



department for
**culture, media
and sport**

LOCAL TV: MAKING THE VISION HAPPEN

Government response to the consultations on the *Local TV Framework* and *Pioneer Locations* and final policy position

December 2011

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Foreword by the Secretary of State

The vision of a new generation of local television services across the UK is about to become a reality as we introduce new legislation and put in place our innovative framework. Over 500 people attended the local TV summits I held this summer and over 310 responded to our recent consultations on the 'Local TV Framework' and 'Pioneer Locations'. This shows the high level of interest and enthusiasm for local TV services and local content.

This document confirms the policy and announces the first tranche of licence locations Ofcom expects to advertise next year. It also sets out in more detail how the BBC funding arrangements for both the infrastructure build and acquisition of content will work in practice.

The necessary secondary legislation to enable local TV will be laid shortly, and once passed will create a new statutory framework for Ofcom to license local TV. Once the legislation is laid, Ofcom will publish a consultation on how it intends to run its licensing awards process for the multiplex licence and the individual local service licences. We anticipate the first tranche of local TV services being licensed next year.

I am really excited at the prospect of these pioneer local TV stations being on air, providing truly local content that is more relevant to local people and leading the way for a multitude of local TV stations across the UK.

My vision for local TV is one which contributes to future economic growth and social well-being in the UK. Local TV will be a driver of growth in the media and creative industries; helping to increase local employment and skills and boosting local businesses. It will also have a vital role in contributing to local democracy. With Royal Assent being given to the Localism Bill last month and the planned referenda on new locally elected Mayors and Police and Crime Commissioners, local TV will have an important role in holding local politicians to account through coverage of local news and current affairs. Through this framework, we will now make local TV in the UK happen.

JEREMY HUNT

December 2011

Executive Summary

Introduction

- i. In July 2011, the Government published its framework for local TV shortly followed by a consultation on pioneer locations¹. These publications set out the Government's plans explaining that we were minded to bring forward specific secondary legislation and seeking views on the approach. In addition, the Government asked for views on which of the 65 locations across the UK that could receive a local TV service should be licensed first.
- ii. The Government received over 310 written responses to both consultations and has taken these into account in finalising the framework. The Government now intends to proceed swiftly with legislation. This paper confirms the policy proposals stemming from the consultation papers and sets out the steps the Government will now take.

Implementation

- iii. Through secondary legislation and other measures, a new local TV framework will be created by the following means:
 - Ofcom will shortly consult on the 20 locations where licences are likely to be advertised first. A further 24 potential locations have been identified that may be awarded in a second tranche. These locations are listed below.

¹ <http://www.culture.gov.uk/consultations/8298.aspx>

- Ofcom will be required to make available sufficient amounts of geographic interleaved spectrum across the country (following a direction under section 5 of the Wireless Telegraphy Act 2006) for the purposes of local TV.
- This spectrum will be awarded through a competitive process to a multiplex licensee to provide a multiplex service for the local TV services. The multiplex operator will hold a spectrum licence and a new type of local multiplex licence. The competition for the multiplex/spectrum licences will be open to different types of bids, including commercial and not-for-profit. A range of conditions will require the multiplex operator to promote local TV; offer good quality coverage and transmission; and recover carriage costs no greater than the costs of transmission at each location from each digital local TV service.
- The new secondary legislation will also give Ofcom powers to award Local Digital Television Service Programme (L-DTPS) licences with general requirements for the broadcasting of local content. The Government is not imposing minimum content requirements but the local services will be expected to provide programming that meets the needs of the locality served, including the provision of news. The service commitments that applicants propose will be written into their licences.
- The Government will require that appropriate prominence is given to the digital local TV services on all electronic programme guides (EPGs). Prominence is governed by an Ofcom statutory code.
- The BBC will contribute up to £25 million to the capital and operational costs of building the local TV multiplex. This will be allocated through a separate arrangement to the winner of the multiplex licence and the BBC will seek to ensure value for money for this spend consistent with State aid requirements. The Government expects Ofcom's licence award process and the BBC Trust's funding allocation to co-ordinate so that the winning multiplex licensee can access the necessary funding.

- The BBC will also provide up to £15 million to the local TV services through the acquisition of local content. Further details of how the funding arrangements will work in practice are set out in the next section.
 - As part of their public service role, the local TV services will be required to carry party political broadcasts and this will be regulated in accordance with specific Ofcom guidance.
 - The Government wants to encourage the formation of a local TV service industry body by the local digital television service licence holders. The purpose of this body would be to represent local TV services' interests and in particular to develop systems around audience measurement for the purposes of creating a currency for advertising sales. A provision in the proposed secondary legislation means that the local digital television services will be expected to work closely together with the aim of forming an industry body and encouraging it to negotiate and apply for the multiplex licence, should it become available for transfer at a future point.
 - The Government intends to examine whether changes should be brought forward to enable independent producers to participate in local TV service provision by changing the ownership threshold. (The current rules would prevent an independent producer from owning more than 25% of a local TV broadcast licence without losing its independent status.) The Government expects to consult on this and if necessary bring forward proposed changes early next year.
- iv. The Government will introduce the secondary legislation shortly. This will be followed by a consultation by Ofcom, explaining its process of licensing and providing further details on the obligations that will be put into the local TV service licences and the timescales of award. Ofcom will be able to commence the formal invitation to apply once it receives the necessary powers and has concluded its public consultation; but the former is dependent on the Parliamentary process.

