



Digital replacement licences to be offered to channels 3, 4, 5 and public teletext

Consultation

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Section 1

Summary

1. This consultation seeks views on the digital replacement broadcasting licences which Ofcom must offer to Channels 3, 4 and Channel 5 and to Public Teletext later this year. At present these broadcasters hold licences which are primarily analogue. The new licences must be issued no later than 29 December 2004. The closing date for responses to this consultation is **25 October 2004**.
2. After that date Ofcom aims for the timetable for issue of the replacement licences to be as follows:
 - week commencing 15 November: offer digital broadcasting licences
 - week commencing 29 November: closing date for acceptance of offers
 - week commencing 13 December: issue new licences.

Statutory requirements

3. Section 215 of the Communications Act 2003 (the Act¹) requires Ofcom to offer to replace the current analogue broadcasting licences for Channel 3 and Channel 5 with digital broadcasting licences to take effect from 29 December 2004. Section 221 of the Act sets out the same requirement in respect of Public Teletext. Offers of digital replacement licences (DRLs) must be made to all sixteen Channel 3 licensees, Channel 5 and to Public Teletext.
4. The procedure for replacing Channel 4's existing licence is different. Ofcom prepares a draft of Channel 4's DRL and the replacement licence takes effect on the date Government brings into force sub-section 231(1) of the Act. The initial expiry date of each DRL shall be 31 December 2014.
5. The DRLs will be granted in accordance with the relevant section of the Act and under the provisions of Part 1 of the Broadcasting Act 1990 (the "1990 Act"). This means that Ofcom has all the necessary powers under the 1990 Act to include new and additional conditions in the DRLs which it considers appropriate.

Focus of Consultation

6. The DRL conditions related to digital switchover are the most significant part of this consultation on which Ofcom is especially concerned to receive comments.

¹ In this consultation document, references to sections and to sub-sections are to sections and sub-sections of the Act unless otherwise stated

DRL conditions relating to digital switchover

7. Ofcom proposes to include in the DRLs certain conditions relating to digital switchover (DSO). Except where otherwise indicated the conditions proposed by Ofcom are broadly the same for all DRLs. Those who wish to respond to this consultation should refer to the main body of the consultation document and the draft DRLs for further detail.

Channels 3 and 5

8. Provision of the Channel 3 and 5 services

- Ofcom proposes to oblige Channel 3 and 5 licensees to achieve a clearly defined level of coverage to be met by their digital service as from the date of digital switchover (Condition 2(2)(b) of the draft DRL²). They would be under a duty to procure coverage in digital terrestrial form of their service equivalent to, or substantially the same as, the analogue coverage currently achieved by transmission from a certain named number of transmission stations listed in Part 5 of the Annex.

9. Digital switchover: cooperation and coordination

- Licensees would be under a duty to co-operate with everyone involved in the administration, organisation or implementation of digital switchover in the UK (see Part 2 of the Annex for the respective DRLs - paragraph 9 (Regional Channel 3 DRL); paragraph 7 (National Channel 3 DRL); and paragraph 8 (Channel 5 DRL)).

10. Annual report and information

- It is proposed the licensee should be under a specific duty to provide Ofcom with certain information about DSO (see Part 2 of the Annex for the respective DRLs - paragraph 10 (Regional Channel 3 DRL); paragraph 8 (National Channel 3 DRL); and paragraph 9 (Channel 5 DRL)). This would include an Annual Report giving details of compliance with licence provisions related to digital switchover, and of plans to fund the roll out of transmission equipment and/or infrastructure relating to DSO.

11. Switchover marketing and communications

- Part 2 of the Annex for the respective DRLS (paragraph 11 (Regional Channel 3 DRL); paragraph 9 (National Channel 3 DRL); and paragraph 10 (Channel 5 DRL)) obliges the licensee to use his best endeavours to ensure that all viewers who receive his analogue service are made fully aware of the switchover date in his region at least two years in advance and are given all the necessary information as to how they can continue to receive the service after switchover.

² An illustrative draft DRL for a Channel 3 regional licensee, and draft DRLs for each of Channel 4, Channel 5 and Public Teletext are available at www.ofcom.org.uk. A tailored version of each Channel 3 draft DRL will be sent to each Channel 3 licensee.

12. Digital switchover date and timetable

- Ofcom believes that the inclusion of a digital switchover date, and a timetable for converting transmission stations from analogue to digital television, in the DRLs would help extend digital penetration in the UK and help allow full digital switchover to be achieved by whatever date the Government selects.
- The proposal is to include 31 December 2012 in the DRLs as a backstop date by which all licensees shall be obliged to cease broadcasting their analogue service.
- The holder of the DRL would be obliged to procure the roll-out of digital terrestrial television (DTT) through the conversion from analogue to digital television broadcasting of all the transmission stations listed in Part 5 of the Annex to all Channel 3 DRLs (Part 4 in the Channel 5 DRL) against a set timetable (Part 3 of the Annex to Channel 3 and 5 DRLs). In total this would impose a duty on all holders of DRLs to convert to digital all 1154 current analogue transmitters.
- It would be an obligation on the licensee to ensure that this timetable is met. The list of stations and dates would naturally vary from licence to licence, reflecting the current list of transmission stations and the sequence of regional switchover.

Channel 4

13. Provision of the Channel 4 service and other DSO-related conditions

- Ofcom considers it appropriate to include in the Channel 4 DRL conditions related to digital switchover parallel to those which it proposes to place in the Channel 3 and Channel 5 DRLs.
- The proposed digital coverage condition is slightly different in the case of Channel 4 however. Channel 4 is not, for example, currently under a statutory obligation to provide its service in Wales. However, Ofcom proposes to extend Channel 4's coverage obligation to the whole of Wales from switchover.

Channel 5

14. Provision of the Channel 5 service and other DSO-related conditions

- Ofcom proposes to insert in the Channel 5 DRL conditions related to digital switchover parallel to those which it proposes to place in the Channel 3 DRLs.

Public Teletext

15. Provision of Public Teletext service

- Ofcom has based Condition 2 of the draft Public Teletext DRL concerning analogue and digital coverage on the equivalent condition in the other DRLs, but amended it as appropriate to reflect the difference in statutory background.

16. Other DSO-related conditions

- Other provisions relating to DSO in the Public Teletext DRL would be the same as are proposed for the other DRLs.

Refusal of DRL offer

17. If the holder of the current analogue licence refuses the DRL offered, its existing licence will automatically cease to have effect from a date to be determined by Ofcom. Currently Ofcom thinks it is likely to select a date or dates between May and November 2005.
18. If any Channel 3 licensee, Channel 5 or Public Teletext wishes to accept Ofcom's separate offer to bring forward the present end date of their current licence in order to have the option of an earlier determination of their financial terms, they must inform Ofcom in writing no later than the week commencing 29 November 2004 and confirm at the same time their consent to the necessary variation to their licence. The relevant analogue licence must be varied before grant of the DRL.

Regulatory impact assessment

19. A regulatory impact assessment is at section 8 of this document. Amongst other issues, it considers the advantages and disadvantages of Ofcom's proposal to oblige DRL holders to roll-out DTT to 1154 transmission sites.

Section 2

Background to the consultation

Statutory requirements and background

20. Section 215 of the Act obliges Ofcom to make an offer of a DRL to all sixteen Channel 3 licensees and to Channel 5. The offer must be made and, if accepted, the replacement licence issued before 29 December 2004. If an offer is not accepted the Act requires the existing Channel 3 or Channel 5 licence to cease to have effect at a date to be decided by Ofcom. This date cannot be later than 18 months from the date when the offer closes. In practical terms, this means a date no later than mid-2006. (See sections 215(8)(f) and 215(9)(b) of the Act).
21. Section 221 of the Act requires Ofcom to make an offer of a DRL to Public Teletext following the same procedure and timetable.
22. The procedure for replacing Channel 4's existing licence is somewhat different to reflect its status as a public corporation with a special public service broadcasting remit. Ofcom is not required to make an offer of a DRL to Channel 4 which the broadcaster may reject. Instead, Ofcom prepares a draft of Channel 4's DRL, notifies the broadcaster of the proposed terms, considers any representations made by Channel 4 and, on the date Government bring into force sub-section 231(1) of the Act, the replacement licence comes into force (section 231(1)(b) of the Act). Ofcom anticipates that the Government will bring this section into force at about the same time as Ofcom grants the other DRLs ie December 2004.
23. Overall, the intention of the Act is that the terms of the existing licences held by potential holders of DRLs should be transposed into the new licences. This is stated explicitly in the case of Channel 3, Channel 5 and Public Teletext. The Act requires the service to be licensed under the DRLs to be one that is "equivalent in all material respects" to the existing service. (See sections 215(4)(b) and 221(4)). The Act is less explicit in the case of Channel 4. Section 231(2)(a) merely states that the Channel 4 DRL shall "replace" the current licence and must be a licence to provide the service in digital form. As explored further below, Ofcom's view is that the terms of the Channel 4 DRL should be broadly equivalent to those in its current licence and consistent with those of the other DRLs issued.
24. In some cases the Act makes clear that existing terms are to continue. For example it requires that the amounts which are required to be paid as a result of the current financial terms of the Channel 3, Channel 5 and Public Teletext licences are the same as they are obliged to pay under their DRLs (section 215(6) and 221(5)). In other cases the Act sets out a number of specific conditions which Ofcom is obliged to include in the replacement licences. These for example include conditions to:
 - Give effect to directions of the Secretary of State to continue analogue services (sections 214(3) and 231(4))

- Ensure the programmes in the analogue service and the times they are broadcast are the same for the digital service (sections 214(4) and 231(5))
 - Prohibit the imposition of charges for reception of the service (sections 214(8)(a); 219(5) and 231(9)(a)).
25. Elsewhere in the Act, Ofcom comes under separate duties to include particular conditions in the replacement licences. The most important of these are the new provisions relating to the PSB remits of licensees and statements of programme policy. These will replace the current requirements for programme genre quotas and the service remits agreed with licensees. The new remits and statements are not required as part of the replacement licence process. They will be introduced as a result of the bringing into force of sections 265 to 269 of the Act , which is planned to take a place at the same time as the DRLs are issued later this year. Ofcom's first PSB review is due to be completed at around the same time and its results will obviously affect the content of the remits and statements. We have marked in the margins of the draft DRLs against the relevant conditions all the necessary statutory references in order to assist licensees and others. Ofcom intends to include these notes in the final DRLs.
26. The initial expiry date of each DRL shall be 31 December 2014 (section 224(1)).
27. The DRLs will be granted in accordance with the relevant section of the Act and under the provisions of Part 1 of the Broadcasting Act 1990 (the "1990 Act") (see sections 214(1), 215(3), 221(3)(b), 231(2)(a) of the Act.) This means that Ofcom has all the necessary powers under section 4(1) of the 1990 Act to include new and additional conditions in the DRLs which it considers appropriate. Such conditions must be either: (a) ones which appear to Ofcom to be appropriate having regard to any duties which are, or may be, imposed on it or the licence holder under the 1990 Act, the Broadcasting Act 1996 or the Act; or (b) ones providing for "such incidental and supplemental matters as appear" appropriate to Ofcom. Ofcom will also have the power to change the terms of the DRLs once issued in accordance with section 3 of the 1990 Act. It is under these section 4(1) powers that Ofcom intends to include in the DRLs some of the conditions relating to digital switchover.

Context

Digital Switchover

28. Digital switchover is a significant policy goal for the Government in the UK. In September 1999 the Government stated that digital switchover could start as early as 2006 and be completed by 2010. It also announced that switchover would not take place until everyone who could watch the main public service broadcasting channels (BBC1 and 2, ITV 1, Channel 4/S4C and Channel 5) in analogue form could receive them on digital systems; and, that switching to digital was an affordable option for the vast majority of the population. At the moment it is estimated that 98.5 per cent of UK households can receive analogue TV signals for the four main analogue broadcasters.

29. The Government's cost-benefit analysis of switchover estimates the benefits of switchover for the UK to be in the region of £1.5bn to £2bn³. Ofcom shares the conclusion of this analysis: switchover would give a substantial net benefit to the UK provided the necessary international clearances to use the released spectrum are secured. Ofcom was asked earlier this year to report to the Secretary of State for Culture, Media and Sport on various matters relating to digital switchover including progress towards switchover and policy options which could be implemented to help achieve it.⁴ Some of the main conclusions of *Driving Digital Switchover* were:
- Digital switchover in the UK is desirable, practical and achievable
 - Switchover would benefit from an early announcement of a precise timetable
 - Ofcom would consider including appropriate switchover-related obligations in the DRLs to ensure the nationwide roll-out of digital TV; and
 - A body, called "Switchco" for simplicity, should be established to lead switchover and be responsible for implementation⁵.
30. Following that report in April, Ofcom and government decided to have discussions with broadcasters to explore the extent to which the inclusion in DRLs of obligations related to DSO could be a constructive method of bringing more certainty to the timing and process of DSO. Ofcom held discussions with its television licensees, principally Channels 3, 4 and 5 and Public Teletext, its multiplex licensees, and certain other parties (including BSkyB and the transmission operators, Crown Castle and NTL) during June and July. DCMS in turn liaised with the BBC, and S4C.
31. The result of the discussions was a fairly large measure of agreement between many of the broadcasters, Government and Ofcom as to the way forward. On the basis of these discussions, the Secretary of State for Culture, Media and Sport made a written statement⁶ on the progress of digital switchover on 22 July. This welcomed the progress made on DSO and indicated that some broadcasters had proposed that DSO should end in 2012. This could mean starting the DSO process as early as 2007. It also noted that Ofcom planned to include this timetable in the draft DRLs. The statement confirmed the Government is committed to ensuring DSO is "platform and broadcaster neutral."
32. At the moment the best estimate is that around 98.5 per cent of UK households can receive analogue TV signals for the four main analogue broadcasters. The background to this figure, including the assumptions on which it is based, were outlined in a technical paper produced by the Digital Television Action Plan's Spectrum Planning Group dated 4 May 2004.

