and (3)(b), para 80(1) to (3) and para 81 respectively

(6) Section 12 was amended by the Television Broadcasting Regulations 1998, [SI 1998/3196](#), reg 2, Schedule, para 9(1) and (4); the Communications Act 2003 ([c.21](#)), s 242 and s 360(3), Sch 15, Pt 2, para 84; subsection (7) was repealed by section 406(7), Sch 19(1)

- “(d) any proposals by the applicant for promoting local digital television programme services.”, and
- (e) subsections (2)(e) to (f) and (3) were omitted.
6. Section 9(7) (power to require two or more multiplex licences to be granted to one person) has effect as if subsection (3) (c) were omitted.
7. Section 12(8) (conditions attached to multiplex licence) has effect as if—
- (a) in subsection (1), in paragraph (b), “(c), (d), (e) or” were omitted,
- (b) in that subsection, the “and” at the end of paragraph (g) were omitted,
- (c) in that subsection, for paragraph (h) there were substituted—
- “(h) that while the licence is in force the licence holder uses such portion of digital capacity on the multiplex as OFCOM may specify in the licence for such local digital television programme services as OFCOM may so specify,
- (i) that the licence holder carries such local digital television programme services at such places as are specified by OFCOM in the licence,
- (j) that the licence holder does not charge an amount for carrying a local digital television programme service specified by OFCOM in the licence which exceeds such sum as is sufficient to recover the net operating costs, that sum being determined by OFCOM in the event of dispute between the licence holder and the holder of the licence for the local digital television programme service,
- (k) that the licence holder co-operates, with persons notified to the licence holder by OFCOM, in order to facilitate the provision of local digital television programme services,
- (l) that the licence holder, if notified to do so by OFCOM, participates in or facilitates (as OFCOM sees fit) the formation of a legal entity which is intended to facilitate the provision of local digital television programme services,
- (m) that, subject to paragraph (n), the licence holder facilitates the objective of a provider of a local digital television programme service carried on the multiplex to increase the coverage area for that service set out in the technical plan submitted by the licence holder under section 7(4)(b), and
- (n) that any obligation imposed by virtue of paragraph (m) applies only if the provider of the local digital television programme service in question has undertaken to pay the costs reasonably incurred by the licence holder for increasing the coverage area beyond that set out in the technical plan and is not in breach of that undertaking.”,
- (d) for subsection (1A), there were substituted—
- “(1A) In subsection (1)(j), “net operating costs”, in relation to a local digital television programme service, means the operating costs reasonably incurred by the licence holder for the broadcast of that service, so far as those costs are not met by funding made available to the licence holder by the BBC for the support of the provision of local digital television programme services.”, and
- (e) subsections (3), (4), (4A), (5) and (6) were omitted.

(7) Section 9 was amended by the Communications Act 2003 (c.21), s 360(3), Sch 15, Pt 2, para 81

(8) Section 12 was amended by the Television Broadcasting Regulations 1998, SI 1998/3196, reg 2, Schedule, para 9(1) and (4); the Communications Act 2003 (c.21), s 242 and s 360(3), Sch 15, Pt 2, para 84; subsection (7) was repealed by section 406(7), Sch 19(1)