Locations

- v. Ofcom has considered a range of criteria in proposing which licence areas will be first to be advertised. An explanation of the criteria used to determine this list will be part of Ofcom's consultation². Factors considered include spectrum availability and coverage as well as population size. In addition, Ofcom has taken into account the responses to the Government's recent consultation exercise, which includes the level of interest from potential operators.
- vi. Subject to final determination by Ofcom following its consultation, the first tranche of locations³ likely to be advertised are:
- Belfast
 - Birmingham
 - Brighton and Hove
 - Bristol
 - Cardiff
 - Edinburgh
 - Glasgow
 - Grimsby
 - Leeds
 - Liverpool
 - London
 - Manchester
 - Newcastle
 - Norwich
 - Nottingham
 - Oxford
 - Plymouth
 - Preston
 - Southampton
 - Swansea
- vii. Ofcom has also indicated that after these first locations, it would prioritise local areas where there is interest from a potential provider. These are currently:
- Aberdeen
 - Ayr
 - Bangor
 - Barnstaple
 - Basingstoke
 - Bedford
 - Cambridge
 - Carlisle
 - Derry / Londonderry
 - Dundee
 - Guildford
 - Hereford
 - Inverness
 - Kidderminster
 - Limavady
 - Luton
 - Maidstone
 - Malvern
 - Mold
 - Salisbury
 - Sheffield
 - Stoke on Trent
 - Stratford upon Avon
 - York

² Ofcom's consultation will be available at: <http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/>

³ This list shows the largest town or city in the location. Coverage in many places will extend beyond the conurbation listed and may include other areas depending on the transmitter configuration. Ofcom's coverage maps, available on its website, provide an indicative coverage assessment.

- viii. The remainder of this document discusses the policy decisions, how the secondary legislation will work and addresses specific questions raised through the consultation.

Framework for local TV

1. This chapter looks at the key policy issues, consultation responses and questions raised, and sets out the Government's position on each.
2. The framework will be created through secondary legislation that will make spectrum available; give new powers to Ofcom to implement a new licensing and regulatory regime; and give prominence for the local TV services in electronic programme guides (EPGs). The orders, once laid, will be available via the DCMS website⁴.

Local TV services, content and licensing

Order under section 244 of the Communications Act 2003: process of licensing

3. There was support among the consultation responses for an Ofcom 'beauty contest' award process for the local licences and the multiplex licence, i.e. that licences should be awarded on a competitive basis, based on an assessment of service and quality rather than ability to pay the highest price.
4. The Government will lay an order under section 244 of the Communications Act 2003 to establish a new class of licences with local content obligations. Under the legislation, they will be called local digital television programme service (L-DTPS) licences; for the purposes of this document these are referred to as local TV services.
5. These services will be licensed by Ofcom through a new licensing regime. The order sets out specific provisions that Ofcom must take into account in awarding licences and specific conditions that must be included in licences. This is discussed below; Ofcom will consult on its approach to licensing within this statutory framework.

⁴ http://www.culture.gov.uk/what_we_do/broadcasting/7235.aspx

The initial licences

6. The Government received a broad range of responses to its consultation on the 65 potential pioneer locations. Respondents ranged from potential providers of local TV services to other interested parties and the wider public. The breakdown of responses will be available on the DCMS website⁵.
7. Following the consultation, the Government shared the responses it received with Ofcom. Ofcom has now determined the first 20 locations where it expects to advertise licences next year (subject to its own consultation)⁶. In determining this, Ofcom considered a broad range of criteria. Ofcom has also identified a further 24 locations which would be prioritised for a second tranche of licensing. Taken together these 44 locations include 6 locations in Scotland, 4 in Wales and 3 in Northern Ireland and a good spread of locations across the English regions.
8. Ofcom will advertise a first tranche of local licences around the same time as the multiplex licence, in order to allow a first tier of local TV services to start broadcasting as soon as possible. Ofcom expects to follow this with a second tranche in due course because it is anticipated that the multiplex licensee will commit to build-out to a greater number of locations (and the beauty contest process will be designed to incentivise this); but the scale will not be known until the multiplex licence is awarded. There may be additional advertisements to follow depending on market demand and the multiplex licensee's willingness to build out further.

