



department for
culture, media
and sport

A new framework for local TV in the UK

July 2011



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the quality
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Foreword by the Secretary of State

Creating a new framework for viable local TV services up and down the UK is one of my key priorities and I believe will come to represent a step-change in the media market. The absence of sustainable local TV in the UK has been a long-standing problem, yet something that I believe can be addressed through targeted action by Government and industry.

I am pleased to set out the actions the Government is now proposing to put local TV on a strong and sustainable footing for the first time. This framework draws together the key components that are essential for this.

Throughout the process of developing this framework, we have had many discussions with many parties over many months. We have engaged in detailed analysis of the technical issues, costs, timings and feasibility; and we have tested commercial viability and interest in the market place. We have explored the concepts of potential network affiliate models together with standalone models and I have been really encouraged by the responses and enthusiasm. I am confident this will manifest itself into a new opportunity for businesses, for communities and for audiences as a whole.

The framework will allow local services to emerge on the digital terrestrial platform across the UK. It will be underpinned by a fit-for-purpose licensing regime that enables a robust spectrum operator to support the local services who in turn will be free to focus on developing original local content and running local TV business models. It will ensure EPG prominence for the new local TV services. Local TV will contribute to growth in the creative industries, develop local journalism and help to bring communities together around a shared voice and interest.

This is only the beginning: the development of local TV is a two stage process. We want to get new local TV services on the Freeview platform and this framework will help to achieve that by bringing services to most of those pioneer towns and cities with good spectrum coverage.

Gaps in the spectrum mean not every locality will be able to get a local TV service in this way which is why we want to see these pioneer services enabling the transition within the market for local TV to reach across the UK on internet protocol television (IPTV). This will be aided by the Government's commitment to the roll-out of superfast broadband. Both digital terrestrial television (DTT) and IPTV offer exciting opportunities

for the future of broadcast services. YouView is due to launch next year and the non-DTT players are already expanding their IPTV offer; but it will take a few years for significant household penetration to occur. Our framework is the catalyst that will eventually lead to local TV serving all localities across the UK.

This paper represents a great deal of hard work and input; and I encourage you to start thinking about how you will respond to the proposals set out here and be a part of the vision for local TV.

JEREMY HUNT

July 2011

Executive Summary

This document sets out a new framework for local TV in the UK. Chapter One outlines the background to the local TV project and the stages through which the framework has developed. Chapter Two explains the purpose and effect of the proposed statutory instruments the Government intends to lay. It also explains the rationale behind the proposed approach and how the framework has evolved following the Shott review last year and in consideration of the responses to the local media action plan earlier this year. Chapter Three sets out the timetable and processes involved, including Ofcom's approach to developing the licensing regime that is expected to follow once the orders have passed through the necessary Parliamentary process.

Pioneer towns and cities

The Government is creating the opportunity for local TV licences to be awarded through a competitive selection process run by Ofcom to broadcast targeted and relevant local content including news, current affairs and entertainment programmes. An indicative list of potential locations for local TV will be published in due course, following the conclusion of detailed technical planning work by Ofcom. The Government is enabling a new local TV market to emerge on a scale never achieved before. Through the proposed framework the Government is addressing barriers to entry and creating the right regulatory incentives.

The Government is not mandating ownership structures or business models. It will be for the market to respond to this framework and bid for the relevant licence or licences in support of business plans and having regard to anticipated revenues and costs. What the Government is seeking to achieve through this licensing framework is to create an opportunity for businesses which may come together as a network if that makes commercial sense; it also seeks to drive down capital and transmission costs for the local licensees and ensure good quality local TV provision is provided within a framework that is economically stable with regulatory certainty.

Spectrum

The local TV licensees will be guaranteed access to new localised multiplexes operated by a separately licensed multiplex company (or 'MuxCo'). The MuxCo will be

awarded an 8MHz package of geographic interleaved spectrum and will be responsible for building and operating the localised multiplexes (which in part will be funded using the BBC's capital commitment to the local TV project of up to £25 million subject to European state aid rules). The competition for the MuxCo licence will be structured in a way to incentivise the successful bidder to reduce capital and operating costs while maximising the number of locations in which the local services will be carried.

Utilising spectrum on the digital terrestrial television (DTT) platform means that many localities across the UK will have a chance to receive local TV services. However, this will not be universal given inherent constraints with spectrum and the DTT platform. Instead, localities not reached by local DTT broadcasts will in the future be able to receive local TV through internet protocol television (IPTV) which most set-top boxes and television sets have or will eventually have the capability of receiving. The proposed framework prepares for this and sees the DTT solution as a transitional one that will be essential in helping local TV services eventually reach all homes regardless of the platform on which they are broadcast.

Discoverability

Licensed local TV services will gain appropriate prominence in electronic programme guide (EPG) listings enforceable through Ofcom's statutory code. This will manifest as a high channel number on the DTT platform. The Government anticipates that all local TV services, whether they are licensed under this scheme or carried separately on internet protocol television or video on demand, will have the opportunity of discoverability on the front page of all EPGs. For example, Sky has offered to provide front page yellow button access to Anytime+ customers; and Virgin Media is looking at the possibility of front page digital applications or video on demand on the new TiVo platform.

