Draft Order laid before Parliament under section 1(6) of the Broadcasting Act 1996 and section 234(3) of the Communications Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

COMMUNICATIONS

The Television Licensable Content Services Order 2006

Made - - - -

Coming into force - -

This Order is made by the Secretary of State in exercise of powers conferred by section 1(5) of the Broadcasting Act 1996(**1**) and sections 234 and 402(3) of the Communications Act 2003(**2**).

To the extent that this Order is made under section 1(5) of the Broadcasting Act 1996, the Secretary of State considers it appropriate to make it, having regard to developments in broadcasting technology.

To the extent that this Order is made under sections 234 and 402(3) of the Communications Act 2003, the Secretary of State considers it appropriate to make it, having regard to those developments and other developments in technology that have taken place.

In accordance with section 1(6) of the Broadcasting Act 1996 and section 234(3) of the Communications Act 2003, a draft of this Order has been approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State now makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Television Licensable Content Services Order 2006 and shall come into force on the day after the day on which it is made.

(2) This Order does not extend to the Isle of Man.(**3**)

(**1**) 1996 c.55. Section 1 was amended by paragraph 74 of Part 2 of Schedule 15 to the Communications Act 2003, and repealed in part by Schedule 19 to that Act.

(**2**) 2003 c.21.

(**3**) Section 1(5) of the Broadcasting Act 1996 extends to the Isle of Man by virtue of article 2(a) of SI 2003/3193. Section 1(4) of that Act has effect as if any order made under section 1(5) which is for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey and the Bailiwick of Guernsey: see paragraph 2 of Schedule 1 to SI 2003/3203 and paragraph 2 of Schedule 1 to SI 2003/3192, respectively. Sections 234 and 402(3) of the Communications Act 2003 extend to the Bailiwick of Jersey by virtue of article 6 of SI 2003/3197 and to the Bailiwick of Guernsey by virtue of article 6 of SI 2003/3195.

Modification of the meaning of "television licensable content services"

2.—(1) In section 232 of the Communications Act 2003 (meaning of "television licensable content service"), in subsection (1)—

(a) for "both" substitute "more";

(b) omit "or" at the end of paragraph (a); and

(c) after that paragraph insert—

"(aa) the broadcasting of the service (whether by that person or by another) by means of a radio multiplex service; or".

(2) In section 233 of that Act (services that are not television licensable content services)—

(a) in subsection (1), for "multiplex service" substitute "television multiplex service or a general multiplex service"; and

(b) in subsection (9), omit the definition of a "multiplex service".

Supplemental provision: licensing of television licensable content services

3. In section 235 of the Communications Act 2003 (licensing of television licensable content services), after subsection (6) insert—

"(7) A licence to provide a television licensable content service must contain such conditions as OFCOM consider appropriate for requiring the licence holder—

(a) on entering into any agreement with the provider of a radio multiplex service for the provision of a television licensable content service to be broadcast by means of that multiplex service, to notify OFCOM—

(i) of the identity of the radio multiplex service;

(ii) of the period during which the service will be provided; and

(iii) where under the agreement he will be entitled to the use of a specified amount of digital capacity, of that amount;

(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 OFCOM of the variation so far as relating to those matters; and

(c) where he is providing a television licensable content service to the provider of a radio multiplex service in accordance with such an agreement as is mentioned in paragraph (a) but intends to cease doing so, to notify OFCOM of that fact.".

Amendment of the definition of "digital programme service"

4. In section 1(4) of the Broadcasting Act 1996 (definition of a "digital programme service"), before paragraph (a) insert—

"(za) a service provided under the authority of a licence under Part 1 of the 1990 Act to provide a television licensable content service,".

Amendment of the Broadcasting Act 1996

5.—(1) The Broadcasting Act 1996 is amended as follows.

(2) In section 39(**4**) (interpretation of Part 1), in subsection (1), after the definition of "technical service" (but before the definition of "television multiplex service"), insert—

(**4**) Section 39 was amended by paragraph 100 of Part 2 of Schedule 15 to the Communications Act 2003, and repealed in part by Schedule 19 to that Act.