Restrictions on number of licences held/ability to hold a licence

9. Some respondents questioned whether bidders will be restricted to holding a single licence.

⁵ http://www.culture.gov.uk/what_we_do/broadcasting/7235.aspx

⁶ <http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/>

10. There will be no restrictions placed on the number of licences that any one provider may hold. Each licence application will be assessed by Ofcom in accordance with its new responsibilities stemming from the new secondary legislation and consistent with Ofcom published criteria.
11. Some respondents suggested that in order to protect 'localness', a ban on large media groups from bidding for local licences should be put in place allowing small, local and independent firms to bid; some argued that consolidation of the kind seen in commercial radio should not be allowed.
12. The Government's objective is for a strong plural market. The Government believes there should be no ownership restrictions (other than the existing restrictions contained in the Broadcasting Act 1990 which prevent, for example, an advertising agency from holding a licence). The Government has no preconceptions around who might hold a licence. We hope to see partnerships emerge between existing local media (e.g. local newspapers and local radio stations) and new entrants and believe that a range of locations being advertised may encourage smaller, local groups (including educational establishments and community groups) to bid alongside established media businesses.
13. At present, broadcasters are required by European legislation, the Audiovisual Media Services (AVMS) Directive, to commission a proportion of their programmes from production companies that are independent of broadcasters ('independent producers'). The AVMS Directive allows Member States to dis-apply this provision to local services that are not receivable outside the UK, and also allows some flexibility in determining what constitutes an independent producer. The present rules would prevent an independent producer owning more than 25% of a licensee whilst retaining its 'independent' status.
14. The Government intends to review the rules as they apply to local TV. The Government considers there is an opportunity for independent producers to have a greater role in the provision of local TV than they are permitted to at present and wants to hear the sector's views on whether a change to allow this should be brought forward. In addition, the Government also intends to consider whether it is appropriate for the 10% independent production quota to apply to local TV services as it currently does to

nationwide broadcasters. The Government will set out its proposals for further consultation in due course.

More than one licence at each location

15. Some respondents queried whether the Government would allow more than one licence to be awarded at any given location. A number were concerned that additional licences would offer too much competition at this early stage in the emergence of a new local TV market. Some argued that exclusivity of licence in each area is an important prerequisite for commercial viability.
16. The secondary legislation the Government is putting in place creates a licensing framework which ties one specific local TV licence at each location to the multiplex licence. Therefore, Ofcom will be able to advertise only one local TV licence at each location. Additionally, there are practical constraints in existing EPGs that would make it difficult to secure prominence for more than one service in each locality.

Conditions on local digital television programme service providers

17. The draft legislation sets out some minimum criteria that Ofcom will need to include in assessing bids such as ability to maintain service but it will be for Ofcom to interpret the statutory framework.

News

18. The conditions that will apply to local TV services stem directly from the requirements set out under section 244 of the Communications Act 2003. Content that is broadcast by the local TV services will need to be of relevance and interest to audiences in the licensed area and cater to their tastes and needs. The order requires that local digital television programme services provide a range of programmes including those which contribute to civic understanding and debate through coverage of news and current affairs.

19. The amount of news and current affairs will vary by licensed area and the type of news that may be provided (for example, local news as well as locally anchored national or international news content) will be an editorial decision for the local licence holders. The Government anticipates that all operators should be able to provide at least one hour of news content each day.

Party political broadcasts

20. The draft legislation will require Ofcom to insert a licence condition that local TV services must carry party political broadcasts (PPBs). Separate to Ofcom's consultation on local television licensing, Ofcom will consider (in due course) whether any changes are needed to its rules on party political broadcasts for local TV licences.
21. In addition to PPBs, the Government expects that one way in which local services could contribute to local democracy is through programmes which offer local leadership debates similar to those shown during the last general election. These would be programmes (not party political broadcasts) and might for example, reflect the changes that are happening around local democracy, such as debates on future local elections including elected mayors⁷ and police and crime commissioners⁸.
22. Some respondents to the consultation raised questions about how quality of content will be regulated. Ofcom plans to consult on programming proposals and how the content proposals of each successful applicant will become licence conditions.

Prohibited content

23. Local digital television programme service licences will not be permitted to broadcast adult content and some types of premium rate advertising services, e.g. psychic TV services.

⁷ <http://www.communities.gov.uk/news/corporate/2044046>

⁸ <http://www.homeoffice.gov.uk/police/police-crime-commissioners/>

Welsh language

24. Some respondents from Wales suggested that licences awarded should include conditions which reflect the proportion of Welsh speakers in a particular licence area.
25. The Government does not intend to mandate language provision. Bidders will be required to set out in their licence application how they intend to cater for the needs of people living in their area; as part of this, they will need to determine how they would achieve this and whether any language programming is appropriate as part of their business plan.

Licence fee

26. Application and annual licence fees will be set by Ofcom in accordance with its Statement of Charging Principles. Further details will be provided by Ofcom through their consultation which will also set out the expected application and licence fees for both the multiplex operator and the local services.

Licence duration

27. The Government expects the licence award to be up to 12 years because this is a sufficiently reasonable length of time for local TV services to establish their businesses. It is a matter for Ofcom to determine the specific length, in accordance with its wider duties and policies in relation to multiplex licensing and spectrum management.

