DIGITAL 3 AND 4 LTD

AND

SDN LTD

RESPONSE TO OFCOM CONSULTATION ON DATA LIMITS ON DIGITAL TERRESTRIAL TELEVISION MULTIPLEXES

14TH SEPTEMBER 2006

**OFCOM CONSULTATION ON DATA LIMITS ON
DIGITAL TERRESTRIAL MULTIPLEXES**

JOINT RESPONSE FROM DIGITAL 3 AND 4 LTD AND SDN LTD

Introduction

Digital 3 and 4 Ltd holds and operates the licence for DTT Multiplex 2. The capacity on the multiplex is gifted 48.5% to ITV; 48.5% to Channel 4 and 3% to Teletext.

The Teletext service is defined as a Data Service and ITV and Channel 4 carry data services on part of their gifted capacity. It is important to Digital 3 and 4, therefore, to have a clear understanding of the calculation of the Data Limit on DTT multiplexes.

SDN Ltd is wholly owned by ITV plc and holds and operates the licence for Multiplex A. SDN has carriage arrangements with a number of television programme service providers and radio channels.

It is important to both Digital 3and4 and SDN that capacity on the multiplexes can be used as efficiently as possible and while we welcome Ofcom's clarification of the interpretation of the calculation of data limits on DTT multiplexes we also believe it is important to review the nature of that limit. There is an argument for treating Multiplex 2 as a special case given that the public teletext service is allocated 30% of the available data capacity on the multiplex. However, in order to promote the efficiency and flexibility that is apparently sought by both mutilplex operators and Ofcom we believe that consideration should be given to raising the data limit on all multiplexes above the 10% level. We believe also that the application of the limit to radio services is currently inconsistent and not conducive to optimisation of the efficiency of the operation of the multiplexes.

> Question 1: Do you agree that it is appropriate for Ofcom to issue guidance about the Data Limit on DTT multiplexes ?

We agree that it is appropriate for Ofcom to issue guidance about the Data Limits on DTT multiplexes.

We also believe that Ofcom should review the nature and level of that limit to allow multiplex operators the flexibility to, for example, allow additional data service to be transmitted overnight in the downtime of video channels even though the 10% threshold may be breached because of the permanent data services being transmitted. Continuation of the 10% limit potentially inhibits the ability of multiplex operators to take advantage of opportunities that might

present themselves in future to trade parts of the spectrum at night when that might be a more economic and efficient use of some of the capacity.

Question 2: Do you agree with Ofcom's proposed guidance on these issues

Generally we agree with Ocom's guidance on the calculation and interpretation of the data limit. However, we believe that the application of the limit in relation to radio services is inconsistent and inappropriate. It is difficult to understand why BBC radio services are not classified as data services while commercial radio services are. Digital 3and4 and SDN believe that it would be logical and appropriate to classify all digital sound services in the same way by not defining them as data services and thereby including them in the 90%.

In addition, we believe that the overall data limit on DTT multiplexes should be raised from 10% to 20% calculated across 24 hours as currently proposed but with a 10% limit during the hours of 0800 to 2400 to allow for more flexible and efficient use of capacity while protecting the position of programme services during normal viewing hours. This would more closely mirror the arrangements proposed for radio multiplexes.

Question 3: Are there any other issues relating to the data limit on DTT multiplexes which Ofcom should give guidance on ?

Other than those issues covered above we are unaware of any further general issues relating to the data limit on DTT multiplexes on which Ofcom should currently give guidance. However, this should not preclude requests for guidance on specific issues which may arise in the future.

END