³ http://www.digitaltelevision.gov.uk/pdf_documents/publications/costs_benefits.pdf

⁴ *Driving digital switchover: a report to the Secretary of State*, 5 April 2004

⁵ See Executive Summary and paras. 7.18 to 7.26, and 7.36 to 7.46

⁶ Tessa Jowell makes announcement on the progress of digital switchover, DCMS, 22 July 2004

33. The current DSO plan has been prepared by the Spectrum Planning Group (SPG), the task of converting this outline plan into a fully developed plan is now being passed over to the Joint Planning Project (JPP)⁷. Based to a great extent on that plan, Ofcom has developed a set of high level principles to guide DSO, which have been agreed with Government. This document was revised in light of all the meetings and discussions which Ofcom held with broadcasters and others this summer. The SPG plan envisages designating three of the existing six digital terrestrial television (DTT) broadcasting multiplexes as PSB multiplexes (PSB multiplexes) and allocating them three high power converted analogue frequencies at all current analogue transmission sites (numbering 1154). The planners have further proposed a further three frequencies be made available for the three commercial multiplex operators at the 200 highest coverage sites.
34. At present DTT broadcasts from 80 transmitters. To achieve the desired 98.5 per cent coverage, the current SPG plan is to allocate the three PSB multiplexes high power converted analogue frequencies at these 80 transmitters so that DTT coverage would be boosted to around 92 per cent. The remaining 1074 analogue transmitters would also be converted, taking the total to 1154, to increase DTT coverage further. The SPG currently estimates that if the three PSB multiplexes broadcast from 1154 transmitters at the increased level of power, and in the transmission mode⁸ known as 16 QAM, they would achieve 98.5 per cent coverage. Ofcom is therefore presently minded to include licence conditions in the Channel 3, 4 and 5 DRLs obliging these broadcasters at least to match substantially in digital form their current analogue coverage as from the date of digital switchover; and to roll-out a total of 1154 DTT transmission stations according to a set timetable.
35. If the three non-PSB, commercial multiplexes adopt all 200 transmission sites on offer it is predicted that they would achieve a core coverage of around 85 per cent. It has been agreed with the broadcasters that DSO will take place on a (ITV) region by region basis. Each region would take a period of six months to convert fully, probably starting with BBC2 and finishing with the Channel 3 and 4 services. At present, the proposal is that digital switchover should take place over a period of at least four years starting with the Border region, however, it should be noted that the regional order is still subject to change as the plan is further developed. Ofcom proposes that the broadcasters will be required to ensure that viewers in any particular region are given at least two years notice before their region is converted.
36. The “footprint” of the digital satellite platform in the UK already covers the whole of the UK. A number of other consumers cannot erect satellite dishes due to planning and other restrictions. Other consumers lack a line of sight to the satellite, eg because of tall buildings or trees in the vicinity. One important issue Ofcom has had to consider is whether it would be reasonable to impose licence

⁷ The Joint Planning Project has been responsible for the development and improvement of the current 80 site DTT plan. It is joint group chaired by Ofcom and comprising the digital terrestrial broadcasters and transmission companies.

⁸ ie the mode in which the digital signals are transmitted. In broad terms, 64 QAM enables a multiplex to broadcast more TV channels but with less range and robustness, 16 QAM fewer channels but with greater range and less interference. Muxes 1, B, C and D broadcast in 16 QAM; muxes D3&4 and A in 64 QAM

conditions obliging holders of DRLs to roll-out DTT to 1154 sites, as opposed, for example, to allowing broadcasters to make a decision based on their own commercial interests.

37. Ofcom found the pre-consultation discussions with licensees and stakeholders very valuable, and took account of them in drafting the various proposed DSO-related conditions in the DRLs.

Redetermination of financial terms

38. The issue of DRLs by Ofcom by the end of 2004 is linked with other statutory obligations of the regulator. One such obligation is to review the financial terms of DRLs after they have been issued to Channel 3, Channel 5 and Public Teletext if these broadcasters apply for a redetermination (section 225).
39. The licensees may apply for a review of their financial terms during a three year window which begins on a date four years before the expiry date of their existing analogue licence (section 225 (2)). The current Channel 3 licences have different expiry dates, according to when they were last renewed. Since some of the Channel 3 licences expire within four years of the date by which DRLs have to be issued (29 December 2004) those licensees will have the right to make an application for a review of their financial terms to Ofcom on 31 December 2004. Others do not have the opportunity to apply until some time later.
40. Ofcom issued a consultation on 26 January 2004 on the timetable and general approach to the reviews of financial terms for Channel 3 licensees (the “26 January Consultation”)⁹. In that document, Ofcom proposed to offer Channel 3 licensees whose analogue licences expire after 31 December 2008 the option to align their financial review periods by curtailing their existing analogue licence periods. Following consideration of the responses to the consultation, and to ensure potential holders of DRLs are treated equitably, Ofcom decided that Channel 5 and Public Teletext should each be offered the same option. To exercise this option, however, all licensees who wish to have their end date brought forward from the end date in their existing licences must have the expiry date of their current licence varied by consent before issue of their DRL. Ofcom decided to conduct a second consultation on a proposal to offer the Channel 5 and Public Teletext licensees the option to curtail their existing analogue licence periods in order to bring forward the dates of their financial review periods to coincide with the review periods for Channel 3 licensees. The closing date for this second consultation was 19 August 2004. Following these consultations, Ofcom has decided that all holders of DRLs will be given the same opportunity to make an application for a financial review on or after 31 December 2004.
41. On 29 June 2004, Ofcom published a consultation document on the methodology for the review of the financial terms for Channel 3 licences. This

⁹ Available at http://www.ofcom.org.uk/consultations/past/channel3_licences/channel3_licences_consultation/condoc.pdf

consultation closed on 6 August. Ofcom intends to publish a statement on the final methodology for the financial reviews shortly. It is proposed that the same methodology would be applied for the review of the financial terms for the Channel 5 and Public Teletext. Ofcom plans to issue later this year a revised statement on qualifying revenue, having consulted Government as required by the 1990 Act (paragraph 1 (3) of Part 1 of Schedule 7), and others as necessary or appropriate.

42. In providing this information before the offers of DRLs are made, Ofcom intends that Channel 3, Channel 5 and Public Teletext will have sufficient knowledge of the methodology Ofcom will adopt in reviewing their financial terms to inform their decision as to whether or not to accept the offer of a DRL with all the rights and obligations which that entails. Any redetermination of financial terms by Ofcom must of course be compliant with EC state aid rules to the extent they may be applicable.
43. Licensees who apply for reviews will have the option to accept or reject the new terms offered. If a licensee rejects the new terms, the existing financial terms will remain in place. The DRL will then terminate at a date to be fixed by Ofcom (section 228(2)(d) and 228(4)). This date cannot be before the expiry date of the current analogue licence. Holders of current analogue licences may choose to bring forward this expiry date (see paragraph 40).
44. Although linked, the grant of replacement licences and the possible review of their financial terms are separate, both chronologically and procedurally.

Review of public service broadcasting

45. Ofcom has a duty under the Act to carry out a review of public service broadcasting. The first review is due to be completed later this year and its results will affect the public service remits and statements of programme policy of holders of DRLs. These remits and statements will be introduced as obligations into the replacement licences as a result of the bringing into force of sections 265 and 266 of the Act later this year.

Focus of consultation

46. The conditions related to digital switchover are the most significant part of this consultation on which Ofcom is especially concerned to receive comments. We also welcome reaction in general to the form and wording of any other additions to the draft DRLs that are new when compared with the existing analogue equivalents which Ofcom consulted on in September last year.
47. This consultation is on the DRLs, and on the proposed timetable and process leading to their issue. It is not a consultation about the principle of digital switchover (DSO) and how it should best be implemented in the UK. Ofcom intends to include in the DRLs a number of conditions related to DSO. Where Ofcom is under a legislative duty to include a particular condition, we are specifically consulting on the draft wording. Where Ofcom has the discretion to impose a condition and intends to do so, we are interested in comments on the

proposed wording and also on whether it is appropriate for Ofcom to include the condition.

48. This consultation is important partly because the Act requires Ofcom's offer of a DRL to Channel 3, Channel 5 and Public Teletext to be in effect a "final" offer. The licensee must either accept it or reject it. If the licensee rejects it they automatically lose their licence to broadcast their services in analogue form by a date to be decided by Ofcom. This date must be within eighteen months of closing of the DRL offer. Ofcom is currently minded to set this date one year after closing. Such loss of a licence would have serious implications for the licensee involved and the future of their business. It is therefore essential that Ofcom has an opportunity to seek the views of the licensees involved, and of all other stakeholders involved with digital switchover, before finalising the offers of DRLs. In the case of Channel 4, this consultation provides the opportunity to make representations to Ofcom before its DRL is finalised and comes into effect.
49. Digital switchover is, however, of importance to a much wider constituency than those immediately involved with the issue of DRLs. Digital switchover will have a major impact on the whole population of the UK. Every household will need to be enabled to view digital television before the analogue broadcasting signal can be switched off. Since Ofcom plans to include conditions related to DSO in the DRLs, it is important that all the parties involved have an opportunity to comment on Ofcom's proposals. Ofcom therefore seeks comments from all parties.

Section 3

Digital replacement licences for Channel 3 and Channel 5

Introduction

50. The statutory provisions in the Act dealing with digital replacement licences for Channel 3 and Channel 5 are the same (sections 214 – 217). This consultation therefore sets out the issues in relation to these draft licences together in this section. Specific issues relating to Channel 5 alone, where they differ from those concerning Channel 3, are treated below. The conditions in the draft Channel 3 DRLs related to provision of the service, and digital switchover in particular, and all other issues relevant to this consultation are in all material respects the same. A generic Channel 3 licence will be made available for the purposes of this public consultation on the Ofcom website, but copies of individualised draft DRLs will be sent by Ofcom to each of the 16 Channel 3 licensees. It appears to Ofcom that the administrative effort required to make, and confusion which might be created by making, all sixteen draft Channel 3 DRLs available to the public on the website outweigh any advantages of doing so. A copy of the draft Channel 5 DRL is also available to the public for the purposes of this consultation.

Condition 2 : Provision of Channel 3 or Channel 5 services

Statutory requirements

51. The Act requires Ofcom to ensure that the DRL service of Channel 3 and of Channel 5 is one that “appears to Ofcom to be a service that is equivalent in all material respects to the service the provision of which in analogue form was authorised by the existing licence” (section 215 (4)(d)). This includes ensuring that the digital service continues to serve the same geographical area. The Act recognises the possibility that it may not be technically feasible to match the current analogue coverage or times of broadcasts exactly with the digital form of the service. The requirement set out in section 214 (4)(b) may be relaxed to the extent that Ofcom is given discretion to “propose the grant of a [DRL] licence to provide a service for an area ... which, though substantially the same as in the case of the existing licence” is not identical (section 215(5)). It is also worth noting that Channel 3 is a nationwide service, organised on a regional basis: Section 14(1) 1990 Act. This means inevitably that Channel 3 must have nationwide coverage obligations. The 2003 Act has not altered this fundamental principle. Ofcom has a duty to “do all they can to secure the provision” of this service (section 14(1) of the 1990 Act).
52. Analysis of the 2003 Act¹⁰ shows that DRLs are terrestrial, not all platform (i.e. terrestrial, cable and satellite), licences. Since the DRLs are terrestrial licences, it

¹⁰ See principally ss.215(4), 215(10)(b), 232 and following, and 362(1)

follows that digital coverage obligations provided under them should be by digital terrestrial means.

53. Ofcom has the power through DRL licence conditions to ensure that Channel 3 pays the costs of fulfilling its digital coverage obligations. Section 214(2)(a) obliges the licensee to provide the service with a view to its being broadcast in digital form, and so it will be the duty of the licensee to ensure this occurs.

Context

54. At the moment the best estimate is that 98.5 per cent of UK households can receive analogue TV signals for the four main analogue broadcasters. The background to this figure, including the assumptions on which it is based, were outlined in a technical paper produced by the Digital Television Action Plan's Spectrum Planning Group dated 4 May 2004. This was distributed to broadcasters, manufacturers, retailers and lobby groups and a copy published on the Ofcom website.
55. The detailed planning for digital switchover is being undertaken by the Joint Planning Project (JPP). Its current proposal is that digital switchover should be carried out on a region by region basis. DTT services are currently broadcast from 80 sites around the UK compared with 1,154 sites used for the analogue transmissions. It is proposed that all the main and relay sites in each region would be converted to DTT operation for the three PSB multiplexes over a period of six months. The regional order for switchover to be adopted is still subject to detailed work but a preliminary order is proposed in the draft DRL. . This would raise the total number of digital terrestrial transmission sites to 1154. It is estimated that the adoption of all analogue sites at appropriate power levels and transmission mode will be sufficient to provide coverage of approximately 98.5 per cent of UK households for the three PSB multiplexes.