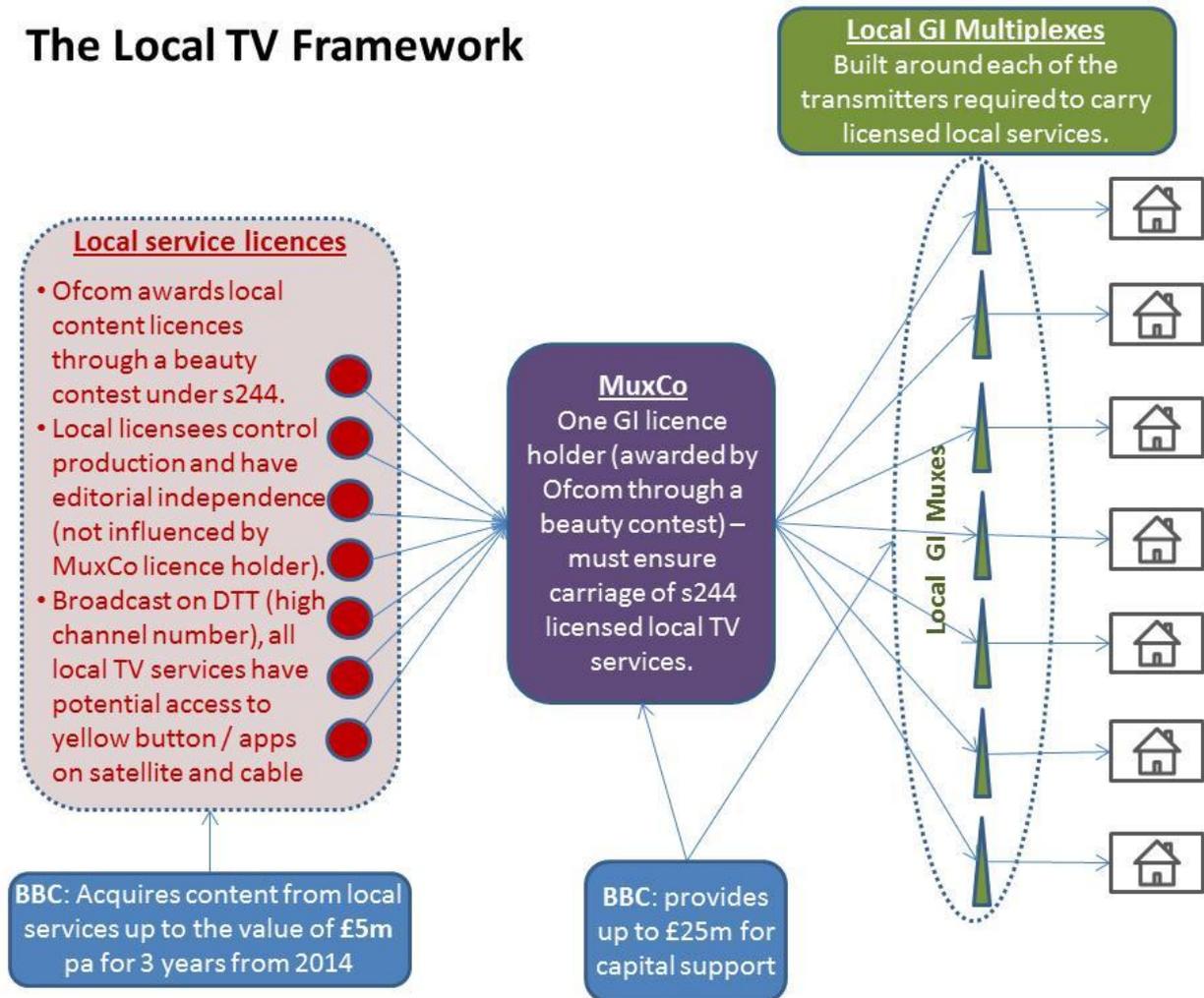
Creating the framework

Subject to the outcome of the consultation on these legislative proposals, the Government intends to lay an order under section 5 of the Wireless Telegraphy Act 2006 to reserve sufficient amounts of geographic interleaved spectrum for the carriage of licensed local digital television services; an order under section 244 of the Communications Act 2003 which will create a new licensing regime and tie the new local services together with the spectrum licence holder; and an order under section 310 of the Communications Act 2003 to add the section 244 local digital television

services to the list of public service channels and therefore achieve EPG prominence. The Government intends to lay these orders in autumn 2011.

These orders will create the new local TV framework, which is illustrated below.

The Local TV Framework



How to respond

The Government plans to introduce three statutory instruments as detailed above and is consulting on these legislative proposals. The Secretary of State has a statutory duty to consult such persons (in addition to Ofcom) as he thinks fit before making an order reserving spectrum under section 5 of the Wireless Telegraphy Act 2006. Further details of the proposed order are set out at Chapter 2.

Consultation responses should be submitted to DCMS by **Friday 23 September 2011**¹

by email to: local.tv@culture.gsi.gov.uk

by post to: Peter Bakewell
Media Team
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

¹ Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes, these are primarily the Freedom of Information Act 2000 ("FOIA"), the Data Protection Act 1998 ("DPA") and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

The consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.bis.gov.uk/policies/better-regulation/consultation-guidance>

1. The context for local television

Introduction

- 1.1 This paper sets out the framework the Government intends to implement to bring about a new generation of local TV services across the UK. It explains the legislative steps that need to be taken and discusses the process and overall timetable that will be followed between now and the award of the first licences.
- 1.2 The Government is clear that the development of local TV is a two-stage process. The first stage will be roll-out on digital terrestrial television (DTT) services where possible, which may be accompanied by some satellite and cable services. In the second stage, local TV will be available through Internet Protocol Television (IPTV). The rollout of super-fast broadband will mean that local TV will eventually be available to everyone across the UK. This document is focused on the first stage of the process.
- 1.3 *The Coalition: our programme for government*² set out a commitment to promote a strong and diverse local media industry. This industry in particular has been affected by considerable structural and cyclical change in recent years.
- 1.4 Local content, primarily news, is produced and carried on a range of media platforms by public and private providers. News consistently ranks as the most important content genre for audiences. Nine out of ten adults regularly consume some form of local news³ and over three-quarters of people rate local news and weather as important types of media⁴. News at all levels is an integral part of the democratic process in the UK as it helps to hold institutions and individuals to account. It is also an important sector for the practice of journalism and associated skills and training.
- 1.5 The UK enjoys a large and diverse media industry with some of the finest public service broadcasting in the world including a strong and independent commercial sector. The Government believes in the importance of plurality in media and that businesses should be able to operate free of unnecessary regulation.

² http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

³ Ofcom, local and regional media 2009, p3 <http://stakeholders.ofcom.org.uk/market-data-research/tv-research/lrmuk>

⁴ Ofcom, Second Public Service Broadcasting Review – Final Statement and Recommendations, 2009, p102 http://www.ofcom.org.uk/consult/condocs/psb2_phase2/statement/psb2statement.pdf

- 1.6 However, the Government is concerned about one section of the UK's media market that has consistently struggled to establish itself as a viable and sustainable force. Local television is common and popular across other parts of the world especially in Europe and North America where there are well-established local television services distinct from regional or national broadcasts. Ofcom research identified that for most people, the term 'local' means a person's village, town or city – the immediate location in which they live⁵. Yet, while the UK has an established regional television service provision, there is hardly any news or other content on television that is routinely specific to particular localities rather than regions.
- 1.7 Most people are familiar with the regional television services already provided by the BBC and the Channel 3 licensees (ITV in England and Wales, STV in Scotland, UTV in Northern Ireland and Channel TV) which enjoy proportionately high ratings. But only a tiny handful of independent services have attempted to provide commercially sustainable local TV focused solely on particular cities or smaller geographic areas, and have continued to face significant challenges in terms of sustainability and economic success.

A driver for growth

- 1.8 The Government believes that now is the right time to take the necessary steps to enable local television to emerge and grow on a sustainable footing. Through proportionate and targeted action, the Government can help create an opportunity for both existing market players and new entrants through a framework designed to foster a new generation of local TV service provision.
- 1.9 The framework will act as an enabler for growth in the media sector; in the creative industries; and will have wider social benefits by providing citizens with a new type of content such as: providing information to local residents, stimulating interest in the local area, supporting access to local services, and encouraging volunteering; as well as economic benefits including increased local employment, boosting the creative industries and boosting local businesses.
- 1.10 Local TV has the potential to play a key role in supporting the Big Society in the UK. Local TV brings with it numerous economic, social, cultural and democratic benefits. It will be important in the wider localism agenda, holding institutions to account and increasing civic engagement at a local level. Local TV presents a valuable opportunity to put people in touch with what is happening in their local area and to demonstrate the difference that people's activities can make on the

⁵ Ofcom, Emphasising localness in the PSB system, p6
<http://stakeholders.ofcom.org.uk/binaries/broadcast/tv-ops/psb-localness.pdf>

ground. For example, local TV stations could feature local volunteering opportunities or help to explain the work of community organisers, showcasing success and inspiring others to get involved.