Requirements for subtitling, audio description or signing

28. The Government does not propose to exempt local TV from requirements for subtitling, audio description and signing. However, given the current audience share threshold that Ofcom has set for channels required to provide these services, it is likely that most if not all local services would fall under this threshold.

Must carry/ satellite and cable transmission

29. Some respondents suggested 'must carry' on satellite and cable is necessary for local TV services should they wish to take advantage of it.
30. The Government has carefully considered the issue of 'must carry'. It has concluded that it would not be appropriate to invoke the provisions at this time. Whilst the Government recognises that use of these platforms will enable local TV to reach more viewers, the costs may be prohibitive. The Government considers that it is more appropriate for services to make their own market-based decisions as to whether or not to seek access to these platforms.
31. The Government intends to keep the option of legislating on this issue open should cable and satellite operators fail to agree reasonable terms of carriage with those local TV services who want (and can pay for) carriage.

EPG on Freeview

32. There was a broad consensus from respondents that securing prominence on the DTT (Freeview) EPG for local services is appropriate and indeed crucial to local TV services in terms of financial viability and giving local TV an 'immediate foothold' in the broadcasting market. At the same time, EPG prominence will reflect the public service nature of the local TV service provision.
33. One respondent suggested that the ease with which the local services can be incorporated into the EPG will technically differ at each transmitter site. Ofcom has looked at the inclusion of the local TV services on the Freeview EPG. While there are different approaches that could be adopted (which vary in cost and complexity) no fundamental problems have been identified and it should be possible to adopt a consistent approach across the UK. Following Ofcom's consultation, local services will need to engage with the multiplex licence holder to fully understand the implications for their proposed service.

34. It is still the Government's expectation that local TV may be allocated the next available channel position on the Freeview EPG. This is likely to be channel 8 in England and Northern Ireland and a lower channel position in Scotland and Wales where channel 8 is already in use. DMOL (DTT Multiplex Operators Limited) have told us that they are currently engaged in a research exercise on channel numbers and expect to run a public consultation in the coming months. DMOL's work will take into account the Government's objectives in this area.
35. The Government intends to proceed with its plans to list the new local TV services under section 310 of the Communications Act 2003 as a public service channel which is entitled to appropriate EPG prominence.

EPG on non-DTT platforms

36. The new legislation will mean that simulcast linear versions of the local TV service broadcast on satellite and cable will also enjoy appropriate prominence. In addition, Sky and Virgin have indicated a willingness to give IPTV or video on demand local TV services a front page access point (a tab, yellow button or 'app') where all local TV services could be accessed. If the local TV service wishes to get on to the satellite and cable networks in a linear way, then the usual commercial negotiations would apply outside of any regulatory framework.
37. However, if local services are being broadcast as linear services on satellite platforms, each service would by default be available across the UK and need a unique LCN, which are now a scarce commodity on the Sky EPG for example. An alternative would be to pay for regionality, whereby local services could share one LCN and only the relevant one would appear in each particular location. If the local services require a finer degree of granularity than the existing regional boundaries (as agreed by the BBC and ITV), additional cost would be involved in establishing a revised pattern of regionalisation and would need to be met by the sector. Any EPG listing costs would need to be negotiated with the platform providers.

Carriage costs

38. In order to maximise the potential viability of local services by minimising their transmission costs, the carriage costs local services will pay to the multiplex operator will be set at operating cost recovery at most. Ofcom will arbitrate in the event of dispute.

A new local TV body

39. Some respondents suggested that local services should share content or work closely together to further the aims of local TV. It has also been suggested that a body or company of the local digital television services could become involved in the operation of the multiplex depending on the nature of the multiplex operator.
40. The Government would like to see the formation of a body created by the licence holders. Both the local TV services and the multiplex licence holder will be encouraged to form this body which will have at its heart, the interests of local TV service provision. The Government does not propose imposing a body on licence holders; instead the body will form once the licences have been awarded and in response to the commercial needs of the local services.
41. Several respondents also suggested that more needed to be done to help with developing local audience measurement. The Government has discussed the issue of measuring local TV audiences with the audience measurement bodies for television and radio: the British Audience Research Board (BARB) and Radio Joint Audience Research (RAJAR); and also the Institute of Practitioners in Advertising (IPA) which is represented on both bodies.
42. The Government believes that the most appropriate way to deal with this and other areas where local services would benefit from working together is for a local TV body to act on a collective basis.
43. The order requires Ofcom to set licence conditions around participation in a body for these purposes.

44. The Government expects this body could perform a range of functions, including the following:
- a) Audience measurement: providing a central point of contact with BARB or other audience measurement providers to develop a way for local TV services to measure audiences, with a view to attracting advertising and providing information on the success of different parts of the schedule.
 - b) National advertising sales: providing coordination of national advertising sales where required and as appropriate in a competition context. Negotiation by one body at a national level is more likely to succeed than multiple services attempting individual conversations; it will require cooperation between local services for example broadcasting particular types of programmes at particular times of the day such as local news and scheduling commercial breaks simultaneously.
 - c) Representing local TV services: depending on the nature of the winning multiplex bid, an industry body holding all interests of the local TV services together could represent the local services; hold shares in the multiplex company; and even have part-ownership similar to a mutual company. The Government is providing for a scenario that encourages the local TV services to take on the operation of the multiplex in due course, if the holder of the multiplex and spectrum licences makes these available.
 - d) Meeting unexpected needs: an industry body will allow local services to share concerns and explore ways of meeting challenges and addressing unexpected problems or increase potential revenue opportunities: including sharing, commissioning or purchasing content; and operating as a cohort rather than on an individual basis.