Coverage conditions

56. Channels 3 and 5 continue to be under a duty to provide an analogue service until switchover. A number of the provisions in draft condition 2 simply transpose to the draft Channel 3 or Channel 5 DRL the sections of the current licences obliging the broadcaster to: (a) provide the service in analogue form in the licensed area; and (b) provide the analogue service in digital form to be broadcast on a television multiplex. Channel 3 licensees presently provide their service to Digital 3 & 4 Limited, the holder of the multiplex 2 licence. Channel 5 is obliged to supply its service for broadcast on multiplex A, the licence for which is held by SDN Limited. Under the existing Channel 3 and Channel 5 licences, the licensee is under no obligation as to the coverage area to be achieved by its service when broadcast in digital terrestrial form. The licensee is simply obliged to provide the service to the holder of the multiplex licence. It is the holder of the multiplex licence which is under a duty to broadcast from a set number of stations. There are now 80 such stations in the UK in total, achieving coverage of approximately 73 per cent of UK households.

57. Draft condition 2(1) carries forward the obligation in the existing licence for the broadcaster to provide his digital service to the relevant multiplex. Similarly proposed conditions 2(3) to 2(7) are either transposed into the draft DRL in modified form from the current licences or required by the Act. Ofcom is not specifically seeking comments on these conditions.
58. Ofcom is particularly concerned to receive comments on the wording of draft condition 2(2) of the DRLs relating to provision of the digital Channel 3 and Channel 5 services. There is no doubt that Ofcom is under a duty to include an obligation relating to this issue in the licence. The question is whether the draft wording is appropriate and proportionate.
59. In preparing draft condition 2(2) Ofcom wished first to ensure that the requirements of the Act as regards the service licensed under the DRL were met. Draft condition 2(2)(a) therefore closely tracks the wording of sections 215(4)(b) as regards the overall nature of the service, which must include its geographical coverage area.
60. As regards digital coverage, Ofcom considered the position both before and after switchover. Its current view is that it is not necessary or appropriate to impose any obligation in the DRL as regards increased coverage for the digital service before the date of switchover in addition to that in condition 2(1)¹¹. There are various practical reasons as to why it is not possible to expand DTT coverage materially before switchover. Also until DSO the overwhelming majority of the population can continue to receive the main PSB services in analogue form. In any event the licensee is already obliged to provide its service in digital form to the relevant multiplex licence holder, which is in turn under a duty to broadcast from a set number of stations. In Ofcom's view, although it would have the power to include some form of additional digital coverage obligation on Channel 3 and Channel 5 relating to the period before the date of switchover, it would be disproportionate and inappropriate to do so.
61. As from the date of digital switchover, however, it would in Ofcom's opinion be necessary to include a clearly defined coverage obligation to be met by the digital service. This is to fulfil Ofcom's duty under the Act already referred to that the digital service must be one that appears to Ofcom "equivalent in all material respects" to the current analogue one, including that of coverage. In addition, the Act gives Ofcom the specific additional power and discretion to grant a DRL to Channel 3 or Channel 5 to provide a service for an area which is "substantially the same" but not identical to the existing analogue one. To fulfil this duty and using this discretionary power, Ofcom considers it appropriate that the DRLs should specify what the coverage area should be as from the switchover date. To do so, condition 2(2)(b) closely tracks the statutory language of sections 215(4)(b) and 215(5) and defines the area by reference to the current analogue coverage area. Ofcom also notes that the Channel 3, 4 and 5 DRL licensees will be under an obligation to provide their service "with a view to its being broadcast in digital form" (sections 214(2)(a) and 231(3)(a)).

¹¹ This obliges the DRL licensee to provide its digital (qualifying) service to the relevant multiplex licensee, who in turn is obliged to transmit from a set number of stations.

62. Ofcom believes it is crucial that a duty to provide the digital service to a defined coverage area crystallises at the date of switchover in order to give licensees the incentive to invest in digital switchover against a target of sufficient certainty, and to give consumers and the Government confidence that as of a particular date the licensee is under an unequivocal duty to provide the digital service to a specified area. The regulator considers it is compelled by the Act to include a coverage condition along the lines of Condition 2(2)(b) and that it has been drafted in a reasonable and proportionate manner in obliging the licensee to match the level of existing analogue coverage. Ofcom recognises that to mandate 100 per cent coverage would be impracticable and unfair, while to set a level below or different to that of the current analogue coverage would appear arbitrary and provide less certainty to licensees.
63. Ofcom acknowledges that its licensees have a right to expect a reasonable level of certainty as regards future fulfilment of their licence conditions. It would not be helpful for example if a licence condition regarding the level of digital coverage from switchover was couched in terms of the percentage of households in the UK to be covered by the service. Instead Ofcom considered it preferable to place a duty on the licensee to procure coverage in digital terrestrial form of their service equivalent to, or substantially the same as, the analogue coverage currently achieved by transmission from a certain named number of stations, on certain frequencies and at certain power levels, as set out in Part 5 of the Annex (Part 4 in the Channel 5 DRL).
64. The digital coverage area in condition 2(2)(b) in Ofcom's view sets a quantifiable and clear measure by which the licensees will be able to judge the number of households which must be capable of receiving its service as from the Relevant Digital Switchover Date. The licensee will know what coverage it achieves in analogue currently and understands that it must match that level as from the Relevant Digital Switchover Date, except to the extent that Ofcom allows that the coverage provided is "substantially the same". Ofcom is not able now to give guidance on exactly what it would regard as "substantially the same" coverage several years hence, in the period preceding digital switchover. Ofcom will exercise its discretion under section 215(5) reasonably, proportionately and in accordance with its statutory duties and responsibilities under section 3 of the Act.
65. The Relevant Digital Switchover Date referred to in draft condition 2(2)(b) is defined in the interpretation section of the licence. It means the date on which transmission of the licensed service in analogue form must cease. This date in turn is fixed in accordance with Part 3 of the Annex to the licence. It may be brought forward by agreement between Ofcom and the licensee.
66. By draft condition 2(2)(c) the licensee is placed under a duty to ensure that programmes in the digital service are broadcast at particular times consistent with the times that the analogue services are currently required to be broadcast.

Question 1: Is the proposed wording of condition 2(2) of the Channel 3 DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Conditions 22 and 23

67. In order to maintain the cost sharing arrangements between Channel 3 licensees for transmission and distribution, Ofcom has amended Condition 22 to allow it to approve any future proposed changes to these arrangements as opposed to the Secretary of State, as used to be the case under section 66 of the 1990 Act.

Condition 36 (Regional Channel 3); Condition 34 (National Channel 3); and Condition 33 (Channel 5) and Parts 2 and 3 of the Annex: digital switchover

68. The proposed obligations in the licences as regards roll-out of digital switchover are separate from those regarding provision of the service (and coverage in particular) in condition 2 but nevertheless linked to those requirements as regards roll-out of DTT stations.
69. As explained earlier, Ofcom has powers under section 4(1) of the 1990 Act to introduce into DRLs appropriate conditions having regard to duties imposed on it or for appropriate incidental and supplemental matters. The regulator has considered its general duties carefully and in particular its obligation to secure “the optimal use for wireless telegraphy of the electro-magnetic spectrum”. Ofcom has also had regard to its other general duties to: further the interests of citizens and consumers and to secure the optimal use for wireless telegraphy of the electro-magnetic spectrum, secure the availability throughout the United Kingdom of a wide range of electronic communications services; and secure the availability of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests. (Section 3). In light of the clear benefits which would accrue to the UK and to consumers from digital switchover¹², Ofcom believes that it is under an implicit duty to promote digital switchover in a proportionate manner. It would therefore be appropriate in Ofcom’s view to include in the DRLs conditions which, in a reasonable and proportionate way, would help secure digital switchover and protected the interests of consumers. Ofcom wishes to introduce three such conditions into Part 2 of the Annex on this basis and under these powers.

Paragraph 9, Part 2 of the Annex: Co-operation and co-ordination (paragraph 7 in the National Channel 3 DRL and paragraph 8 in the Channel 5 DRL)

70. Digital switchover is a complex process. Its not only an enormous engineering undertaking, but it involves manufacturers, retailers, equipment manufacturers and members of the public, who must be persuaded of the merits of digital television and the need to invest in new technology. It is evident that switchover can only take place smoothly if there is co-operation between all the parties involved.

¹² Summarised in *Driving Digital Switchover*, paragraphs 1.5, 1.6 and 2.8

71. In view of its implied duty to promote digital switchover, Ofcom thinks its appropriate to include in DRLs an obligation on their licensees to co-operate with everyone involved in the administration, organisation or implementation of digital switchover in the UK. These parties may be other Ofcom licensees or a body set up to oversee the implementation of switchover in the UK.
72. Ofcom has recommended the creation of a body focussed entirely on co-ordinating the activities of the various players involved with switchover in April 2004¹³. It has been called “Switchco” for simplicity. Its remit, constitution and funding have not yet been decided but its creation is the subject of active discussions between broadcasters, Government, Ofcom and others. Whether or not these discussions will result in the creation of Switchco is not clear at the time of publication of this consultation document. If Switchco were created before the date when Ofcom makes its offer of a DRL to licensees then the regulator would plan to include these provisions in Part 2 of the Annex. If not, Ofcom could either make them subject to Switchco or an equivalent body being set up or omit this paragraph altogether but we would expect to introduce similar provisions by way of variation if and when Switchco is established.

Question 2: Are the provisions contained in draft paragraphs 9 of the Regional Channel 3 DRL; 7 of the National Channel 3 DRL and 8 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording

Paragraph 10, Part 2 of the Annex: Annual report and information (paragraph 8 in the National Channel 3 DRL and paragraph 9 in the Channel 5 DRL)

73. The provisions set out in these paragraphs would place an obligation on the licensee to send Ofcom an Annual Report giving details of his compliance with the conditions in the licence relating to provision of the digital service and with the other licence provisions related to digital switchover, and of his plans (including budgets and expenditure) to fund the roll out of equipment and/or infrastructure relating to digital switchover. The first Annual Report would need to be provided to Ofcom by the end of 2005 and annually thereafter until digital switchover or an earlier date as notified by Ofcom. The licensee could also be obliged to provide interim reports in respect of progress towards digital switchover.
74. Ofcom has certain explicit statutory powers to ask licensees for information and these are set out in the conditions headed “general provision of information to Ofcom” and “provision of information following a change of control” of the draft DRLs. Ofcom could seek to exercise its information gathering powers under the first of these conditions in order to gather information about progress towards digital switchover. Ofcom, however, believes that the need to be kept informed of its licensees’ progress towards, and plans for, digital switchover is sufficiently important that a specific duty should be placed in DRLs to provide information to

¹³ *Driving digital switchover*, paragraphs 7.40 – 7.46

assist Ofcom. The inclusion of these provisions would ensure that broadcasters set up the necessary systems to gather and collate the information required and proactively keep Ofcom informed of developments. The inclusion of these provisions would also ensure there were no disputes about whether Ofcom reasonably required this information for the purpose of exercising its statutory functions. This might otherwise be the case if Ofcom sought information under the general provision of information condition in the licence.

75. The provisions in paragraph these paragraphs make explicit the proposed obligation on the licensee to supply to Ofcom any interim reports in respect of any aspect of progress towards digital switchover. To make it clear that Ofcom would not make unfair demands of time and cost on licensees (which it could not and would not do in any event), subparagraph (3) is subject to the limitation that the interim report must be one which Ofcom must “reasonably require”.

Question 3: Are the provisions contained in draft paragraphs 10 of the Regional Channel 3 DRL; 8 of the National Channel 3 DRL and 9 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Paragraph 11, Part 2 of the Annex: Marketing and Communications (paragraph 9 in the National Channel 3 DRL and paragraph 10 in the Channel 5 DRL)

Switchover marketing and communications

76. In the UK, the Digital Television Action Plan has brought together Government, broadcasters, manufacturers, consumer groups, retailers and other stakeholders. Its aim is to formulate a Plan which could achieve switchover by 2010 - if Ministers choose – and allows for alternative timing options. The Market Preparation Group of the Plan was set up to develop and co-ordinate a communications strategy. A Government Communications Strategy Group, resourced with professional expertise, was set up to take a practical overview of communications and to help ensure co-ordination between marketing by Government and by industry.
77. Amongst the central elements emerging from the work, is the need for a clear information campaign on how and when to switch, explaining to the public the reasons for, and benefits of, switchover, and building a foundation of public understanding and acceptance at the outset before the timetable for switchover is fixed.
78. The Government has worked with public relations specialists to design a communications plan, and identified three main categories of information needed in relation to switchover:
- general awareness of the benefits of digital television and of switchover. This is principally for Government to deliver

- specific information for some groups (e.g. landlords, developers). This should be led by Government with some stakeholder support (including from broadcasters)
- specific information relating to switchover provided on a regional basis. This will be the primary area of responsibility for marketing and communications for broadcasters

Specific switchover information provided on a regional basis

79. Ofcom considers that it will be in the commercial and corporate interest of licensed broadcasters to ensure that viewers know how to receive their services when switchover happens, and therefore to publicise the ways of receiving those services as DSO approaches.
80. Possible activities by the broadcasters to communicate this information might include:
- on-screen messages (which for example can be adapted from one transmitter to another to explain exactly what people receiving their services from a particular transmitter must do and by when)
 - information and advice provided from broadcasters' call centres or duty offices.
 - website based information.
81. The public will require information on a wide range of issues, such as:
- how to find out which switchover region they are located in and the date for switchover in their area
 - how to find out about the different methods of receiving digital TV
 - how to recognise switchover-compliant reception equipment (the plan is for it to be marked with a logo)
 - how to make sure their VCR works after switchover
 - how to convert to digital all the television sets they want to continue to use after switchover
82. It is this specific switchover information for which Government and Ofcom expect the broadcasters to take lead responsibility.
83. Ofcom considers that it is appropriate to ensure that the specific regional switchover information outlined above is made available to viewers by the holders of DRLs. The provision of this information has a significant role to play as

part of the overall switchover marketing and communications strategy. To ensure that licensees are in no doubt as to their duties, and to give Ofcom a means of enforcing them, Ofcom considers it appropriate to include a condition on the subject in the DRLs.