Market barriers

- 1.11 There are a number of reasons why local TV has not thrived in the UK. These are largely related to the structure of the UK's media market including barriers which prevent low-cost television business models from emerging and a lack of regulatory incentives against a tendency of television (and advertising revenues) becoming ever more centralised.
- 1.12 The market failures relating to local TV were identified by Ofcom in the Digital Dividend Review (DDR) in 2007⁶. The DDR was an exhaustive analysis of the issues around spectrum and included a comprehensive analysis of local TV's position in the UK marketplace.
- 1.13 Building on the DDR, the Government has focused on how it can address these barriers which include:
 - a) coordination failure in the market: where small local operators are unable to meet ongoing operational transaction costs;
 - b) ability of small new entrants to pay the significant initial capital costs required in order to start broadcasting;
 - c) availability of, and access to, spectrum: local TV services require the use of spectrum in order to broadcast on the Freeview platform which is underpinned by digital terrestrial television (DTT) and is receivable by most households across the UK;
 - d) ability to access sufficient advertising revenues and build a commercially viable model: there are structural problems within the television market that include a lack of audience measurement data at the local level; the advertising markets being almost wholly centralised around a small number of sales houses pursuing brands wanting to reach a national audience; and uncertainty about where on electronic programme guides (EPGs) local TV might sit; and
 - e) externalities: whereby the Broader Social Value generated by local TV is not internalised by commercial operators, and therefore not considered in

⁶ <http://stakeholders.ofcom.org.uk/consultations/ddr/statement/>

their decision to supply local TV or form part of a sustainable business model.

- 1.14 In addition, the Government has also had to consider affordability and localisation of any framework it will introduce; the scope of engineering required and the costs involved; and the scale and impact of legislative and regulatory interventions. These have been considered in the local TV impact assessment⁷. The framework the Government seeks to put in place will need to address each of these issues while at the same time allowing the market to operate effectively and efficiently.
- 1.15 The Government believes that any framework should allow for transition within the media market to future technological change (and this was a key consideration in the Shott review). In particular, IPTV is expected to become a significant means in which content will be carried and distributed. For many areas of the UK, given constraints with DTT, IPTV is likely to be the main platform on which their local TV service will be carried in the future.

Commercial viability

- 1.16 In December 2010, the Government published a review carried out by Nicholas Shott, the Head of UK Investment Banking at Lazard, who explored the conditions necessary for commercially viable local TV to emerge in the UK⁸.
- 1.17 The Shott review team considered a wide range of material and met over 100 interested parties. Nicholas Shott made a series of recommendations which are summarised as follows:
- (a) the Government should have regard to emerging IPTV technology;
 - (b) licence awards should be run on a beauty contest basis;
 - (c) local services should look to producing two hours of reasonably low cost but high quality content a day with a backbone provider filling the rest of the schedule;
 - (d) Government should secure a common electronic programme guide (EPG) position across as many platforms as possible;
 - (e) revenue opportunities should be maximised;

⁷ http://www.culture.gov.uk/what_we_do/broadcasting/7235.aspx

⁸ http://www.culture.gov.uk/images/publications/Local-TV-Report-Dec10_FullReport.pdf

- (f) Government should examine technical options with regard to cost, localisation and population reach; and
 - (g) local services should drive any ownership model.
- 1.18 Shott's conclusions were thorough and emphasised that in the current market new local TV services would need some financial support to give them a strong start. The Government has considered each of the recommendations in turn and believes that the framework it is putting in place reflects and responds to the majority of Shott's conclusions, incentivising the market to respond in the most efficient way and allowing commercially sustainable businesses to emerge.

Local media action plan

- 1.19 The local media action plan set out the Government's thinking earlier this year on how it could enable a new market of local TV services. The action plan was largely a consultative exercise that considered the principles of local TV. It discussed the options the Government could take to incentivise the market, such as changing the wider regulatory structures or other steps to help create a new framework for local TV. As part of this consultation, the Government invited informal expressions of interest from those interested in operating a network channel for the local services.
- 1.20 The Government received 140 responses to the action plan (both expressions of interest and general consultation responses) and published a summary of these in June 2011. The responses offered a range of views and proposals in respect of local TV services including those at the network channel level; to those wanting to build services around a centralised spectrum management operation; those interested in not-for-profit models; and those interested in developing standalone local service models.
- 1.21 The Government has been very encouraged by the number of local media action plan responses which were very supportive of the concept of local TV. Further details on what respondents to the action plan said are available on the DCMS website⁹.

⁹ <http://www.culture.gov.uk/consultations/8173.aspx>

Satellite, cable and IPTV

- 1.22 The Government's ultimate aim is for local TV to emerge on all platforms and to be available to everyone in the UK, whether they receive television through DTT, satellite, cable, IPTV (internet protocol) or any other evolving technology.
- 1.23 Exploring how to get local TV up and running in the UK has involved a broad consideration of the broadcast platforms available to viewers. Around half of UK households currently watch television broadcast on the digital terrestrial platform (Freeview) through their primary television sets. The other half of households watch television distributed on satellite and cable platforms.
- 1.24 Accordingly, the Government has been considering the feasibility of getting local TV services on to the non-DTT platforms and has held discussions with these providers. The costs associated with broadcasting on the satellite platform in particular are likely to be prohibitive to most local TV service providers, primarily due to the high cost of transponder capacity that would be required in each location. In addition, the degree of localness that can be provided largely mirrors the current regional television structure rather than a specifically local one. Cable naturally lends itself better to a local footprint and there are potential commercial opportunities to be explored by local TV providers, but it will be for the market to consider and not for the Government to mandate.
- 1.25 Each of the main providers who operate electronic programme guides have said that they will look at prominence for local TV and further details are set out in the next chapter. While the Government does not currently plan to mandate that satellite and cable operators must carry local TV, local TV services will be free to determine in line with their business models whether access to those platforms is essential and economical, in consideration of the framework set out here.
- 1.26 Local TV services may choose to consider providing services on the satellite and cable platforms in video on demand (VoD) or internet protocol (IPTV) form. These offer far greater flexibility to both provider and consumer and are far lower in cost to broadcast compared to linear broadcast via transponder capacity for example.
- 1.27 The Government understands that IPTV will indeed play an important role in the future of television broadcasting. It is Government's expectation that local TV will develop in two phases, the first as outlined in this paper through services carried on the DTT platform; the second through IPTV. The inherent limitations of spectrum, including the geographic interleaved spectrum proposed in this framework, mean that not all viewers will be able to receive local TV in the first phase. However, the Government aims to have the best superfast broadband in Europe by 2015. The Government's programme will bring superfast broadband to at least 90% of the UK and 2mbps to the remainder. Improving connection

speeds for all will create huge opportunities and eventually help more people to access local TV services through IPTV where DTT is unable to reach.

- 1.28 For the moment, however, DTT does remain the dominant free-to-air broadcast platform in the UK. It is likely to remain so for some time. There are limited indications as to how quickly households will connect to IPTV but it is expected to take a few years. The Government's first stage of focus is bringing local TV to as many pioneer towns and cities across the UK (given spectrum constraints). This will be an important start of a process of eventual transition to IPTV over the coming years to which the Government will be giving further active consideration.