Spectrum, multiplex operation and licensing

Making spectrum available under section 5 of the Wireless Telegraphy Act 2006

45. Local TV services will require access to spectrum in order to broadcast. In the summer the Government said it was minded to ensure that spectrum is made available for local TV purposes through an order laid under section 5 of the Wireless Telegraphy Act 2006. The order will require Ofcom to make available a single 8 MHz channel of geographic interleaved (GI) spectrum at suitable sites across the UK. The capacity will be sufficient to broadcast a local TV channel ('video stream'), along with other services. Licensing of this spectrum is discussed below.
46. While the reservation of GI spectrum was hardly commented on by respondents, it was clear most took reservation as a given and a key part of the framework. Some of those who did actively comment deemed reservation as necessary and positive. There was also an understanding that GI spectrum offered a strong solution for local TV, as it offers an inherently local proposition at relatively low cost.

Alternative uses for the spectrum

47. One respondent expressed concern that reserving spectrum for Local TV was at odds with the Government's policy of increasing broadband coverage and Ofcom's licence exemption for 'white space' devices. The concern was about reservation of spectrum for local television purposes reducing the spectrum available for alternative uses.
48. The Government has examined this and has found that the amount of GI spectrum that is necessary for local TV is very small and that remaining GI should be sufficient for alternative uses in most places.

49. It is clear that the GI spectrum required for local TV is only one small part of the wider amount of GI available around the country. As set out in the impact assessment which accompanied our proposals⁹, in most localities, with sufficient GI spectrum made available for local TV, there would still be remaining GI spectrum for other purposes (such as for use by white space devices and Programme Making and Special Events or PMSE).

Rural areas and those out of GI reach

50. Some respondents considered the local TV spectrum plans excluded rural areas; while others advocated a broadband only solution to distribution in order to reach areas not covered by spectrum.
51. The list of potential locations that could support a local TV service (set out in the *Pioneer Locations* document) was compiled by Ofcom taking into account existing broadcasting infrastructure and available frequencies covering conurbation areas across the country (i.e. sub-regional). The Government sees local TV as a two-stage development: roll-out of local TV on IPTV will be important in the longer-term once IPTV take-up reaches a critical mass. In that context, the BBC is giving consideration to linking to any local TV licensee's catch up service from BBC Online and iPlayer, as it does for other public service channels. Cable and satellite homes will be able to access local IPTV services from their set-top boxes.

A single multiplex operator

52. In the July consultation exercise, the Government proposed that Ofcom should award the spectrum to a single multiplex licence holder ('MuxCo') who would be responsible for building and operating the GI multiplex. Further, the Government suggested that Ofcom should award the multiplex licence through a beauty contest rather than an auction. The Government proposed to create this regime through an order under

⁹ http://www.culture.gov.uk/images/consultations/Impact-Assessment_Local-TV_November2011.pdf

section 244 of the Communications Act 2003 and the order would set out the criteria on which applications for the spectrum and multiplex licences are made and assessed.

53. The Government proposed the section 244 order would include an obligation in the multiplex licence to carry the local TV services. We said minimum roll-out requirements (covering locations and timetables) would be determined by Ofcom and that the licence would also contain other typical conditions determined appropriate by Ofcom such as fees, licence variation provisions, sanctions and revocation.
54. Appointing a single spectrum holder to build the multiplex still remains our intention. The Government has noted the concerns expressed by some respondents around the spectrum and multiplex management arrangements proposed for local TV. It is clear, however, that these problems can be addressed not through the dismantling of the proposed local TV framework, but rather through addressing those concerns within the existing model.
55. Some consultation responses were supportive of the 'MuxCo' concept, or did not consider it in any great detail because they were not overly concerned with the transmission arrangements. A number of respondents suggested that the multiplex operator should give local TV services optimum positioning on the mast/service provision and many asserted that any fees charged to the local TV services by the multiplex operator (i.e. for carriage) should be regulated in order to ensure they were not excessive.
56. Several responses were not in favour of a single multiplex operator model, arguing that control of capacity and transmission on a site-by-site basis was better because they feared the effects a dominant and central multiplex operator might have. There was concern that this multiplex operator may not operate in the best interest of the local TV services because its commercial incentives would not be aligned with those of the local TV licences. Other concerns raised were about the potential for the multiplex operator to gear its multiplex operation towards more commercial revenue streams and 'cherry pick' the most profitable locations to build out to (i.e. the largest conurbations) leaving some areas un-served; there were also concerns that a single multiplex operator may not make the most efficient use of spectrum.