84. The provisions in the draft paragraph dealing with marketing and communication in Part 2 of the Annex to each of the DRLs obliges the licensee to use his best endeavours to ensure that all viewers who receive his analogue service are made fully aware of the switchover date in their region and, in the period leading up to switchover, are given all the necessary information as to how they can continue to receive the service after switchover. To help make certain there is consistency and co-ordination as between licensees, and that the planned activity of the licensee is sufficient and appropriate, subparagraph (2) obliges the licensee to agree an appropriate marketing plan with Ofcom in advance of digital switchover and places them under a formal duty to fund and carry it out.
85. Much of the marketing and communications work envisaged by the provisions in this draft paragraph would be in the best commercial interests of the licensee in any event. Some broadcasters may argue that such conditions therefore are not necessary. Ofcom, however, is concerned that there should be transparency in the licence as to these important duties placed on the licensee and that it should have a method of enforcing them; and also that there should be consistency of behaviour as between licensees. Ofcom is therefore presently minded to include the draft paragraph dealing with marketing and communication as set out in Part 2 of the Annex in the DRLs.

Question 4: Are the provisions contained in draft paragraph 11 of the Regional Channel 3 DRL; 9 of the National Channel 3 DRL and 10 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Part 3 of the Annex: Digital switchover date and timetable

86. Ofcom is not under any explicit obligation under the Act to include a duty on holders of DRLs to cease transmission of their analogue television signals on a particular date or to procure a programme of roll-out of digital television against a set timetable. Ofcom is convinced of the value of including a digital switchover date and timetable in the DRLs, however, and has the power to do so. This power is the same as that to include the other proposed provisions relating to digital switchover, namely its powers under section 4 of the 1990 Act to include additional conditions in licences where appropriate. Ofcom considers that the inclusion of a digital switchover date, and a timetable for converting transmission stations from analogue to digital television, in the DRLs would help extend digital penetration in the UK and would help allow digital switchover to be achieved.
87. Various discussions between Ofcom and the broadcasters and other parties during the summer of this year have led to a number of the broadcasters proposing that the process of digital switchover should commence in 2007 and aim to be complete by 2012. Ofcom is therefore minded to include 31 December

2012 in the DRLs as a backstop date by which its licensees should be obliged to cease broadcasting their analogue signal.

Question 5: Is it necessary, appropriate and proportionate to include a back stop digital switchover date in the draft DRLs? If so, should that date be 31 December 2012? If not, please explain why and propose alternative wording.

88. Part 3 of the Annex sets out the timetable for the conversion from analogue to digital television broadcasting of all the main stations and dependent relays listed in Part 5 of the Annex to the Channel 3 DRLs and Part 4 to the Channel 5 DRL. It is not possible as at the time of publication of this consultation document to include what is proposed to be the final version of this timetable in the licence. Discussions are still in progress with broadcasters and others to agree the exact planned dates for switchover in different regions. Ofcom intends to include a timetable in the DRLs when they are issued but recognises that it may be necessary to subsequently amend any timetable it does include to reflect any change to the sequence of switchover for each region to the extent these have not been definitively finalised by the end of this year. It would be a duty of the licensee to ensure that this timetable is met. The list of stations and dates would naturally vary from licence to licence, reflecting the current list of transmission stations and the sequence of regional switchover.
89. Ofcom considers that it is reasonable to include these draft provisions and timetable in the DRLs since they will assist progress towards digital switchover by enshrining in the DRLs a transparent programme for the move to digital so that broadcasters, transmission operators and consumers can plan ahead.

Question 6: Are the provisions contained in Part 3 of the Annex (digital switchover timetable) of the Channel 3 DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.

Condition 7: Public service remit

90. This new condition replaces condition 6 in the existing analogue licences. It implements the requirements of sections 265, 266 and 267 of the Act. These sections have not yet been brought into force but the Government will do so before the DRLs are issued. There is no question regarding the duty on Ofcom to implement these sections of the Act. Ofcom is not therefore formally consulting on draft condition 7. We would, however, be grateful for any drafting comments from licensees or others.

Section 4

Digital replacement licence for Channel 4

91. Ofcom wishes as far as possible for there to be consistency as between all the DRLs in terms of new obligations. Most of the conditions in the draft Channel 4 DRL are transposed from the existing analogue licence, while the proposed new provisions which are at the heart of this consultation are largely the same as in the draft Channel 3 and Channel 5 DRLs. Much of the commentary in the previous sections concerning Channels 3 and 5 are directly relevant when reviewing the draft DRL for Channel 4. This section highlights where there are differences from the Channel 3 and Channel 5 replacement licences. It also sets out the consultation questions which need responses in relation to the Channel 4 draft DRL.

Condition 2: Provision of the Channel 4 service

92. Ofcom is obliged to “replace” Channel 4’s existing licence (section 231(2)(a)). Ofcom must notify Channel 4 of the proposed terms and conditions of the replacement licence and consider any representations made by Channel 4 before granting the DRL. Section 231 sets out certain statutory requirements to be included in the DRL e.g. that the programmes included in the analogue service and the times when they are broadcast must be the same as in the case of the digital service. Unlike with Channel 3 and Channel 5, however, Ofcom is not under an explicit obligation to ensure that the Channel 4 service provided under its DRL is “equivalent in all material respects” to the existing one. Apart from certain stipulations in section 231, Ofcom has considerable discretion to include conditions in the licence using its powers under section 4 of the 1990 Act.
93. In view of its general duties under section 3 of the Act, Ofcom considers it appropriate to include in the draft Channel 4 DRL conditions related to digital switchover parallel to those which it proposes to place in the Channel 3 and Channel 5 DRLs. It appears to Ofcom essential that Channel 4 is under broadly the same switchover obligations as the other commercial PSB channels. If not, there is an appreciable risk that the burden of costs associated with switchover may be spread inequitably between the holders of DRLs.
94. The position as regards the proposed digital coverage condition is slightly different in the case of Channel 4 however. Channel 4 is under an obligation to provide its service “for so much of England, Scotland and Northern Ireland as may from time to time be reasonably practicable” (section 24(3)1990 Act). However, one of the benefits of DSO is that the Channel 4 service may be made available throughout Wales through its carriage on the Digital 3 and 4 multiplex. It is currently only available in Wales with limited coverage on DTT or on the

cable and satellite platforms. It is therefore proposed to extend Channel 4's coverage obligations in Wales to match the current coverage levels achieved by the Channel 3 licensee in Wales. Additional stations will therefore be added to the list of transmission stations set out in Parts 4 and 5 of the Annex to the DRL.

95. *Question 7: Is it appropriate and proportionate for Ofcom to include draft condition 2(2) in the Channel 4 DRL? If not, please explain why and propose alternative wording.*

Condition 33 and Part 2 and 3 of the Annex: Digital Switchover

96. Similar provisions are inserted in the Channel 4 DRL to those proposed for the Channel 3 and Channel 5 replacement licences relating to switchover, as regards obligations to: co-operate and co-ordinate with other parties; provide information to Ofcom regarding digital switchover; undertake certain specific communications and marketing activity; and comply with a digital switchover date and timetable for conversion of analogue transmission sites to digital. To fulfil its statutory duties, for reasons of consistency with other DRLs, and to ensure that Ofcom has means if necessary to enforce Channel 4's co-operation with the process of digital switchover, it seems essential to Ofcom that these provisions are included in the Channel 4 DRL.

Question 8: Is it necessary, appropriate and proportionate to include condition 33 and the provisions contained in draft paragraphs 10 to 14 inclusive of Parts 2 and 3 of the Annex in the Channel 4 DRL? Please comment on the draft wording if you consider it could be improved.

Condition 7: Public service remit

97. The draft condition 7 on this subject replaces the current condition 6 and will implement sections 265 – 267 of the 2003 Act, which shall be brought into force later this year.

Question 9: Do you think the proposed wording of draft condition 7 in the Channel 4 DRL can be improved? If so, please propose alternative wording

Section 5

Digital replacement licence for Channel 5

Condition 2: Provision of the Channel 5 service

98. As a result of discussions between the broadcasters, the Government, Ofcom and other parties it is possible that Channel 5 may move from multiplex A to multiplex B at the start of the switchover process. If this occurred, the result would be that Channel 5 will be broadcast on a PSB multiplex scheduled to have universal coverage across the UK, as opposed to multiplex A which will have the coverage of a commercial multiplex only. This means that certain consequential changes to the Channel 5 DRL will be required closer to the time of the move eg to the present duty to provide the service to the holder of the multiplex A licence. For the period immediately following the time of planned issue of the Channel 5 DRL, however, Channel 5 will continue to be broadcast on multiplex A.
99. Ofcom sees no reason why the wording of condition 2 of the Channel 5 DRL should not mirror that of Channel 3. In the case of Channel 5 however the coverage achieved by its current digital service already exceeds that of its analogue service. To avoid requiring Channel 5 being required to reduce this coverage at switchover Ofcom is proposing that condition 2(2)(b) in the Channel 5 licence requires Channel 5 to “at least” match the analogue coverage.

Question 9: Is proposed condition 2(2) in the draft Channel 5 DRL appropriate and proportionate? In not, please propose alternative wording.

Condition 33 and Annexes 3 and 4: Digital switchover

100. Ofcom plans to include the same provisions relating to digital switchover in the Channel 5 DRL as it proposes to place in the Channel 3 licences, using the same powers and for the same reasons. The list of transmission stations in Annex 4 and the timetable for digital roll-out in Annex 3 are of course different however to reflect Channel 5's position.

Question 10: Are the provisions contained in the draft paragraphs in Parts 2 and 3 of the Annex to the Channel 5 DRL appropriate and proportionate? In not, please propose alternative wording.

Section 6

Digital replacement licence for Public Teletext

Statutory background

101. The legislative background contains additional differences for public teletext. The public teletext service is currently licensed under section 48 of the Broadcasting Act 1990 as an additional services licence. The need for a public teletext distinct from the other “commercial” types of additional service licensable under section 48 was recognised under the 1990 Act. Under section 49(2) and (3) a single teletext service had to be provided on the combined spare capacity available for additional services on frequencies used for Channel 3 and Channel 4 (S4C in Wales). As with the other public service broadcasting channels, public teletext was required under the 1996 Act to provide a qualifying digital service and it was also gifted capacity on a multiplex (D3/4).
102. The Act has more formally recognised the PSB status of public teletext by creating a separate licensing regime under sections 218 to 220 and Schedule 10. Section 218(1) requires Ofcom to do all it can to secure the provision of a teletext service consisting of a digital service broadcast by digital terrestrial television, and an analogue service (for so long as Channel 4, S4C and one or more Channel 3 services are to be broadcast in analogue form). For the first time the legislation now also provides a definition of “public teletext service” (see section 362(1)). Public teletext is now, therefore, a distinct PSB licence category in its own right.
103. The provisions of the 1990 and 1996 Acts relating to the public teletext service provide the contextual background to the replacement provisions in section 221 of the Act under which Ofcom is required to offer a DRL to Public Teletext for the provision of a digital service and an analogue service.
104. Under the new regime Public Teletext is required to ensure it fulfils the public service remit set out in section 265 of the Communications Act, to provide a range of high quality and diverse text material. It must also prepare an annual statement of service policy under section 268 of the Communications Act. The Act requires separate statements to be published for the analogue and the digital services. Likewise, the public service remit must be fulfilled separately by each.

Condition 2: provision of the public teletext service

105. Section 221(4) recognises that Teletext does not currently provide an identical version in analogue and digital forms. Therefore, section 221(4) provides that the service in the replacement licence must be:

“a service which comprises both:

- (a) a service that appears to Ofcom to be equivalent in all material respects to the existing service [i.e. the analogue service – see section 221(11)]; and
 - (b) a service that appears to them to be equivalent in all material respects to the teletext service in digital form which that person is required to provide by virtue of section 30 of the 1990 Act.”
106. The difference between the two types of service is also recognised in section 268 which deals with statements of service policy. Section 268(4) for example requires that the proposals/report that form part of the statement must deal separately with the analogue teletext service and the digital form of the service. Unlike with Channels 3, 4 and 5 therefore there is no statutory requirement that the programmes included in the digital and analogue public teletext services must be the same, and nor is there a basis in the legislation for obliging the coverage of the digital service as from switchover to match that of the existing analogue service.
107. Condition 2 of the draft Public Teletext DRL is based on the equivalent condition in the other DRLs but has been amended to reflect the difference in the statutory background.

Question 11: Is it appropriate and proportionate for Ofcom to include draft condition 2(2) in the public teletext DRL? If not, please explain why and propose alternative wording.

Condition 25 and Parts 2 and 3 of the Annex: Digital switchover

108. Ofcom plans to include analogous provisions relating to digital switchover in the Public Teletext DRL as it proposes to place in the other DRLs, using the same powers and for the same reasons. These provisions have also however been amended to reflect the statutory background.