Advertising

- 1.29 If local TV is broadcast using localised GI spectrum, an additional advertising opportunity is available for local TV. The EU Audiovisual Media Services Directive (AVMS) directive¹⁰ contains a provision that allows member states to dis-apply the advertising minutage rule that normally applies to most television broadcast services.
- 1.30 If a service is not receivable outside of a member state's borders, then advertising minutage restrictions (i.e. the number of minutes per hour during which advertising can be shown) do not apply. Local TV services broadcasting on DTT using GI spectrum multiplexes will be able to take advantage of this and maximise the opportunities of increased advertising minutage. It will be a matter for those providers to balance the minutage for advertising with sufficiently high quality programming content to maximise revenues and equally appeal to audiences.
- 1.31 If those local services choose to broadcast on a satellite platform which is receivable outside of the UK, then the AVMS rules would apply. In this case, the local service would need to simulcast a different version of their service with no more than 12 minutes of advertising per hour to comply with European rules.
- 1.32 In order for the AVMS minutage rule to be dis-applied for local services, Ofcom will need to consult on and then amend its guidance. This will be part of the wider Ofcom process which will follow the making of the local TV orders.

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF>

Summary

- 1.33 In addressing the barriers to the development of sustainable local TV, through examination of the commercial viability issues and in consideration of the feasibility of any framework that may be implemented, the Government has had to weigh up all of these factors to reach a view on the most appropriate framework to put in place. The next chapter explains the proposed framework and underpinning rationale. An impact assessment has also been carried out by DCMS which sets out a cost benefit analysis of the proposals¹¹.

¹¹ http://www.culture.gov.uk/what_we_do/broadcasting/7235.aspx

2. Local TV: developing the framework

Introduction

- 2.1 In determining the best framework for local TV in the UK, the Government has considered a number of options and methods of delivery. These were explored in the local media action plan and through subsequent work with stakeholders and Ofcom.
- 2.2 This chapter sets out the four key components that draw the framework together:
- i. Single spectrum (multiplex) licence holder
 - ii. Local TV service licences
 - iii. Electronic programme guides
 - iv. Costs, revenues and funding

i. Single spectrum (multiplex) licence holder

Ofcom will award 8 MHz geographic interleaved spectrum packages across the UK suitable for DTT broadcasting to a single multiplex licence holder (“MuxCo”) consistent with a beauty contest award process; the MuxCo will plan, design, and operate the local GI multiplexes.

Reservation of the spectrum will occur through an order under section 5 of the Wireless Telegraphy Act 2006.

Proposition

- 2.3 The Government intends to secure sufficient amounts of geographic interleaved (GI) spectrum with good coverage over a number of localities across the UK. The Government wants this spectrum to be awarded in the most efficient way to ensure that the authorised user of the spectrum has the capability (both financially and technically) to build the transmission infrastructure necessary to provide a localised multiplex and that will be used to carry licensed local TV services at designated locations.
- 2.4 The Government believes that the most appropriate way of securing a timely infrastructure network build, and having a framework that allows proper commercial negotiation with the transmission service provider to drive down the capital and

operating costs whilst maximising the build of multiplexes, is to award all of the spectrum reserved for local services together and to give the responsibility of building the necessary infrastructure to a single multiplex licence holder. For the purposes of this document it will be called the multiplex company or 'MuxCo'. A multiplex can be thought of as a digital envelope that occupies a portion of spectrum and brings together the digital audio, video and data from several programme services into a signal that is then broadcast from transmitters for reception by individual households through their aerials.

- 2.5 The amount of GI spectrum awarded to MuxCo (an 8 MHz package which creates one local multiplex in each location) is sufficient to carry three videostreams at each location¹². Capacity sufficient to deliver a local service at each location will be reserved for licensed local services. MuxCo's licence will extend to all designated locations, and at each of these it will be required to utilise the spectrum for the purpose of designing, building and operating local broadcasting infrastructure. MuxCo must also enter into agreements for carriage of local services with the local TV services licensed under section 244 of the Communications Act 2003 (see next section).
- 2.6 The cost of engineering the infrastructure to provide the localised multiplex and potentially some early transmission costs will be covered by the BBC's £25 million capital contribution. The funding arrangements are still to be determined between the Government and the BBC. Use of the BBC's contribution for local TV will be subject to any necessary accountability and value for money considerations.
- 2.7 The BBC contribution remains subject to state aid clearance by the European Commission.

Action the Government will take

- 2.8 The Government will lay an order under section 5 of the Wireless Telegraphy Act 2006. This order will direct Ofcom to reserve GI spectrum for the purposes of local TV. To do this Ofcom will reserve an 8MHz package (the minimum allocation of spectrum due to the way in which it is packaged in the UK) of GI at relevant locations. The order will enable Ofcom to determine the process for awarding the multiplex licence. The order will specify that – where appropriate – the capacity will be used by local TV services licensed under section 244 of the Communications Act 2003 (see next section).

¹² Based on adoption of a QPSK transmission mode.

- 2.9 The Secretary of State has a duty to consult such persons (in addition to Ofcom) as he thinks fit before making an order under section 5. Views are welcome in respect of this proposed order.
- 2.10 Ofcom will adopt an awards process consistent with its statutory functions and duties. The Broadcasting Act 1996 already sets out the process whereby Ofcom awards multiplex licences, including the basis on which applications are made and assessed – i.e. through a competitive beauty contest process¹³. The existing process remains largely fit for purpose, subject to removal of provisions which are no longer considered necessary (e.g. the promotion of DTT equipment). Minimum rollout requirements (covering locations and timetables) will be determined by Ofcom and reflected in the multiplex licence. The order will set out the criteria for the beauty contest which are likely to include assessing the proposed technical plan submitted (including proposed rollout and timetable commitments above and beyond the minimum licence requirements); ability to maintain service (including analysis of revenue projections); and how the applicant proposes to promote or assist the on-going success of local TV. Government will outline the parameters of the licensing regime through the separate section 244 order. Section 244 gives Government the power to make necessary amendments to the processes set out in the Broadcasting Act 1996 for the purposes of local digital television services.
- 2.11 The current multiplex licence length provided for under the Broadcasting Act 1996 is 12 years. The Government is proposing to amend this provision (through the s244 order) to ‘up to 12 years’. Ofcom will determine the appropriate licence duration within the context of the existing multiplex licensing framework. The Government believes that the licence should be of sufficient duration to ensure it is attractive to the market and can facilitate the Government’s objectives for a new local TV market. The Government will also use the s244 order to allow for the multiplex to be renewed, enabling an ongoing presence of local TV services on DTT, provided they meet any tests set by Ofcom at the time of renewal. The licence will also contain other typical conditions determined appropriate by Ofcom such as fees, licence variation provisions, sanctions and revocation.

Rationale

- 2.12 In order for local TV to be broadcast on the DTT platform, the services will need access to GI spectrum and a transmission infrastructure such as transmitters and coding equipment at designated locations.

¹³ Beauty contest: a competitive process that assesses bids on the strength of their offer against pre-determined criteria and the credibility of the organisation (including financial robustness) behind the bid.