57. The Government believes that a single licensed operator focused on the capital build-out and transmission for all local TV services provides for the optimum outcome in guaranteeing core coverage and allows for more efficient negotiation with the transmission service provider to drive down overall costs for the build and operation of the multiplex.
58. It is important for potential local TV services to understand that the multiplex licence will contain an obligation to provide carriage for services awarded local TV licences. If it does not do so, then it would be in breach of its licence obligations. The multiplex operator will deal with the complex infrastructure build, transmission and multiplexing arrangements necessary to enable the services to be broadcast. This leaves local TV services to focus on content provision.

Types of multiplex provision

59. Ofcom will run the multiplex licence award process allowing for different types of business models to emerge through the competition. As part of the policy development process, Ofcom commissioned analysis on the economics and viability of the MuxCo model¹⁰. This analysis suggested that the multiplex operator may be viable commercially (though probably building out to fewer than 65 locations), but an operator running the multiplex on a not-for-profit basis may be more viable in some scenarios. The Government understands that different potential operators may have different operating plans, e.g. not-for-profit models; models that see the creation of the multiplex that could be handed over to the local TV licence holders (or a mutualised group) at a future point; as well as commercially-run models.
60. In the event that the multiplex operator wishes to transfer the ownership and operation of the multiplex to the local TV services at a future date, the Government is making provision through the draft legislation to encourage the licence holders to come together in an industry body to take this task on.

¹⁰ This will be available shortly on the Ofcom website at: <http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/>

61. The Government recognises there are potential benefits of a not-for-profit model which by its nature would be functioning solely for the interests of the local TV services. Equally the Government recognises that organisations should be given the freedom to develop their own commercial business models and therefore we do not want to be prescriptive. The licensing framework will be neutral with respect to the business model of potential applicants; merely requiring that any licensee has the ability to maintain the service.
62. This will allow for a market-driven process, allowing us to test the market and to incentivise bidders.
63. The multiplex licence holder will be required to provide the necessary infrastructure and technical capacity for broadcast of one local TV video stream at each location included in its licence. Ofcom will set out more detail on these obligations in its consultation and subsequent licensing process. The licensing will be carried out on a beauty contest basis, to allow bidders to outline their plans, including how many locations they will build out to and in what ways they will help local TV services. Bidders for the multiplex licence will also need to explain their intentions for the additional capacity and how any revenues will work within its overall business plan taking into account the available BBC funds (to support local TV) to meet the commitment to sustain service.
64. Ofcom will consult on licence conditions, such as licence duration and licence fees. The licence duration will be up to 12 years for the multiplex licence.
65. Information on the potential costs for transmission will be available through a Reference Offer that will be produced by the transmission company Arqiva. The Reference Offer will be published and available to bidders in advance of the multiplex licence award in order to help inform their business plans.

Coverage

66. The Local TV Frequency Planning study¹¹ carried out over the summer to give the list of 65 locations was a high-level review based on a number of general assumptions. The coverage maps produced are indicative of the coverage that might be achieved in each location. Potential multiplex operators are free to suggest alternative coverage plans and transmission arrangements in their applications. However, there will be core location and coverage requirements built into the licence.
67. The Government has considered the issue of coverage very carefully. Concern was raised by some respondents suggesting that the multiplex operator may not be interested in maximising coverage to suit local needs; instead, they argued, it would be incentivised to reach the highest number of households to increase revenues on the other video streams which may not necessarily correspond with an identifiable 'local' area. The Government recognises that there may be a tension between the commercial alignment of the spectrum holder and the local services, particularly under a commercial model. Potential bidders were concerned that they would be left with sub-optimal coverage and no mechanism to challenge the multiplex licence holder.
68. The Government wants to ensure that level of coverage poses no difficulties. Indeed, we anticipate that in many places, the incentives between the multiplex operator and the local services will align; i.e. both will be interested in maximising coverage (though the targeted nature of the local services will be paramount in some locations). Further, the licence conditions should ensure that coverage concerns are adequately addressed. Ofcom will specify minimum requirements for coverage and locations which have to be served to ensure coverage of these areas.
69. A not-for-profit multiplex operator may choose not to monetise the additional spectrum capacity, seeking to reduce overall operational costs (by saving on national distribution), and focus on maximising coverage for the local services in each local area.

¹¹ <http://stakeholders.ofcom.org.uk/broadcasting/tv/local-tv-services/argiva/>

70. The multiplex operator will be obliged through licence conditions to support the development of local TV services and to cooperate with local services around coverage.
71. Ofcom has discussed with the Digital Television Group (DTG) the need for the D Book¹² to incorporate a suitable transmission mode for local services to maximise the compatibility between receivers with the local services. Ofcom will consult on proposals for how decisions on transmission modes will be made.