Question 12: Are the provisions contained in the draft paragraphs in Parts 2 and 3 of the Annex to the Public Teletext DRL appropriate and proportionate? In not, please propose alternative wording

Section 7

Timetable and process

109. Ofcom must work to a strict timetable in order to meet the statutory deadline of issuing replacement licences by 29 December 2004. This consultation will therefore end on 25 October and be open for 6 weeks. The period allowed for consultation is shorter than the usual ten weeks because of the necessity of leaving time for the later obligatory steps in the process. It was not possible to start the consultation earlier than 14 September because the results of the confidential discussions with broadcasters on digital switchover were only known at the end of July 2004 and Ofcom needed to take account of these in preparing this document and the draft DRLs.
110. Ofcom will take account of all the comments received in response to the consultation. As part of finalising the DRL offers we may request further information from, or meetings with, particular licensees. We envisage that such dialogue may be very important because the Act does not permit any negotiation of the terms of the offer once it is made. Ofcom plans to send the final DRL offer documents to licensees during the week commencing 15 November 2004. We propose the offer of the DRLs should remain open for approximately three weeks, to allow Channels 3 and 5 and Public Teletext sufficient time to consider the offer made to them, seek any necessary clarification from Ofcom and notify us of their response. As already stated, the Act only allows these licensees to accept or reject the terms offered. It will not be possible for example for a licensee to make his acceptance subject to the fulfilment of certain conditions. Ofcom proposes the offer of DRLs would end during the week commencing 29 November 2004. If a current licensee refuses the DRL offered, its existing licence will automatically cease to have effect from a date to be determined by Ofcom. This must be set out in the offer document (section 215(8)(f)), and be within 18 months of the date the offer of the DRL closes (section 215(8)(c) and 215(9)(d)).
111. Ofcom has not yet decided which such dates to insert in each DRL offer. If a DRL is refused, Ofcom considers that it is essential that the relevant DRL is offered to others as soon as possible so that the new licence holder can play an active role in digital switchover as soon as possible. Based partly on the experience of the Independent Television Commission in awarding the current analogue licences in the first instance, and its rapid re-licensing of the three multiplex licences which were held by ITV Digital, Ofcom considers that it would probably be possible to re-license any of the three relevant categories of service eligible for a DRL (Regional and National Channel 3, Channel 5 and Public Teletext) within a period of between six and twelve months from the date when the DRL offer closes ie between approximately May and November 2005. At present the regulator prefers to select the same date for all DRL offers when the licences will cease to have effect. This is for reasons of consistency and simplicity. This date is likely to be one year after the date a DRL offer closes.

112. Ofcom plans to issue the DRLs to licensees during the week commencing 13 December 2004.
113. If any Channel 3 licensee, Channel 5 or Public Teletext wishes to accept Ofcom's separate offer to bring forward the end date of their current licence in order to have the option of an earlier determination of their financial terms, Ofcom proposes they must inform Ofcom in writing no later than the week commencing 29 November 2004 and confirm at the same time their consent to the necessary variation to their licence. The relevant analogue licence must be varied before grant of the replacement licence, because it is by reference to the end date of the current licence that the period when the DRL licensee may lodge an application for a review of financial terms is calculated (section 225(2)(a) and 225(7)).

Question 13: Is the proposed process and timetable leading up to issue of the DRLs before 29 December 2004 appropriate? If not, please explain why and make alternative proposals, giving reasons.

Question 14: Is a date twelve months from the date when a DRL offer closes an appropriate time for an existing licence to cease to have effect, should the licensee concerned reject their offer of a DRL? Should there be one such date for all DRL offers or different ones? If a single date please suggest what it should be and give reasons. If different dates please propose what they should be for each licensee and explain your suggestions.

Section 8

Regulatory impact assessment

Introduction

114. The draft digital replacement licences (DRLs) contain a number of proposed conditions relating to digital switchover. The draft DRLs define the time at which analogue transmissions will cease, and set out conditions relating to the coverage of digital TV post-switchover, as well as other conditions relating to information provision, co-operation with SwitchCo and reporting to Ofcom.
115. The analysis presented in this section, when read in conjunction with the rest of this consultation document, represents a Regulatory Impact Assessment (RIA), as defined by section 7 of the Communications Act 2003. Respondents should send any comments on this RIA to Ofcom by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
116. RIAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the Act, which means that generally we have to carry out RIAs where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. In accordance with section 7 of the Act, in producing the RIA in this document, Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.
117. This RIA is concerned with assessing the effect of proposed conditions in the DRLs which are related to switchover. The following issues are considered as part of the RIA:
- The date of switchover.
 - How licence obligations relating to coverage should be met.
 - Whether to require licensees to provide information on switchover.
 - Whether to require licensees to co-operate with a body charged with implementing switchover (termed 'SwitchCo' for ease of reference).
 - Whether to require licensees to provide annual reports to Ofcom on measures taken to support switchover.
118. The RIA is set out as follows:
- Costs and benefits of switchover.
 - Ofcom's digital switchover report
 - Objectives of the proposed licence conditions.
 - The process of switchover
 - Conditions relating to the timing of switchover.
 - Conditions relating to coverage

- Coverage of different digital TV platforms
 - Coverage obligations
 - Conclusions
 - Information provision.
 - Co-operation with SwitchCo.
 - Annual report to Ofcom.
 - Consultation
119. Conditions in the draft DRLs which are not related to digital switchover are not considered as part of this RIA; as explained in the accompanying consultation document, most conditions in the draft DRLs are a transfer of existing licence obligations and do not therefore constitute a significant change in regulation. In addition, Ofcom amended Broadcasting Act licences in 2003 to take account of the entry into force of the Communications Act 2003 (see Ofcom's publication, Transposition of Broadcasting Act Licences, December 2003, for more details). As part of this process, Ofcom considered representations made to it by licensees and others and thereby reached a view on the content of the licences. Given the proximity of these changes, Ofcom does not consider that it is necessary to conduct a full RIA for all of the proposed licence conditions.

Costs and benefits of switchover

120. Digital broadcasting creates benefits over analogue broadcasting as a result of the fact that more services can be broadcast in the same amount of spectrum. A digital terrestrial signal, for example, can transmit four to eight times as many channels as its analogue equivalent.
121. The replacement of analogue TV with digital TV through digital switchover would have substantial benefits for the UK. Ofcom's report to the Secretary of State, Driving Digital Switchover, (published in April 2004), identified a number of benefits arising from switchover.
- Digital broadcasting allows the release of spectrum for potential use by additional broadcasting services or many new communications services.
 - Switchover would improve the functioning of the UK broadcasting market by easing the entry barriers to the launch of new TV channels.
 - More households would be able to receive digital signals through their aerials compared with only around three-quarters today, providing many more TV channels, radio stations and interactive services.
 - Early switchover would cement Britain's leading position in digital TV services.
122. There would however be some costs as a result of switchover. New transmission infrastructure would have to be built even if no new transmitters are converted to DTT. And, before switchover, the 44 per cent of households who currently do not have digital TV would need to convert their primary TV sets to be compatible with digital signals. Furthermore, most households would need to convert secondary TVs and TV recording devices if they wished to continue using them¹⁴.

¹⁴ See Ofcom's report, Driving Digital Switchover, for more details on digital TV projections

123. Having attempted to measure these benefits and costs, the Government's cost-benefit analysis (CBA) of switchover¹⁵ has indicated that achieving switchover would lead to significant benefits for the UK. The net benefits were estimated to be in the range of £1.5 billion to £2 billion. The figures were based on the best estimates of costs and coverage available at the time. The Government is currently updating the CBA. Ofcom is not aware of any developments that change the fundamental conclusions published in September 2003. The RIA does not, therefore, attempt to replicate the analysis contained in the CBA. Full details of the CBA can be found at www.digitaltelevision.gov.uk.

Ofcom's digital switchover report

124. Ofcom's report to the Secretary of State, Driving Digital Switchover, set out the progress of digital TV to date and discussed the prospects for achieving switchover. The report concluded that although digital TV has been a considerable success to date, switchover would not happen of its own accord. This was largely because the main benefits of switchover – which arise from more efficient use of spectrum – are diffuse and widely dispersed, whereas the considerable transitional costs of switchover would be borne by a different range of people, primarily by some consumers who would not choose to purchase digital TV otherwise, and by the larger number of households who would not otherwise choose to convert secondary TV sets and recording devices.

125. This dispersal of costs and benefits means that it is difficult to establish a co-ordination mechanism which enables all of the parties involved to share the costs among themselves. The result is that although switchover provides significant benefits to the UK as a whole, it is difficult to achieve without some degree of external intervention to resolve the problems of co-ordination. Consequently, Ofcom recommended that concerted action be undertaken to achieve switchover. Amongst the specific recommendations were the following:

- Creating greater certainty over the timing of switchover
- Using the regulatory framework to help drive switchover.
- Improving access to free-to-view digital TV.
- Providing information and advice to consumers.
- Addressing affordability issues.
- A move from planning to implementation.

126. Of specific relevance to this RIA, the report said that Ofcom intended to consider including any appropriate switchover-related obligations in the DRLs. Following the publication of its report on switchover, Ofcom, together with the Government, have undertaken a series of discussions with broadcasters, multiplex operators and transmission companies concerning switchover. As part of these discussions, Ofcom indicated to the commercial broadcasters to whom DRLs are to be offered that it was minded to include conditions relating to switchover in the draft DRLs.

¹⁵ Cost benefit analysis (CBA) of digital switchover, DTI and DCMS, September 2003

Objectives of proposed licence conditions

127. Before considering the specific impact of switchover-related conditions in the draft DRLs it is important to describe the overall objective of the proposed conditions. This objective is to ensure that the interests of consumers and citizens are furthered throughout the period of transition from analogue to digital TV broadcasting, as well as after all TV broadcasting takes place in a digital form. Ofcom has a general duty under section 3 of the Communications Act 2003 to further the interests of consumers and citizens. It is important that this duty is fulfilled before, during and after switchover.
128. In carrying out its functions, Ofcom is also required to secure certain objectives. Of particular relevance to this consultation are the following:
- the optimal use for wireless telegraphy of the electro-magnetic spectrum;
 - the availability throughout the UK of a wide range of electronic communications services; and,
 - the availability throughout the UK of a wide range of TV and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests;
129. As well as the general duty to further the interests of consumers and citizens, the Communications Act 2003 sets out a range of considerations to which Ofcom must have regard, where relevant, in the performance of its general duties. A number of these considerations are particularly relevant to the setting of proposed switchover conditions contained within the draft DRLs. These include:
- the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
 - the desirability of promoting competition in relevant markets;
 - the needs of persons with disabilities, of the elderly and of those on low incomes;
 - the opinions of consumers in relevant markets and of members of the public generally;
 - the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas; and,
 - the interests of consumers in respect of choice, price, quality of service and value for money.
130. In considering the appropriate nature of the proposed conditions in the draft DRLs, Ofcom has had regard, wherever relevant, to these considerations.
131. Ofcom has also taken into account the Government's criteria for achieving switchover. In September 1999, Chris Smith, the then Secretary of State for Culture, Media and Sport, announced that switchover would not take place until the following conditions had been satisfied:
- Everyone who could watch the main public service broadcasting channels in analogue form could receive them on digital systems.

- Switching to digital was an affordable option for the vast majority of people.
132. Using the regulatory framework to help meet these two conditions will assist in ensuring that citizen and consumer interests are adequately protected before, during and after the implementation of switchover. This is important given Ofcom's general duty to further the interests of citizens and consumers.
133. Meeting the switchover criteria, however, may not be sufficient in itself to ensure that all of Ofcom's duties to citizens and consumers are satisfied so far as is practicable. Switchover should benefit consumers overall but may have a disproportionately negative impact on certain groups of consumers, specifically by obliging some consumers to engage in expenditure on digital TV equipment which they would not have chosen of their own accord. Although the Government's CBA demonstrates that the overall benefits to consumers outweigh the overall costs, this is not necessarily true for each individual consumer. This is because the consumers who benefit from switchover will not necessarily be the ones who bear the costs. For example, some people obliged to convert their existing TV sets to digital would not necessarily gain from new multimedia services launched using the spectrum released by switchover.
134. In deciding the scope of the proposed switchover-related licence conditions, Ofcom has borne in mind the fact that some consumers may be forced to bear additional costs as a result of switchover and has sought to avoid, as appropriate, disproportionate costs being borne by particular groups of consumers.

The process of switchover

135. The technical plans for implementing switchover have been formulated as part of the Digital TV Action Plan¹⁶. Switchover will be implemented on a region-by-region basis with the first region completing the switch to digital around 4 years before the last. This regional progression would allow the necessary technical preparations to be undertaken steadily. The Government has also indicated¹⁷ that there would need to be at least two years notice for viewers in each region.
136. Some analogue TV channels will complete the switch to digital before others. One or more analogue channels would be switched off 3-6 months ahead of the others. This will allow the DTT signal to be boosted, thereby allowing areas currently without any DTT reception to begin receiving DTT signals. The remaining analogue signals would then be turned off 3-6 months later; continuing information and assistance would be provided to consumers after switchover is completed. This channel-by-channel and region-by-region order would need to be carefully devised and implemented in order to minimise interference between competing services and neighbouring regions.
137. Even if no transmitters beyond the existing eighty are converted to DTT, new transmission infrastructure will need to be installed. This is because, after

¹⁶ see www.digitaltelevision.gov.uk

¹⁷ See www.digitaltelevision.gov.uk

switchover, DTT transmission will take place at different frequencies and using higher powers. The construction of new infrastructure will require negotiation of contracts between broadcasters and transmission companies together with time allowed to build-out transmission infrastructure.