- 2.13 The Government has considered a number of spectrum options and the advantages and disadvantages of each in technical, cost and feasibility terms. The local media action plan discussed two principal spectrum options: utilising capacity on an existing public service broadcaster's multiplex (e.g. Multiplex 2 operated by ITV and Channel 4); or utilising geographic interleaved (GI) spectrum and creating a localised multiplex at designated locations across the country to carry individual local services. Following Digital Switchover, there will be three Public Service Broadcaster multiplexes available (as well as three commercial multiplexes). Additional multiplexes could also be broadcast in areas where there is sufficient space between the spectrum between the six UK-wide multiplexes (i.e. using geographic interleaved' spectrum). For ease of reference, those options are summarised below, but are explored in more detail in the DCMS local TV Impact Assessment.
- 2.14 PSB multiplex: capacity on an existing national PSB multiplex would offer a videostream that could broadcast to 98.5% of the population. This near-universal coverage is highly desirable and in great demand. For local TV, this spectrum option has clear commercial advantages as a television service broadcasting at this level could sell national advertising more easily than services reaching fewer households.
- 2.15 However, a disadvantage with this option is that the degree of localisation is very poor and additional localisation would be very expensive. Local services would only manage to reach a level of regionalisation similar to that currently adopted by ITV regional services. Another disadvantage is that the additional capacity required to carry a local service does not currently exist. The Government understands that sufficient videostream capacity could be released following video coding optimisation work on the relevant PSB multiplex. However, this kind of engineering is very expensive. In addition, there is a significant opportunity cost to the multiplex operator who may otherwise choose to use this capacity for its own purposes (either to carry its own service or lease the capacity at market cost).
- 2.16 Finally, the Government considered the available powers for reserving this capacity. Section 243 of the Communications Act 2003 enables the Secretary of State to lay an order to secure multiplex capacity. However the scope of this legislation is limited. Reservation could be made for an existing public service broadcaster to provide local services, but primary legislation would be needed to change the provisions in the Act for other providers.
- 2.17 Geographic interleaved spectrum: this refers to the gaps that occur between existing DTT transmissions. These gaps arise because a TV transmitter in a particular location makes use of a specific set of frequencies to transmit its services (via the multiplex). The same frequencies cannot easily be used by a neighbouring transmitter because of the potential for interference. As a result, some spectrum perfectly suitable for lower power transmission is left free of DTT use in many locations. This is the interleaved or white-space spectrum. The term geographic interleaved (GI) spectrum simply refers to a package of interleaved spectrum in a particular location.

- 2.18 Although the GI spectrum may not be used for high-power DTT it is suitable for use by local TV (i.e. broadcast to a limited area at lower power). The Government asked Ofcom to work with Arqiva to determine the availability and reach of GI spectrum that would be suitable to carry local TV services. This work has considered each of the transmitter areas and Ofcom has assessed that there is sufficient GI spectrum to reach between 50-65% of the population depending on how many locations the local multiplexes reach.
- 2.19 Depending on the outcome of Ofcom's process, the holder of the reserved spectrum may be subject to Administered Incentive Pricing (AIP) by Ofcom. AIP fees are set in reference to the opportunity cost of spectrum in order to provide incentives for efficient use over time. Ofcom has indicated that it will not introduce AIP for DTT broadcasters before 2014. Fees for DTT licences using GI spectrum will be considered at that time. Until an AIP decision is taken, MuxCo will pay an annual licence fee to Ofcom.
- 2.20 The Government believes that GI spectrum presents the best opportunity for local TV at the lowest capital and operating cost and with the best localisation. A distinct local service can be broadcast from each designated location via the transmitter which best serves that location, allowing services unique to that area to be delivered. The local services need certainty of carriage for the lowest possible capital and operating costs. That is why the Government is proposing to reserve sufficient amounts of spectrum.
- 2.21 Licence award: the Government believes the best approach is to separate the awards process for the spectrum multiplex licence and the local service licences. Site-by-site allocation, whereby the spectrum multiplex licence and content licence are packaged together for each designated location, would allow individual services to be completely autonomous, operating both the local multiplex and the local TV channel licences. However, spectrum multiplex licences allocated in a single award to a single licence holder could prove more beneficial for a number of reasons:
- Local TV services (including many of those who responded to the local media action plan) may be logistically unable to procure or operate a complex broadcasting infrastructure. Whilst some may be able to acquire that capability, there is no universal technical understanding about these operations and indeed a number of local services are more likely to be interested in producing local content than in running local multiplexes. In order to ensure all interested local parties have a chance of bidding to be a local TV service provider, it is appropriate to separate out the spectrum management.
 - Awarding the spectrum to a single bidder with technical capability will enable greater economies of scale and efficiency of multiplex build in providing multiplex capacity for local service providers to utilise. A single technically-proficient licence holder will have greater negotiating power to contract with the transmission service provider and others in order to ensure the best price is achieved for the infrastructure build. The competitive process will also maximise the number of local services for the benefit of local TV.

- Awarding spectrum in this way addresses the coordination failure barrier which has been a problem for local TV to date. i.e. coordinating the spectrum management under one licence gives greater regulatory certainty and offers an enabling function to deliver the local TV services as opposed to awarding the spectrum to multiple licence holders.

2.22 A beauty contest ensures that the eventual winner of the licence is the most appropriate, in terms of ensuring carriage for local TV and having the appropriate technical framework in place. Further analysis of the advantages and disadvantages of reserving this spectrum including cost-benefit analysis is discussed in the local TV impact assessment available from DCMS.

ii. Local TV service licences

Ofcom will award the digital local TV service content licences consistent with a beauty contest award process. The local content services will be carried on localised GI multiplexes built and operated by MuxCo and obligations will be placed on both.

The new licensing regime will be implemented through an order laid under section 244 of the Communications Act 2003.

Proposition

- 2.23 The Government wants to create an opportunity for a new local TV market to emerge in the UK for the first time. It wants to allow genuine local editorial voices to emerge within a framework that is robust and economically viable. Therefore, the Government intends to create a new local licensing regime that awards individual licences to broadcast content and have the right of carriage on the localised multiplex built and operated by MuxCo. The local TV service providers will have editorial autonomy from MuxCo and from each other (though it is for the market to determine network arrangements or bid as a consortium).
- 2.24 The existing regimes for licensing – Restricted Television Service Licences and Digital Television Programme Service Licences – are not best suited to the new local TV framework. They would not allow Ofcom to impose conditions around local content. Only a new licensing regime specifically developed for local TV (as envisaged by Parliament in creating section 244 of the Communications Act 2003) can guarantee delivery of local content, and draw together the different aspects (including spectrum allocation to ensure services are carried and appropriate EPG prominence) of the proposed framework.

Action the Government will take

- 2.25 Three types of licence exist for broadcasting services over DTT. A company wishing to operate a multiplex and carry videostreams (TV channels) must hold a spectrum multiplex licence under the Wireless Telegraphy Act 2006, which authorises the licence holder to broadcast its multiplex services on specified frequencies in accordance with specified technical parameters in specified locations. Multiplex operators can also be required to hold a multiplex licence under the Broadcasting Act 1996 which determines the conditions under which the licensed services provided on the multiplex may be broadcast. In addition, a broadcaster wishing to provide a channel will need to hold a content licence, which sets out the conditions under which they can provide programme services.
- 2.26 The Government will lay an order under section 244 of the Communications Act 2003 to establish a new licensing regime for local digital television services. Section 244 contains provision for the creation of a local licensing regime. This regime will be closely aligned with the section 5 order (WTA 2006) to ensure the spectrum reserved is for the purposes of delivering local services licensed under section 244. The new regime will expand Ofcom's regulatory toolkit and allow it to award new local licences in compliance with the section 244 conditions in a process that Ofcom will determine and consult on in due course.
- 2.27 In summary, the services that Ofcom will licence¹⁴:
- will be intended for reception only within a particular area or locality;
 - will meet the needs of the area or locality;
 - will broaden the range and number of television programmes available to people living or working in the locality; and
 - will increase the number and range of the programmes either made in or relating to the area or locality.
- 2.28 It will be a matter for Ofcom to determine the criteria that will apply (in addition to ability to maintain service) to ensure these conditions are met. Powers to enable this will be included within the scope of the section 244 order. The Government expects that much of what the local TV services will produce will be public service content.
- 2.29 The Government expects that the local services will offer a range of valued and diverse programming. This will include news and make an important and unique contribution by facilitating civic understanding and fair and well-informed debate through coverage of local news and current affairs. The services will reflect the lives

¹⁴ Consistent with section 244 of the Communications Act 2003 – see Annex A.

and concerns of different communities and cultural interests and traditions in the respective parts of the UK. They will produce content that informs, educates and entertains and which is otherwise not available through national programmes and so meeting the needs and interests of the different people living and working in the localities. The amount of content is likely to vary from location to location and the Government expects that minimum content requirements will be contained in the licences that will be awarded.