Carriage costs

72. Some respondents queried transmission costs payable by local services.
73. Government has considered a range of possibilities for carriage cost recovery. A careful balance between ensuring viability of the local services whilst also ensuring viability of the multiplex operator is needed. The Government considered a range of options around cost recovery and transmission costs. In order to reduce the costs for the local TV services as much as possible, the Government intends to cap the carriage costs payable by local services to the multiplex operator at an operating cost-recovery rate at most. In the event of any dispute between the multiplex operator and the local services, Ofcom can intervene to make a price determination. Ofcom will set out further details on this in its consultation.
74. Further, a multiplex licence condition will require it to support and promote the development of local TV. This could partly be fulfilled by the multiplex operator providing adequate mechanisms for collaboration with local operators.

¹² The D-Book is the technical specification for UK digital terrestrial television (Freeview and Freeview HD).

Use of the additional video streams

75. Some respondents suggested a different approach whereby the holders of the local TV service licences also had the right to hold the entire spectrum available in their local licenced area. While some respondents said that all video streams could be used for local services, there was an alternative view that the multiplex operator should not allow spare video stream capacity in a particular location to be used for comparable local television services because this would create a competitor for the local TV services and potentially impact on their commercial viability.
76. The Government has considered these arguments and still believes that all the capacity should sit with the multiplex licence holder who will provide carriage for the local TV services and monetise the spare capacity as necessary to support the on-going operation of the multiplex. This will support the overall viability of the multiplex operation for the benefit all the local TV services. The process Ofcom will run is a competitive one meaning that anyone capable of operating a multiplex can bid on the basis that it will provide a sustainable service able to carry the local TV services.
77. However, it is likely to be a condition of the BBC funding that it is used for directly supporting local TV purposes and has a profit cap so that any profit over and above a 'reasonable' amount (e.g. around 10%) is in with State aid requirements on the aid provided. This will be subject to on-going monitoring through the duration of the licence period.
78. If the multiplex is operated on a not-for-profit basis, it may consider offering the additional video streams to other services on a cost recovery basis or utilising the streams itself. But this use will not be mandated by the legislation. If a local service goes off-air for a time, then the multiplex operator can carry on operating the additional video streams if it so desires. Ofcom may then seek to re-advertise the local licence.
79. The Government has also considered whether London should be treated differently given its size and potential audience share and advertising revenues. We have concluded that it should be treated in the same way as other parts of the UK. The current EPG code would not be able to differentiate between two new local entrants

requiring prominence and would be unable to choose which channel should get e.g. channel number 8.

80. Some respondents asked what would happen to the remaining party should either the multiplex operator or a local TV service fail. As described above, Ofcom may look to re-advertise a local licence if it becomes available. In the meantime, the multiplex can continue to operate as normal. If the multiplex licensee fails or hands back its licence then Ofcom is likely to re-advertise that licence as quickly as possible, in order to ensure minimum disruption for local services. An alternative scenario is that the multiplex licence (the spectrum and multiplex assets) could be transferred to another party or parties. In this circumstance, the local TV body made up of the local TV services could negotiate to take this role on and operate the multiplex.

Transmission in Scotland

81. Specific points were also raised about transmission in Scotland, where ideas included a new 7th Scottish Multiplex for use by local services, a separate Scottish 'MuxCo' and PSB multiplex coverage for the South of Scotland to ensure sufficient reception.
82. Ofcom will consult upon the locations where it expects to license local services. There are six locations in Scotland contained in the indicative list of 44 locations. Scottish public service broadcasting is a matter of wider public debate and the Government is separately considering this through its Communications Review.

The local TV video stream

83. Some respondents queried what would happen to any unused capacity on a video stream being used by local TV services at each location (i.e. in the circumstance that the schedule does not stretch to 24 hours per day).
84. The video stream capacity is for the sole use of the local TV service. The local TV licence holder may choose to use spare capacity within the schedule for specific purposes (such as advertising or infomercials) but the local TV service (or the multiplex

operator) will not be permitted to sublet the local TV video stream capacity to any third party.

Costs and funding

85. In the July consultation, the Government consulted on the proposal that the BBC's contribution of up to £25 million would be made available to fund the costs of building the GI multiplex. Detailed discussions have taken place with the BBC on this issue.
86. The Government said the final determination on the way the BBC's contribution will be used will be subject to approval from the BBC Trust (and State aid clearance from the European Commission) but the exact nature will be agreed in time for the Ofcom licensing processes to begin. The Government is engaging with the European Commission about the proposals for local TV following the formal notification procedure. An initial decision is expected before Ofcom's awards process begins although a final decision may not be reached until later on in the process.
87. While most respondents welcomed the £40 million total contribution from the BBC, there were differing views on how the money should be employed and distributed, including using it to fund alternatives to the 'MuxCo' model; making the £5 million of funds for content available to programme makers on a competitive basis; and using the £25 million to build and operate the broadcasting infrastructure for the initial stages of local TV.
88. There was some opposition to the obtaining and use of BBC funds for local TV purposes, with others concerned that it must be appropriately regulated; others argued that the funding is insufficient.