138. Manufacturers will also need time to prepare, e.g. to invest in manufacturing capacity to build the millions of digital TV receivers which will be needed ahead of switchover. Retailers and TV platform providers will also need time to prepare so they can ensure adequate stocks of digital TV receivers are available. In addition, adequate time will be needed to provide consumers with information about how to acquire digital TV.
139. It is clear therefore that there are a wide range of parties involved in switchover including government, broadcasters, TV platform operators, transmission companies, manufacturers, retailers, consumers, SwitchCo and Ofcom. In order to co-ordinate these various parties and implement a successful programme of switchover, Ofcom, in its report, *Driving Digital Switchover*, recommended the creation of a body focused entirely on co-ordinating the various players, communicating the benefits and practicalities of switchover to consumers and bringing digital take-up to a level which allows switchover to be implemented. It also recommended that this organisation, termed 'SwitchCo', should be sufficiently independent of broadcasters, Government and Ofcom.

Conditions relating to timing of switchover

140. Paragraph 12 of Part 3 of the Annex in the draft DRLs relate to the timing of switchover. Ofcom intends to insert conditions which oblige holders of DRLs to achieve switchover by a particular date. These conditions will help ensure switchover is achieved and thereby allow the achievement of Ofcom's duty to secure the optimal use for wireless telegraphy of the electro-magnetic spectrum.
141. Without a firm timetable set out in the DRLs, Ofcom considers that the commercial broadcasters may not have sufficiently strong incentives to turn off their analogue signals and thereby allow the achievement of switchover. In an all-digital world, the existing analogue broadcasters will face greater competition for viewers and the commercial channels are likely to lose advertising revenues as a result. Although broadcasters save transmission costs by switching off their analogue signals, it is uncertain whether these incentives are sufficiently large to compensate for the loss in advertising revenues. Ofcom's report to the Secretary of State, *Driving Digital Switchover*, concluded that it is not clear that under the existing policy framework, analogue broadcasters perceive a clear and unambiguous interest in achieving switchover.
142. A lack of a clear and unambiguous interest in achieving switchover creates difficulties since all broadcasters will need to co-ordinate the process of switchover with each other. The complex process of implementing switchover would be hindered were any single broadcaster to withhold co-operation. Including a date for switchover in the DRLs prevents this possibility. It also has the advantage of providing greater certainty for the licensees and transmission companies. By inserting a date into the DRLs all parties concerned are able to

know the target date for achieving switchover; this will help abridge the complex negotiations discussed above.

143. This section considers what the appropriate date for achieving switchover should be. Three options for completion of switchover are considered: 2010, 2012, and 2015; the advantages and disadvantages of each are discussed. Of particular importance are two issues: the practicalities involved and the economic benefits achieved as a result.
144. It should be noted that the date for digital switchover is the date for completion of the process. As discussed above, switchover will be implemented through a region-by-region programme, with the first region likely to convert to digital around 4-5 years ahead of the last.

Completion of switchover in 2010

145. A switchover date of 2010 would mean that switchover would have to begin in 2006, meaning that viewers would have to be informed about the region-by-region order of switchover during 2004.
146. The main advantage of an early switchover date is that it would lead to the benefits of switchover being achieved at an early date. The timing of switchover was considered as part of the Government's CBA. Table 1 depicts the central case of the analysis and shows that switchover in 2010 would lead to the largest net benefits, with the value of the net benefits falling by around £150-£190 million for each year that switchover is delayed. This reflects the fact that the loss of benefits from delaying switchover is greater than the lower costs resulting from giving consumers more time to purchase digital TV equipment.
147. It should be noted, however, that the published CBA emphasises that the range of input figures is such that year-to-year figures are not completely robust. In particular, the costs of acquiring digital TV equipment are likely to fall over time rather than staying constant as has been assumed in the model, e.g. the cost to consumers of the cheapest DTT set-top boxes has fallen from around £80 to approximately £40 between 2002 and 2004. The cost of DTT transmission equipment may also fall over time as a result of economies of scale in production (e.g. as other countries begin to convert their analogue transmitters to DTT¹⁸). Furthermore, other scenarios considered as part of the CBA give differing results although these scenarios (which attach different values to consumer benefits) are regarded as less likely to occur.
148. Notwithstanding these caveats, it does appear to be the case that a date later than 2010, whilst less risky and more practical, leads to a loss of net economic benefits.

¹⁸ In Germany, Berlin-Brandenburg switched off its analogue broadcasts in August 2003. Other regions of Germany will follow in coming years. DTT transmissions are also due to start in France next year.

**Table 1: Results from CBA model
(NPV in £m with switchover in year shown)**

Year	2010	2011	2012	2013	2014	2015
Net benefits ¹⁹	2,428	2,256	2,103	1,948	1,777	1,590

Source: CBA of digital switchover, DTI and DCMS

149. But as well as considering the overall costs and benefits of achieving switchover in each year, it is also important to consider the practicalities involved which will determine the degree of risk involved. Ofcom and the Government have discussed the timing of switchover with broadcasters, transmission companies and others. These discussions have indicated that meeting a timetable of 2006-10 would be exceptionally challenging. Whilst possible, there would be significant risks attached, particularly as a result of the fact that construction of new transmission infrastructure may not be completed in time to meet the date of switchover. An earlier date also makes it more difficult for manufacturers and retailers to undertake the measures necessary to ensure that digital TV equipment is available to consumers ahead of switchover.
150. Given the demanding nature of the tasks necessary to implement switchover, it is possible that a switchover date of 2010 could either not be met at all or could only be achieved at a higher cost than assumed in the Government's CBA.

Completion in 2012

151. Ofcom and the Government have discussed the practical issues involved in implementing switchover with broadcasters, transmission companies and others during 2004. These discussions have indicated that a date later than 2010 would be more practical. While the broadcasters have not reached a full consensus on the optimal timetable for completing switchover, some - including the BBC - have suggested that 2012 may be the most appropriate date. This would mean that the first region completed the switch to digital in 2007 or 2008.
152. A completion date of 2012 is more likely to provide sufficient time for broadcasters to negotiate contracts with transmission companies in an efficient manner that maximises the commercial and competitive pressures and allows the transmission companies to embark on the time-consuming process of building new infrastructure. Preparation and construction time will be needed even if no transmitters beyond the current 80 are converted to DTT; the more transmitters that are converted, however, the more important it becomes to allow enough time for the process of conversion. A date of 2012 also gives more time for consumers to acquire digital equipment and allows manufacturers and retailers more time to organise the supply chain to ensure that adequate stocks of digital TV equipment are available for consumers.

¹⁹ Figures for central case with 80 DTT transmission sites shown.

153. Whilst more practical, therefore, there would be a probable loss of net benefits arising from a delay until 2012. Table 1 indicates that this loss of benefits would amount to around £300m in NPV terms compared with switchover in 2010.

Completion in 2015

154. A date for completing switchover of 2015 would mean that the first region did not complete switchover until around 2011. A later date would give more time for preparations by broadcasters, transmission companies, manufacturers and retailers, as well as leading to lower costs for consumers since they would have more time to upgrade to digital. But these cost savings are likely to be outweighed by the loss of benefits caused by the delay in achieving switchover. Hence, Table One shows that the net benefits of switchover are smaller in 2015 than they are in earlier years. The Government's CBA indicates that the effect of a delay until 2015 is likely to be at least £0.5 billion in NPV terms compared with a date of 2010.

Conclusions

155. The table below summarises the advantages and disadvantages of the different options on timing.

	2010	2012	2015
Advantages	Likely to lead to the highest net benefit.	More practical than an earlier date.	Allows greater time for preparations.
Disadvantages	Less practical and therefore more risky than a later date	Leads to lower net benefits than an earlier date	Leads to lower net benefits than an earlier date

156. In considering the timetable for achieving switchover, Ofcom considers that it is important to weigh the benefits of an early switchover against the practicalities involved. Whilst a date of 2010 secures the early benefits of switchover, Ofcom considers that it is the least practical option and thereby leads to greater risks. By contrast, a date of 2015 allows more time for preparations but leads to a substantial delay in achieving the benefits of switchover. Ofcom considers that, on balance, a completion date of 2012 provides the benefits of switchover at the earliest practicable date and that it is appropriate to introduce this date into the draft DRLs.

Conditions relating to coverage

DRL licence conditions

157. Conditions 2(2) and Paragraph 13 of Part 3 of the Annex relate to coverage of DTT. In the case of Channel 3 licensees, Five and Teletext, sections 215 and 221 of the Communications Act requires Ofcom to insert conditions into the DRLs relating to the coverage of digital TV. Condition 2(2)(b) of the draft DRLs

for Channel 3 and Teletext require licensees to procure that the coverage area of their service in digital form, as from the date of digital switchover, shall be equivalent to or, to such extent as Ofcom thinks fit, substantially the same as their analogue service. The Annex of the licence then defines the sites at which transmission of DTT shall take place following switchover. “In the case of Channel 5 the coverage achieved by its current digital service already exceeds that of its analogue service. To avoid requiring Channel 5 being required to reduce this coverage at switchover Ofcom is proposing that condition 2(2)(b) in the Channel 5 licence requires Channel 5 to “at least” match the analogue coverage”.

158. Ofcom also considers that it is appropriate to include a condition relating to coverage in Channel 4’s draft DRL. This is because Channel 4 and Channel 3 jointly operate a DTT multiplex (multiplex 2). This means that the DTT coverage achieved by Channel 4 will be identical to the DTT coverage achieved by Channel 3 licensees. Ofcom considers that it is reasonable, therefore, that both should have similar coverage obligations in their licences. This would ensure a proportionate distribution of costs between Channel 3 licensees and Channel 4.
159. For the purposes of assessing whether licensees meet obligations relating to coverage, it is useful to set out the current level of analogue coverage. The UK currently has five national analogue television broadcasting networks. Four of these (BBC1, BBC 2, ITV and Channel 4/S4C) are broadcast from 1154 transmission sites around the UK and achieve near-universal levels of coverage.
160. The Spectrum Planning Group (SPG)²⁰ recently carried out a detailed assessment of the coverage these networks achieve throughout the UK using a specially developed planning tool, the UK planning model. The results of this assessment indicate that the overall coverage of ITV1 was 99.0 per cent of UK households and the corresponding figure for Channel 4/S4C was 99.2 per cent of UK households. Five achieves significantly lower levels of coverage through analogue terrestrial TV. Ofcom currently estimates that it is able to reach around 85 per cent of households. This includes areas, known as marginal coverage areas, which have less than clear reception.
161. The SPG’s analysis also showed that the collective coverage of all four main analogue terrestrial channels (known as the core coverage) is 98.5 per cent of UK households.²¹ This figure is significant since it represents all of the people who are currently able to receive all of the main public service broadcasting (PSB) channels. In order to meet its duties, Ofcom considers that it is important to ensure that all of the main PSB channels continue to be available to at least 98.5 per cent of households after digital switchover.
162. Before discussing in detail the regulatory options available on the issue of coverage, it is useful to compare current levels of analogue coverage with the existing and prospective coverage of different digital TV platforms.

²⁰ Part of the Digital Television Action Plan.

²¹ Analogue terrestrial television coverage analysis, Ofcom, March 2004,

Coverage of different TV platforms

Digital terrestrial coverage

163. Digital terrestrial TV is currently broadcast from 80 transmission sites around the UK. Using these 80 sites, around 73 per cent of households are able to obtain coverage of all six DTT multiplexes²².
164. The extent of DTT coverage after switchover has been modelled by the SPG. The SPG was asked by the Government²³ to develop a spectrum plan which assigned spectrum for six DTT multiplexes whilst releasing some of the existing TV broadcasting spectrum. The spectrum plan further assumed that the frequencies currently used to transmit analogue TV were used for three DTT multiplexes which contained public service broadcasting (PSB) channels. An outline of this plan was completed in December 2003 and work is continuing to optimise coverage.
165. The plan allows that three PSB multiplexes can be broadcast from all of the current 1154 analogue sites and that the other three multiplexes are broadcast from up to 200 of these sites. The coverage of this plan was assessed for two different technical modes for transmitting DTT, 16 QAM²⁴ and 64 QAM. The former allows for more widespread coverage, but with a lower level of capacity on the multiplex (see Ofcom's switchover report, Driving Digital Switchover, for more details).
166. The latest results from the SPG's assessment are reproduced in Table 2 below. The 6 multiplex core figure shows the percentage of households able to receive coverage of all of the current DTT multiplexes. The 3 PSB multiplex figure meanwhile represents the number of people who would be able to receive all the PSB channels after switchover, and is hence particularly relevant given Ofcom's duties.

Table 2: DTT coverage predictions (assuming 1154 transmitters for PSB multiplexes and 200 transmitters for other multiplexes)

Transmission mode	3 PSB multiplex core	6 multiplex core
16 QAM	98.2%	94.9%
64 QAM	96.6%	89.9%

Source: Spectrum planning group, DSO plan v2

167. The SPG is continuing to develop the switchover plan and has indicated to Ofcom that it expects this work will result in further coverage improvements. It is currently thought likely that, if operated in the 16QAM mode at one tenth of

²² In simple terms, a multiplex splices together a number of different TV, radio and data services before transmitting it to viewers.

²³ Paving the way for a digital future, DTI press release 30 January 2003, http://www.digitaltelevision.gov.uk/press/2003/dti_p2003_062.html

²⁴ Quadrature Amplitude Modulation

current analogue power, the plan will enable DTT coverage to exceed current analogue coverage levels, were a decision to proceed on this basis taken.