- 2.30 The section 244 order will specify the licence duration for these new local services, as well as setting out appropriate mechanisms for renewal and variation of these licences. The section 244 order will also set out the obligation on MuxCo to carry the local TV service licensees. The multiplex using the spectrum reserved under section 5 (WTA 2006) will have some capacity explicitly linked to the s244 licensees in order to lock-in the reservation.

Locations

- 2.31 Ofcom (in conjunction with the transmission provider Arqiva) is examining the coverage of geographic interleaved spectrum across the UK. Household coverage can vary significantly, due to a number of factors including transmitter location, local geography and topography, and potential for interference by neighbouring countries' spectrum frequencies. So, in determining locations, two essential factors to consider are population reach and the scope for commercially sustainable services. Ofcom's technical assessment of predicted coverage for local services is nearing completion and will be published in due course.
- 2.32 The coverage list to be published will simply be a guide to the level of spectrum availability in any given area by largest conurbation and will not be a list of where local TV services will automatically be provided. The Shott review conclusions suggested that commercial viability will be improved by reaching larger numbers of households. It will be for the licensing process to encourage bidders to demonstrate how they will serve the needs of all those covered by the broadcast areas.
- 2.33 The Government expects that ultimately the process of awarding licences (for both MuxCo and the local TV services) will help determine which localities will get local TV. This has to be a market-led process and balance the interest of local TV providers, with robust local business models, technical feasibility, infrastructure capital costs and commitment to build the requisite infrastructure. It will also be necessary to consider the interest in local TV from local service providers in determining localities.
- 2.34 The Government recognises that audiences in the devolved nations have specific needs for news and content that hold the devolved institutions to account and better reflects their identities. It is expected that local TV services on DTT will reach some of the larger towns and cities in the nations but rural areas and areas hindered by geographical and topographical factors may not receive local TV in the first phase.

However, the Government's superfast broadband ambition will connect smaller communities and rural households and provide the opportunity for local services to reach these areas when distributed over IPTV.

Rationale

- 2.35 A key consideration for the Shott review and for the Government was the overall ownership structure for local TV, including that of the local services themselves and the associated spectrum. This was a major feature in the Government's consideration of whether a centralised network model was the best approach or not and was discussed at length by many of those who responded to the January 2011 local media action plan.
- 2.36 Shott recommended a backbone model. There are apparent advantages with this: it provides a single operating body which the local affiliates can turn to for support with overheads, network content and advertising sales. This model has been effective in the USA and is not too dissimilar to the Channel 3 regional licence structure adopted in the UK.
- 2.37 However, there are also considerable risks with this kind of centralist structure for local TV. If the network operator runs into financial difficulty, then the local services may suffer as a result. This has been seen in recent years with the moves by for example ITV plc to reduce its regional news obligations given the costs inherent with the regional obligations. Shott noted the risk of a dominant centralised entity taking on a commercial life of its own and recommended a complex ownership structure to prevent such an occurrence. The Government has also had to consider the licensing and regulatory framework that would need to underpin this kind of model.
- 2.38 Many expressions of interest considering a centralised model explained that spectrum that reached the majority of the country was needed combined with channel number 6 across all electronic programme guides with guaranteed low cost carriage on all platforms. This would enable the costs of the central hub as well as the local services to be met. However, the interventions to achieve this kind of business model are significant.
- 2.39 The alternative framework considered by the Government is enabling genuinely local services to emerge at the local level. However, market experience suggests that small standalone local TV stations can struggle to develop a sustainable business model. Therefore, the Government has been looking at the levers available that could enable local services to emerge within a supportive regulatory environment with the right incentives and with minimal costs and impact to existing businesses.
- 2.40 By structuring the award of spectrum and local content licences in the way proposed, the Government believes that the market can determine whether to pursue standalone or networked services and decide how the schedule should be filled and the type of

content that might be provided. The Government does not want to prescribe business models or prevent competition.

- 2.41 The Government wants to ensure that through the licensing process an appropriate level of local public service content is secured that is truly local. A new and robust local licensing regime is therefore necessary. By laying an order under section 244 of the Communications Act 2003, the Government is able to connect the framework for local TV.

Audience measurement

- 2.42 Local TV services will need to source their own advertising revenue at both a local and a national level. At the national level, this may come from a network arrangement with other local providers, but this is unlikely to happen at a local level. It will also be up to local providers to decide whether they want to network at a national level, this will not be mandated by Government.
- 2.43 In order to attract advertisers, local providers will have to indicate the audiences they are reaching through their local TV services. The usual method for measuring audience levels is to subscribe to BARB (Broadcasters' Audience Research Board) data. This provides estimates of the number of people watching television, including which channels and programmes are being watched, when they are watched and the type of people who are viewing at any one time. Viewing data is delivered on a minute-by-minute basis.
- 2.44 However, BARB data is not available at a localised level. BARB might be able to amend its data processing and reporting methodology to provide audience viewing figures for sufficiently large sub-regions (smaller than the BBC and ITV regions), but this could result in significant additional expense to subscribers.
- 2.45 It will therefore likely be up to local providers to consider for themselves and explain how they plan to measure audience levels in a way that will be sufficient for advertisers. This can be explained as part of the business models of local service providers. A number of local media action plan respondents suggested that local advertisers would actually be easier for local TV operators to attract than national. Local advertisers were seen to be more likely to place adverts first and then judge the success by measuring the increase in their business transactions or footfall. If this had been successful, then they would consider advertising on local television services again.

iii. Electronic programme guides

Appropriate prominence will be secured on the DTT platform for services licensed under section 244 (the Government hopes that the highest possible available logical channel numbers will be awarded); all local services carried on non-DTT platforms likely to have yellow button/app access from their EPG front page.

EPG prominence will be secured by a section 310 order under the Communications Act 2003.

Proposition

- 2.46 The Government wants to achieve prominence for local TV services in electronic programme guides (EPGs). Prominence and discoverability are essential on two fronts: reflecting the public service remit that the local services are fulfilling; and helping to support this very new market by maximising viewership and commercial revenues.
- 2.47 The Government wants to achieve EPG prominence on Freeview through acquiring a sufficiently high channel number. The Government hopes that this will be channel 8 (currently vacant) in England and Northern Ireland and another high number for services in Wales and Scotland (where channel 8 is already in use). DMOL intends to carry out a further consultation on its LCN policy. Non-DTT providers are separately considering how to give local TV services prominence on their EPG home pages and offers have included 'yellow button' front page access and local 'apps' (digital applications).