Allocation of BBC funding

89. The BBC Trust and Ofcom have agreed an approach to the allocation of funding which allows the BBC Trust to consider value for money in its award process, alongside Ofcom's role in awarding licences. Any public funding used to support local TV must be consistent with State aid rules. Therefore, the process of awarding the funding will

need to incorporate State aid requirements; the details of which and how the separation of scrutiny will work, will be set out in due course following completion of discussions with the European Commission.

Criteria underpinning the spend

90. As part of the licence fee settlement in October 2010, the BBC agreed to commit up to £25 million towards capital investment for local TV.

91. Once the multiplex licence is awarded by Ofcom, the multiplex operator will enter into a legal contract with the BBC Trust to agree the drawdown of the necessary funding to meet the commitments specified in the licence. The specific details of how this funding will be released will be partly dependent on the Ofcom licence and the winning provider's business plan and may also need to reflect the terms of any State aid approval. However, to ensure that licence fee funding is well used and represents value for money, the BBC Trust has determined that the £25 million will be made available within the following parameters:
 - The BBC expects the allocation of £25 million towards necessary capital and operational expenditure to take place within 3 years of the multiplex licence being awarded with up to five phases of build-out.
 - The BBC's investment will be capped at £25 million, minus administration fees.
 - On fulfilment of the contract, the BBC will have no claims on any multiplex operator assets. However, should the multiplex operator fail in any way during the term of the contract such assets would return to the BBC.
 - A breach of the licence is a matter for Ofcom and, should sanctions be imposed, these will not come from the BBC's investment.
 - The funding will be released on a phased basis. Before releasing funding for each phase of build out, the BBC Trust expects to scrutinise the multiplex operator's plans for that specific phase to ensure that it represents value for money.

- The BBC Trust will have ongoing oversight of the use of BBC funds. The BBC Trust will require the multiplex operator to provide an annual report and accounts, and has a right to audit or investigate the activity of the multiplex operator's spend of the public funding in line with State aid requirements.

92. These parameters are contingent on their being a commercial bidder for the multiplex licence. Should the winning multiplex operator be a different type of organisation, such as a not-for-profit organisation, then those parameters may be varied.

Award of the BBC's £15 million

93. As part of the 2010 funding settlement, the BBC agreed to provide up to £15 million towards content acquisition of the local TV services, starting in 2014/15 and ending in 2016/17.

94. This funding will be administered directly by the BBC and will be provided consistent with value for money and public purpose principles. The objectives behind this funding are to provide the new local TV services with some funding certainty through guaranteed contracts with the BBC. The funding will be focused on providing the greatest support to local TV services in their first year of operation with an equitable model being applied across all the services that launch. The BBC and the local TV licence holders will enter into a joint contract that the BBC will administer.

95. The Government has agreed with the BBC how this will work and the initial proposition is summarised as follows:

- the BBC will guarantee a fixed fee for unpackaged content. The fixed fee will be conditional on the local TV services providing an agreed volume of stories each year to ensure value for money. The fixed fee will be highest in the first year of a local TV service's operation for the greater number of stories; this will reduce in years 2 and 3 for a decreasing volume of stories but assumes an increase in the number of local TV services licenced;

- the fixed fee will be around £150,000 for each local TV service in the first year providing a story threshold of around 125 per month; this would decrease to £60,000 in year 2 for around 50 stories per month; and £20,000 in year 3 for around 20 stories per month;
 - the BBC expects to operate a variable fee to acquire content over and above the fixed fee threshold on a per story basis (in line with value for money and within the agreed funding limit); the stories will be acquired at market comparable prices;
 - all the content will need to meet the BBC's editorial quality requirements including for impartiality and accuracy. The BBC will also perform compliance checks on the material that it uses in its output;
 - the BBC may require exclusive access to the content it acquires; and
 - the funding will end by 2017; those licences awarded in year 3 will be entitled to the same fixed fee amount as received by other local TV services in their first year of operation (i.e. around £150,000).
96. The BBC expects to formalise these arrangements over the coming months so that bidders for local TV licences have certainty before the licence award process begins (although similar to the capital funding State aid approval may be necessary.

Timetable

As explained in the Local TV Framework, the Government wants new local TV services to emerge as quickly as possible. The table below sets out the expected timetable going forward.

Government to lay legislation and take it through the Parliamentary process	December 2011 to February 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 and spectrum licences, and (ii) the first tranche of local service licences	December 2011 to March 2012
Ofcom issues a statement on the outcome of the consultation and issues final ITAs	May 2012
Ofcom assesses bids and awards the local multiplex licence and first tranche of local service licences	Q3 2012
First services potentially commence broadcasting	Q3 2013

Useful links

The following documents are available (or will be shortly available) via the local TV page on the DCMS website. See: www.culture.gov.uk/what_we_do/broadcasting/7235.aspx

- Local TV Final Impact Assessment
- Responses to the Pioneer locations consultation
- Ofcom's determination of the expected first local TV locations
- The Code of Practice for Electronic Programme Guides((Addition of Programme Services) Order 2011
- The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2012
- The Local Digital Television Programme Services Order 2012



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