168. Work is continuing to assess whether there are ways other than transmission at 16QAM which achieve the same level of coverage. The latest information from the SPG is that it may be possible for one or more of the PSB multiplex operators to match analogue coverage using 64QAM but only at a significantly higher power than that proposed for 16QAM operation. The adoption of such high power levels is likely to significantly increase the cost of converting the transmitter stations and may also carry a much higher risk of running into difficulties in the international clearance process. It is predicted that the 3PSB core coverage would be 2.5 per cent lower (representing around 625,000 households) if 64QAM were adopted by one or more of the PSB muxes at the same power as the 16QAM service.
169. In considering whether to use 16QAM or 64QAM for DTT transmission it will be necessary to consider the advantages and disadvantages of each. The final decision on transmission mode will be taken when the relevant planning work has been completed and after completion of the current consultation on the DRLs. This RIA, however, considers the appropriate level of rollout for DTT rather than the benefits of using different transmission modes. The rest of this document assumes that DTT transmission takes place in a way which achieves the same level of coverage as transmission at 16QAM.
170. After switchover, it will be possible for the three PSB multiplexes to use the frequencies currently used by analogue terrestrial channels combined with higher power levels. This will allow the number of households covered by all three PSB multiplexes to increase from around 80 per cent currently to approximately 94 per cent even whilst continuing to use 80 transmitters.
171. Extending coverage significantly beyond this level, however, would require considerably more transmitters. This is because each transmitter serves a different number of households depending on its location; some transmitters, especially some of those in rural areas, serve no more than a hundred or so.
172. The UK planning model indicates that an additional 1074 transmission sites would need to be converted to DTT to enable the 4 per cent of households (corresponding to around 1 million households) who are currently covered by analogue terrestrial services to be covered by the PSB DTT multiplexes after switchover. This corresponds to an average of around 1000 households per additional relay transmitter - although it should be noted that the smaller relays serve considerably fewer than this number of households. Table 3 shows the incremental gain in coverage achieved by building out DTT transmission beyond the current level of 80 transmitters as predicted by the current spectrum plan. As the current spectrum plan develops, these figures are likely to change though not to a substantial extent.

Table 3: Incremental gain in coverage

Number of transmitter sites	Additional number of transmitters	Incremental increase in coverage (households)	Cumulative increase in coverage (households)
81 to 200	120	550,000	550,000
201 to 500	420	225,000	775,000
501 to 700	620	50,000	825,000
701 to 1154	1074	100,000	925,000

Source: Spectrum planning group

Satellite, cable and DSL coverage

173. DTT is only one route to digital TV. Digital TV is also available through cable, satellite and digital subscriber lines (DSL).
174. At the moment, TV through DSL is only available in certain parts of Greater London and in Kingston-upon-Hull. Coverage may be extended in future years but, with current technology, it is unlikely that TV through DSL could be made available throughout the country since it is necessary to be located close to the local telephone exchange and many homes are beyond the required distance (although this too may change in the future).
175. Cable services are available to over half of all households. Virtually all of these are in urban areas, however. Cable networks could be extended further throughout the UK in coming years but this would require considerable expenditure on the part of the cable operators.
176. Digital satellite services are available to most UK households. Some households, however, are not able to establish an unobstructed line of sight to the satellite. Research conducted for the Independent Television Commission (ITC) indicated that this problem affected between 2 and 4 per cent of households.
177. In addition to those affected by line-of-sight difficulties there are other households who are unable to install a satellite dish for a number of reasons:
- In some areas, including national parks, areas of outstanding natural beauty, and conservation areas, planning permission may be required in certain circumstances to install satellite dishes.
 - Some residents of multiple dwelling units such as blocks of flats may also need to obtain planning permission to install satellite dishes or alternatively may need to have new integrated reception systems capable of receiving digital satellite signals installed.
 - Conditions in leases and freehold covenants can also prevent some consumers from installing satellite dishes. Tenants or leaseholders who wish to install a satellite dish may be constrained by provisions in tenancy agreements and leases which prevent the tenant or leaseholder from making alterations to the fabric of the building without prior consent.
178. Although the Communications Act 2003 prevents unreasonable restrictions in leasehold agreements longer than a year which prevent the installation of

electronic communications equipment (including satellite dishes and other outdoor antenna), a significant number of tenancies fall outside the provisions of the Act. This includes all assured short-hold tenancies where the contract period is only six months. Also excluded are informal arrangements, such as people who rent a single room in a landlord's home. Surveys indicate that short-hold tenancies are the main form of arrangement for private sector tenants, with over 1.1 million properties falling into this category²⁵. Also, nearly a quarter of a million properties are let by live-in landlords.

179. It is difficult to estimate how many people are unable to install satellite dishes and thereby derive an estimate for digital satellite availability in practice. Ofcom has attempted to obtain precise estimates on how many households currently fall into the categories set out above, including seeking information from BSkyB and the Government, but little information has been readily available. For example, it is difficult to estimate the obstacles presented by tenancy agreements and restricted covenants without examining individual agreements.
180. One means of deriving an estimate for the number of households unable to install satellite equipment is to ask people themselves. A survey²⁶ for the DTI revealed that around 3 per cent of households said that digital satellite was not an option available to them because they believed they would not be able to install a satellite dish. Even this is not completely reliable, however, since some people may be incorrect in their view. In any case, some of the obstacles to installation of digital satellite reception may be eased as digital switchover approaches. In order to expand consumer choice, Ofcom is discussing the issues involved with relevant Government departments in an effort to remove obstacles which are inappropriate.
181. Although it is difficult to derive an exact estimate for the level of digital satellite availability in practice, therefore, it does seem to be the case that whilst digital satellite TV is available to most people in the country, a small minority of households – probably around 4 to 6 per cent – are not able to receive digital satellite signals due to an inability to install a satellite dish or because of a lack of a line-of-sight path to the relevant satellite.

Coverage obligations

182. For the holder of the Channel 5 licence, it will be a relatively simple matter to fulfil licence obligations relating to digital coverage at switchover since the current spectrum plan allows for its service to be extended to a higher level of coverage than it can currently achieve through analogue transmission, even if no new transmitter sites are built. But for Channel 3 licensees, Channel 4 and the public teletext service, current digital terrestrial coverage is around 80 per cent of households from 80 transmission sites compared with the 98.5 per cent achieved through analogue terrestrial coverage from 1,154 sites. This means that further explicit licence requirements may be needed in order to ensure the fulfilment of the obligation to achieve digital coverage which is equivalent to or substantially

²⁵ English Housing Survey 2002, Office of the Deputy Prime Minister

²⁶ Attitudes to digital switchover, March 2004, DTI

the same as analogue coverage and to ensure that Ofcom's duties to consumers are fulfilled.

183. This RIA considers the effects of three options on the number of sites adopted at switchover by the relevant licensees:

- Option 1 would allow broadcasters to decide the level of DTT rollout within the terms of their licence obligations.
- Option 2 would involve Ofcom deciding the level of DTT rollout taking into account the costs involved for consumers and producers.
- Option 3 would involve using all 1154 analogue sites. This would be implemented by Ofcom specifying the extent of DTT rollout in broadcasters' licences.

184. Variations of these options could also be possible. But the broad advantages and disadvantages of any such variations would be similar to those set out below.

185. The key question to be considered is the appropriate mix between DTT and other TV platforms. In considering this question Ofcom has taken into account all of its relevant duties and all of the issues which affect them. Of particular importance have been the following factors:

- The extent to which different TV platforms are affordable for all consumers.
- Issues of equity and the distribution of costs and benefits.
- The extent to which different TV platforms are available to consumers.
- Any implications for the process of implementing switchover, including the provision of information on switchover.
- The costs involved in deploying different TV platforms.

186. In considering this last issue, Ofcom has incorporated into its discussion both the costs to consumers and to suppliers, including broadcasters and transmission companies. The latter would face the infrastructure costs of rolling out DTT. The costs to consumers, meanwhile, would include the costs of obtaining digital TV equipment.

Option 1: Broadcasters decide level of DTT rollout

187. One option relating to coverage is to allow licensees to decide for themselves how many transmitters are used to broadcast DTT after switchover - subject to the proviso that they would have to achieve substantially the same digital coverage as in analogue.

188. It is assumed that broadcasters would, at the very least, continue to operate from the existing 80 DTT sites and would undertake the expenditure required at these 80 sites to increase DTT coverage from its current level of around 80 per cent to around 94 per cent.

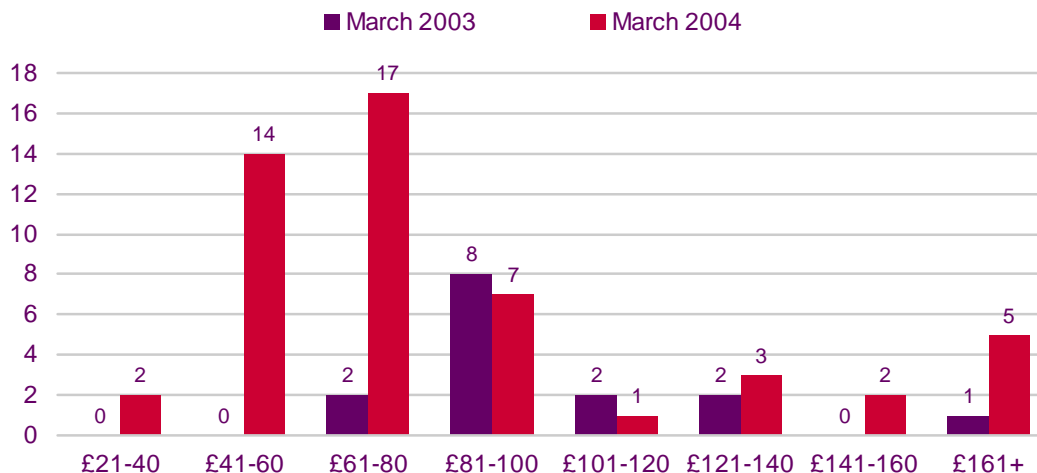
189. Depending on broadcasters' commercial interests, transmitters beyond the current 80 may also be converted to DTT. But this may not happen. In considering the level of DTT transmission rollout beyond 80 transmitters, licensees would be likely to compare the costs of rollout with the advertising revenues raised as a result and compare this to the costs and revenues resulting

if those households without DTT coverage used other TV platforms. They would then make a decision based on their own commercial interests.

190. As some transmitters serve relatively few people (less than 200 households in some cases) it is possible that a point would be reached at which the loss of advertising revenues is smaller than the cost of converting analogue transmitters to DTT. Broadcasters may - as a result of contractual obligations with transmission companies - have to bear some costs as a result of not converting a transmitter to DTT (e.g. the cost of dismantling the transmitter) which may affect their decisions on rollout to some extent, but at some point it is possible that the broadcasters would choose to forego advertising revenues (or rely on consumers to obtain alternative digital TV platforms) rather than roll-out DTT further. There is a possibility therefore that DTT would not be rolled out to all of the current 1154 analogue transmitters. Those households without DTT coverage would then have to use another means of receiving TV, i.e. cable, satellite or DSL.
191. One consequence of this option is that it takes account of the fact that reaching the last few households through DTT rather than other platforms becomes increasingly more expensive. As can be seen from Table 2 above, some transmitters serve more people than others. Option 1 is more likely to ensure that an analogue transmitter is not converted to DTT if it is possible to supply the people served by that transmitter with alternative means of viewing TV at a lower cost.
192. Implementing Option 1 may mean, however, that some consumers would be obliged to use TV platforms other than DTT for receiving TV coverage. This reliance on platforms other than DTT would have a number of consequences for consumers. Firstly, it would lead to a situation where consumers without DTT coverage had to use satellite, cable or DSL to receive TV. Based on current retail prices, this is likely to lead to extra costs for consumers – costs which are not taken into consideration by the broadcasters in deciding the extent of DTT rollout.
193. As can be seen from Chart One, the cheapest DTT set-top box currently costs less than £40. The price of DTT set-top boxes has fallen during the past year and is expected to fall further in coming years, particularly as other countries begin to switch to digital terrestrial TV. Another notable feature of the DTT set-top box market is that there are a large number of DTT receivers available in the marketplace, with a wide range of features and price points.

Chart One: UK retail prices of DTT receivers

Number of DTT receivers in each price range



Source: www.idtv.co.uk

194. The alternatives to DTT tend to be more expensive for consumers. BSkyB has announced that it will shortly be offering a service whereby viewers are able to obtain digital satellite receiving equipment, installation and a viewing card allowing reception of encrypted free-to-air services (including the public service broadcasting services of ITV1, Channel 4 and Five) for a fee of £150 with no on-going subscription (other non-encrypted services, including the BBC's, would also be available). The cheapest annual subscription to pay TV through cable, satellite or DSL costs £162 per year (Sky Value Pack, Telewest Starter Package). Additional installation fees may also apply. Table 4 shows the cost of the alternatives to DTT. It should be noted that different platforms offer different ranges of services, e.g. more channels are available to satellite customers than are available to DTT customers.