Action the Government will take

- 2.48 The Government intends to lay an order under section 310 of the Communications Act 2003, adding section 244 licensees to the list of public service channels enforceable by Ofcom's code of practice for the provision of EPGs. This must ensure that EPG providers give the listing and/or promotion of the programmes on public service channels an appropriate degree of prominence. This obligation also applies to the means of selecting and accessing the programmes on these channels from an EPG.

- 2.49 Section 310 lists those public service channels which should benefit from appropriate prominence¹⁵. An order under this section allows the Secretary of State to amend this list, requiring all EPG providers to give appropriate prominence to the services listed. EPG providers will be required to take the section 310 list into account (consistent with Ofcom's code¹⁶) when assigning a channel number to the section 244 licensed local TV services.
- 2.50 Electronic programme guides are utilised by all digital television platforms. The numbering system is based on logical channel numbers (LCNs), the numbers associated with a particular broadcaster's channel (e.g. channel 1 is allocated on all EPGs to BBC1). The electronic programme guides on the non-DTT platforms are controlled by the respective operators who award channel numbers in line with their published codes of practice.
- 2.51 The Government has engaged with DMOL (Digital Multiplex Operators Ltd) in order to understand how DMOL would respond if asked to assign a channel number to local TV. DMOL recognises that its logical channel number policy does not currently envisage a local TV service listed under section 310. DMOL recognises that it needs to consult on possible changes to the DMOL LCN policy to afford such services appropriate prominence. It intends to include proposals on this in the next stage of its consultation on the LCN policy, which is planned for this autumn. Therefore, DMOL's code may require amendment to ensure local TV prominence. Whilst DMOL cannot currently confirm an EPG position for local TV, it is the Government's expectation that appropriate prominence will manifest itself, pending licensing by Ofcom, as a high channel number on the EPG. The Government hopes this will be Channel 8 (which is currently vacant in England and Northern Ireland) and the next highest available number in Scotland and Wales (because channel 8 is already allocated in those nations).
- 2.52 The Government has separately engaged with the non-DTT providers including Sky, Virgin Media, freesat and YouView to discuss front-page EPG solutions on their platforms for local TV services. The response has been very positive and each has confirmed that they are willing to consider ways to afford appropriate prominence for local services. For example, Sky has confirmed its offer to include a yellow button on the front page of the Sky HD EPG to take customers straight to the local TV menu within Anytime+. Further, Virgin Media has confirmed it is developing a solution to seamlessly integrate local TV content whether delivered via IPTV, video on demand, or a local 'app' (digital application), accessed via prominent and intuitive display on the Virgin TiVo home page.

¹⁵ The list at s.310(4) is currently as follows: any service of television programmes provided by the BBC in digital form; any Channel 3 service in digital form; Channel 4 in digital form; Channel 5 in digital form; S4C Digital; and the digital public teletext service.

¹⁶ <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/epgcode.pdf>

2.53 Due to high costs and limited capacity, the most appropriate way for local TV to reach the non-DTT platforms is likely to be as a 'video on demand' service, rather than as a linear digital channel. Platform operators will have to take a view on logical channel numbers based on their EPG codes (which have reference to section 310) should the s244 licensed services start transmitting digital linear broadcasts rather than video on demand.

Rationale

2.54 The Government has been considering the matter of EPG prominence on the DTT platform and elsewhere. This is important on two fronts: the nature of the local TV service provision is expected to be a mix of public service content focused on and relevant to local areas and therefore needs to be adjacent or near to other public service broadcasters; secondly, the services as a new venture will need the best possible opportunity to be discovered by audiences and to promote their mix of content.

2.55 The Government intends to pursue secondary legislation as it believes this offers the best opportunity of securing EPG prominence without disproportionately affecting existing broadcasters or EPG platform operators. However, the Government intends to keep under review the effectiveness of an amendment to section 310 and will consider introducing primary legislation if necessary as part of the planned Communications Bill.

iv. Costs, revenues and funding

BBC capital contribution (£25m) will be made available to fund the infrastructure build for localised multiplexes to carry the local services and is expected to amortise some of the operational costs in the first three years; a further £15m will be available to purchase local content from 2014; the local services will need to meet production costs.

Proposition

2.56 As agreed in the 2010 licence fee settlement, the BBC has committed to provide up to £40m for the purposes of supporting the Government's objectives for local TV. This is comprised of up to £25m in 2013/2014 towards capital costs and up to £5m per year for three years to acquire content from the local TV services for use on the BBC's own services.

2.57 It is clear that the BBC contribution will have a fundamental role to play in the establishment of local TV in the UK. The final determination on the way in which the BBC's contribution is utilised will be subject to approval from the BBC Trust and state aid clearance from the European Commission. The BBC is obliged to ensure that any public money is used to support public service content and that value for money is achieved. As agreed in the licence fee settlement, should capital costs be required earlier than 2013 then this will be facilitated by accessing the existing digital switchover underspend by mutual agreement. Discussions with the BBC will continue over the coming months, and agreement on the exact nature of the BBC spend will be agreed in time for the Ofcom beauty contest and licensing processes to begin. Among others, the BBC could bid to become the MuxCo.

Action the Government will take

- 2.58 The BBC capital contribution will offset the costs of building and operating the infrastructure for local multiplexes for the local TV services licensed under section 244. These localised multiplexes will be managed by MuxCo.
- 2.59 The funding will be drawn down and managed with a view to enabling earliest launch of local services. The Ofcom-administered competition for MuxCo should aim to maximise the number of local areas for the local TV services, for the lowest price.
- 2.60 The local TV services will be required to pay for all running costs associated with their local stations and acquiring content, i.e. staff, accommodation, equipment, etc. They will not have to pay for the multiplex infrastructure.
- 2.61 Local TV services will contract with MuxCo for carriage on the local multiplex in accordance with their licences. The local services will not be required to cover capital costs associated with the local transmission infrastructure. However, local services will be expected to pay MuxCo a contribution towards operational carriage costs. This carriage fee will be designed to balance the need for local services to be sustainable with MuxCo's commercial viability and may be subject to regulation.
- 2.62 The Government has been in discussion with the main public service broadcasters about possible support for local TV and how this could be delivered. These discussions are ongoing.

Rationale

- 2.63 The allocation, timing and use of these funds will be critical to the early success of the licensed local TV services.

2.64 Consideration has been given to a range of possibilities including a partnership model whereby the BBC would provide funding in kind or through access to facilities or where the funding contributes to the capital infrastructure costs.

3. Process going forward & timetable

- 3.1 The DCMS Structural Reform Plan has set an ambitious timescale for local TV, with the first services licensed by summer 2012 and 10 to 20 stations up and running by 2015.
- 3.2 The Government does not want to waste any time in setting up the new local TV framework. It has worked quickly over the last year to understand the problems and the issues involved in local TV and how these can be overcome. The proposed framework for local TV has therefore taken into account the need to create a new regime quickly and effectively.

Legislative process

- 3.3 The Secretary of State intends to lay three statutory instruments before Parliament¹⁷:

Order	Purpose	Laid in Parliament	Next steps after orders are made
Section 5 of the Wireless Telegraphy Act 2006	To reserve sufficient GI spectrum for local TV across the UK	Autumn 2011	Ofcom to determine most appropriate spectrum for reservation
Section 244 of the Communications Act 2003	To create a new fit-for-purpose licensing regime for local TV, give clarity to Ofcom for the award process and tie together spectrum and EPG prominence	Autumn 2011	Ofcom to design, consult on and then run an awards process
Section 310 of the Communications Act 2003	To secure EPG prominence for local TV	Autumn 2011	EPG providers to review listings; Ofcom to enforce its code

¹⁷ See Annex A for the full text of the legislation under which the orders will be laid.

3.4 The three orders will be subject to the usual parliamentary process. Typically, it could take three months for the process to complete.

Ofcom process

3.5 Following the legislation coming into force, Ofcom will begin the process of implementing the new statutory provisions and determining how it proposes to license the MuxCo and local services. The key stages include:

- Consultation and regulatory statement on process and approach.
- Award of Multiplex licence:
 - Issue Invitation to Apply and guidance to applicants; assess bids; make award; and issue licence.
- Award of local licences (probably in tranches of 10-15 locations):
 - Issue Invitation to Apply and guidance to applicants; assess bids; make award; and issue licence.

Timetable

3.6 The following table gives an indication of the expected timeline from the launch of this policy document to the licensing of local TV services. Note: a list of potential locations for local TV (based on spectrum coverage) will be published in due course.

Comments on the proposed framework (to be emailed to local.tv@culture.gsi.gov.uk or sent by post to DCMS – see details in Executive Summary)	By 23 September 2011
Government to lay legislation and follow it through the Parliamentary process	Q4 2011 to Q1 2012
Ofcom to carry out a consultation on a new local television licensing regime and issue a draft Invitation to Apply (ITA) for: (i) the Local Multiplex licence, and (ii) the first tranche of local content licences	Q1 2012
Ofcom issues a statement on the outcome of the consultation and issues final ITAs	Q2 2012
Ofcom assesses bids and awards the Local Multiplex licence and first tranche of local content licences	Q3 2012
Expectation that first services commence broadcasting	Q3 2013

Annex A – legislation relating to the proposed framework

Spectrum

Section 5 of the Wireless Telegraphy Act 2006:

Directions of Secretary of State

(1) The Secretary of State may by order give general or specific directions to OFCOM about the carrying out by them of their radio spectrum functions.

(2) An order under this section may require OFCOM to secure that such frequencies of the electromagnetic spectrum as may be specified in the order are kept available or become available—

- (a) for such uses or descriptions of uses, or
- (b) for such users or descriptions of users,

as may be so specified.

(3) An order under this section may require OFCOM to exercise their powers under the provisions mentioned in subsection (4)—

- (a) in such cases,
- (b) in such manner,
- (c) subject to such restrictions and constraints, and
- (d) with a view to achieving such purposes,

as may be specified in, or determined by the Secretary of State in accordance with, the order.

(4) The provisions are—

- (a) section 8(3);
- (b) sections 12 to 14; and
- (c) sections 21 to 23.

(5) This section does not restrict the Secretary of State's power under section 5 of the Communications Act 2003 (c. 21) (directions in respect of networks and spectrum functions).

Local TV licensing framework

Section 244 of the Communications Act 2003:

Local digital television services

(1) The Secretary of State may by order provide for—

- (a) any of the provisions of this Part (apart from this section and the provisions relating exclusively to sound services), or
- (b) any provision of Part 1 of the 1990 Act or of Part 1 of the 1996 Act (regulation of television services),

to have effect, in relation to services of such descriptions as may be set out in an order under this section, with such modifications as he considers necessary or appropriate for services of that description.

(2) The Secretary of State is not to make an order under this section in relation to a description of services except where—

- (a) the description is of services to be provided in digital form with a view to their being included in a television multiplex service;
- (b) the description is confined to services falling within one or both of subsections (3) and (4); and
- (c) the Secretary of State is satisfied that the making of an order under this section in relation to that description of services will make possible, facilitate or encourage the provision of services so falling.

(3) Services fall within this subsection if they are—

- (a) intended for reception only at a particular establishment or otherwise on particular premises; or
- (b) provided for the purposes only of a particular event.

(4) Services fall within this subsection if the Secretary of State considers that they are services in relation to which all the following conditions are satisfied—

- (a) they are intended for reception only within a particular area or locality;
- (b) their provision meets, or would meet, the needs of the area or locality where they are received;
- (c) their 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) their 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.

(5) Services shall be taken for the purposes of subsection (4) to meet the needs of an area or locality if, and only if—

- (a) their provision brings social or economic benefits to the area or locality, or to different categories of persons living or working in that area or locality; or
- (b) they cater for the tastes, interests and needs of some or all of the different descriptions of people 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 people who do so live and work).

(6) In subsections (4) and (5), the references to persons living or working in an area or locality include references to persons undergoing education or training in that area or locality.

(7) An order under this section in relation to a description of services may, in particular, impose prohibitions or limitations on the inclusion of advertisements in services of that description and on the sponsorship of programmes included in the services.

(8) The power, by an order under this section, to make incidental, supplemental or consequential provision in connection with provision authorised by subsection (1) includes power to make incidental, supplemental or consequential provision modifying provisions of the 1990 Act, the 1996 Act or this Act that are not mentioned in that subsection.

(9) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Electronic programme guides

Section 310 of the Communications Act 2003:

Code of practice for electronic programme guides

- (1) It shall be the duty of OFCOM to draw up, and from time to time to review and revise, a code giving guidance as to the practices to be followed in the provision of electronic programme guides.
- (2) The practices required by the code must include the giving, in the manner provided for in the code, of such degree of prominence as OFCOM consider appropriate to—
- (a) the listing or promotion, or both the listing and promotion, for members of its intended audience, of the programmes included in each public service channel; and
 - (b) the facilities, in the case of each such channel, for members of its intended audience to select or access the programmes included in it.
- (3) The practices required by the code must also include the incorporation of such features in electronic programme guides as OFCOM consider appropriate for securing that persons with disabilities affecting their sight or hearing or both —
- (a) are able, so far as practicable, to make use of such guides for all the same purposes as persons without such disabilities; and
 - (b) are informed about, and are able to make use of, whatever assistance for disabled people is provided in relation to the programmes listed or promoted.
- (4) Subject to subsection (5), in subsection (2) the reference to the public service channels is a reference to any of the following—
- (a) any service of television programmes provided by the BBC in digital form so as to be available for reception by members of the public;
 - (b) any Channel 3 service in digital form;
 - (c) Channel 4 in digital form;
 - (d) Channel 5 in digital form;
 - (e) S4C Digital;
 - (f) the digital public teletext service.
- (5) The Secretary of State may by order—
- (a) add any programme service to the services for the time being specified in subsection (4) as public service channels; or
 - (b) delete a service from that subsection.
- (6) Before making an order under subsection (5) the Secretary of State must consult OFCOM.
- (7) In this section “intended audience”, in relation to a service of any description, means—
- (a) if the service is provided only for a particular area or locality of the United Kingdom, members of the public in that area or locality;
 - (b) if it is provided for members of a particular community, members of that community; and
 - (c) in any other case, members of the public in the United Kingdom.
- (8) In this section “electronic programme guide” means a service which consists of—
- (a) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
 - (b) a facility for obtaining access, in whole or in part, to the programme service or services listed or promoted in the guide.



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