Table 4: Costs to consumers of alternatives to DTT

	Satellite subscription	Satellite non-Subscription	Cable	DSL
Set-top box	Free	Free	Free	Free
Installation	£0-100	£150	£0-40	£1
Cheapest annual subscription	£162 ²⁷	None	£162 ²⁸	£330 ²⁹

Source: National Audit Office, Ofcom

195. Based on current retail prices of £150 for a non-subscription digital satellite service and £40 for a basic DTT set-top box, therefore, the cost to consumers

²⁷ Sky Value Pack

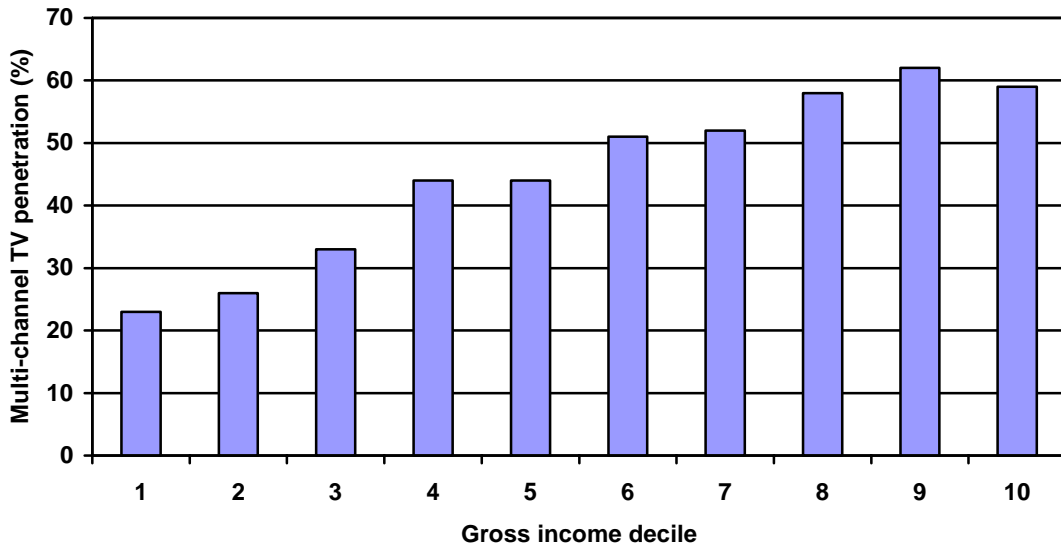
²⁸ Telewest Starter Package which includes phone rental

²⁹ HomeChoice service includes broadband internet access

would be around £110 higher per TV set (or higher still if a pay TV option were used). Consumers would also face other costs were DTT rollout to be limited. For instance, they would have to obtain information on whether DTT would be available to them after switchover or not. Whether it was available would depend on which terrestrial transmitter a particular household received its TV signal from. Such information is not commonly known by consumers and is likely to be difficult to obtain since it depends on factors such as the orientation of a household's TV aerial.

196. The higher consumer costs involved in acquiring a non-DTT TV platform could damage the interests of consumers, not least because the cost of digital TV is a concern for many households. In a survey carried out for the Department of Trade and Industry³⁰, 58 per cent of respondents agreed strongly or slightly that the cost of digital TV was a problem. This survey also revealed a strong correlation between the degree of concern over cost and household income.
197. The effects of a limited DTT rollout are likely to be particularly deleterious for poorer households. Chart Two taken from Ofcom's switchover report demonstrates that take-up of multichannel TV is closely correlated with income and that people with low incomes tend not to possess multichannel TV. The cost of digital switchover in terms of upgrading consumer equipment will therefore inevitably fall disproportionately on those with the lowest incomes since they have the lowest level of digital penetration. Restricting DTT rollout would increase these costs still further by preventing low income households from choosing the digital TV option that cost them the least.

Chart Two: The penetration of multi-channel TV across the income distribution in 2002-03



³⁰ Attitudes to digital switchover, March 2004, DTI

Source: Office of National Statistics

198. Ofcom considers that the fact that alternatives to DTT are considerably more expensive for consumers presents an obstacle to ensuring that digital TV is affordable to all consumers - particularly for elderly people and people with low incomes. Some of these households may have to give up TV altogether were they unable to afford to switch to digital satellite. This would, in turn, hinder the interests of citizens and prevent the fulfilment of the objectives of public service broadcasting. It is possible that targeted assistance schemes may ameliorate the effects to some extent but these schemes may not cover enough of the lower-income deciles to prevent all of the negative consequences.
199. The lower consumer costs of DTT also mean that, should DTT rollout be restricted, consumers in non-DTT areas will bear higher costs as a result of switchover than consumers in DTT-covered areas. This could potentially lead to concerns on the grounds of equity between different groups of consumers.
200. Preventing some consumers from selecting DTT as their preferred digital TV option would also restrict consumer choice. There is also some evidence that households intending to convert their sets would prefer DTT to other digital platforms. Consumer research³¹ indicates that, of those respondents who expressed a preference, two-thirds said they preferred DTT to other platforms (although 40 per cent of consumers said they did not know what platform they would choose). In addition, in some areas it may mean that only one TV platform is available which could potentially lead to competition concerns.
201. This option is also less certain to ensure that everyone who is currently able to receive analogue TV will be able to receive TV after switchover. As discussed above, cable, satellite and DSL services are not available to everyone. Cable services are limited by the fact that cable networks currently only pass around half of UK households. TV through DSL is currently limited through the requirement to be close to the relevant local telephone exchange. Although satellite services are the most widely available throughout the country, not everyone is currently able to obtain a clear line-of-sight path to the relevant satellite and some households are unable to install satellite dishes.
202. Cable networks may be extended further in coming years and TV through DSL may also become more widely available. Also, some of the obstacles to satellite dish installation may be eliminated before switchover; Ofcom is discussing the issue with the Government and others in an attempt to remove restrictions which are inappropriate. But there is no certainty as to these changes or their extent before the date of switchover. This is particularly the case in relation to private arrangements which prevent the installation of satellite dishes. Even if some changes are instituted, consumers may still need to bear expenditure and/or inconvenience before installation of satellite dishes could actually take place (e.g. court proceedings against landlords to remove conditions in leases).
203. The extension of DTT coverage after switchover will mean that most of the households unable to use other TV platforms will be able to receive DTT. But if

³¹ Attitudes to digital switchover, March 2004, DTI

DTT coverage was below existing analogue coverage than it is likely that a proportion of households would not be able to obtain DTT coverage nor be able to install a satellite dish, nor connect to a cable or DSL network. Limited DTT coverage is therefore likely to mean that some households at least were prevented from receiving TV altogether. Not only would this damage the interests of consumers and citizens, it would also prevent the attainment of the Government's switchover criterion of ensuring everyone who can receive analogue TV coverage is also able to obtain digital TV coverage.

204. Another consequence of limited DTT coverage is that it makes it more difficult to provide information about switchover to consumers. Were DTT to be available to all consumers, all households with analogue TV could be informed that DTT was an alternative for them after switchover. But if this were not to be the case, a body such as SwitchCo would have to provide special advice to households who would not be able to receive DTT after switchover. Unfortunately, it can often be difficult to resolve which households are served by which transmitter since this depends on factors such as the orientation of a particular household's aerial. Factors such as this significantly complicate the process of information provision.

Option 2: Ofcom deciding level of DTT rollout

205. One of the consequences of Option 1 is that broadcasters decide the extent of DTT rollout without taking into consideration the extra costs which would be imposed on consumers as a result of having to acquire digital TV platforms other than DTT. An alternative option therefore is to find a mechanism for taking these additional costs to consumers into account. This could be done were Ofcom to decide the level of DTT rollout whilst comparing all of the costs of using DTT and comparing them to all the costs of using other TV platforms. The costs of converting a transmitter to DTT could be compared with the costs of providing the households served by that transmitter with TV through an alternative platform. An analogue transmitter would only be converted to DTT if it was more expensive to provide TV through another platform than through DTT.
206. In order to outline how this option would work, assume that the extra cost of converting a TV set to digital reception through a TV platform other than DTT is £100 extra per set. Further assume that the cost for Channel 3 and Channel 4 licensees in converting a small relay transmitter to DTT is approximately £30,000 for the DTT multiplex they jointly operate³².
207. Using these cost estimates, it would be more costly, in overall terms, to convert an analogue transmitter to digital for multiplex 2 (rather than relying on other platforms) if it served fewer than 300 households. Ofcom estimates that there are 398 transmitters serving below 300 households. In total, these transmitters serve a total of 65,189 households. If these 398 transmitters were not converted to

³² Having had discussions with broadcasters and transmission companies, Ofcom currently estimates that the capital costs of converting a small analogue relay transmitter for one multiplex are £30,000. There would also be some additional operating expenditure. Ofcom's discussions with broadcasters and transmission companies indicate that additional operating expenditure for relay transmitters would be small.

DTT, these households would need to obtain another TV platform in order to continue watching Channel 3 and Channel 4 services post-switchover.

208. Different estimates for the appropriate level of DTT rollout could be derived depending on the following factors:

- The level of cost assumed for DTT transmission equipment and operating expenditures. This cost may fall over time once economies of scale are achieved as a result of other countries undertaking the process of switchover.
- The extent to which the cost of digital TV receiving equipment will fall over time. The cost of digital TV receiving equipment is likely to come down over time. But it is difficult to estimate the relative extent to which the costs will fall in the future, e.g. whether satellite set-top box costs will fall faster than their DTT equivalent.
- Whether the cost of converting all of a household's TV sets and video recorders to digital reception is incorporated into the analysis. The simple comparison above only considers one TV set per household. But most households have more than one TV set and the number of analogue TV sets is growing over time. Devices such as video cassette and DVD recorders would also need replacement or conversion to digital if they were to retain the same functionality they have at present.
- Whether other related costs such as the cost of new viewing cards for satellite broadcasts or aerial replacements for DTT are taken into consideration, and the prices assumed for these costs. The viewing cards which currently allow reception of encrypted free-to-air services on the digital satellite platform are likely to be changed periodically and this cost could also be factored into the analysis. Also, a small proportion of consumers' aerials (Ofcom's estimates indicate around 5 per cent) may need to be altered after switchover to allow reception of DTT despite the fact that, after switchover, DTT signals will use the current analogue frequencies.

209. A different number of households per transmitter could be derived if different assumptions were used. For example, if a cost difference between DTT and other TV platforms of £150 were assumed, it would mean that it would be more costly in overall terms to convert a transmitter for multiplex 2 if the transmitter served fewer than 200 households. Ofcom estimates that there are currently 246 transmitters serving fewer than 200 households, which together provide services to a total of 28,186 households. Alternatively, if a cost differential of £50 per household were assumed, it would be more costly in overall terms to convert a transmitter for multiplex 2 if it served fewer than 600 households. There are estimated to be 670 of these transmitters serving around 174,781 households.

210. For the purposes of discussing the regulatory impact of Option 2, however, it is possible to discuss the principle involved in this option: a transmitter would only be converted to DTT if it was less costly, in overall terms, to use DTT to provide digital TV to those households served by that transmitter rather than using satellite, cable or DSL.

211. Comparing the costs of alternative platforms in this way is likely to result in a situation whereby more transmitters were converted to DTT than would be the case if broadcasters were allowed to decide the extent of rollout themselves. This is because in reaching their decision on the level of rollout broadcasters

would consider only their own costs and benefits and would not consider the extra consumer costs involved in using a non-DTT option. Nevertheless, both Options 1 and 2 lead to a possibility that DTT would be extended to fewer than the existing number of analogue transmitters meaning that some households would have to rely on digital satellite, or other TV platforms in order to continue viewing television.

212. The chief advantage of this option over Option 1 is that it would take into account all the costs and benefits in arriving at a decision on the appropriate level of DTT rollout, including any extra consumer costs involved in using TV platforms other than DTT. The practical outcome of this would be that more transmitters are likely to be converted to DTT than under Option 1.
213. The problems of lack of affordability and availability would be reduced therefore. If Option 2 led to a situation whereby DTT was not available to all households, however, a minority of consumers would have to pay for an alternative digital TV option which cost more than DTT. As with Option 1, these additional costs would be borne to a disproportionate extent by low income households and this thereby increases the risk of forcing some households to forego TV altogether after switchover. There would be other concerns on equity grounds since households in non-DTT areas would face higher costs of conversion to digital than households in DTT-covered areas.
214. Because Option 2 is likely to lead to wider DTT coverage than Option 1, the problem of lack of availability of digital TV would be smaller. Given the lack of universal availability of cable TV or TV through DSL, however, combined with the inability of some households to install satellite dishes or obtain a line-of-sight path to the satellite, it would still be likely that there would still be some households at least in non-DTT areas who were unable to obtain TV coverage of any description after switchover.
215. Taking the estimates for DTT coverage derived in paragraph 92, Figure 1 below shows the location of the 398 transmitters in the UK which serve fewer than 300 households. Together these transmitters serve around 65,189 households. It can be seen that they are dispersed throughout the country and are located in urban, as well as rural, areas and in major cities such as Leicester, Edinburgh and Birmingham as well as smaller towns. Many of the transmitters are located in Wales and Scotland, and a significant proportion - around 10 per cent - serve national parks. The widespread distribution of the transmitters serving relatively few people means that the factors restricting satellite coverage in practice (discussed above) are likely to be relevant should partial DTT rollout be allowed.
216. As with Option 1, the process of providing information about switchover would be more complicated under Option 2 than if DTT were available to all households since it would be necessary to provide specially tailored information to households in non-DTT areas.
217. Another consequence of Option 2 compared with Option 1 is that it leads to a higher degree of regulation and greater costs for Ofcom in calculating the appropriate level of DTT rollout.

Figure 1: Location of transmitters serving fewer than 300 households



Option 3: Full DTT rollout

218. Another option is to require DTT coverage to be extended to all current analogue transmission sites. This would cost a considerable sum. Ofcom's discussions with broadcasters and transmission companies indicate that the full extra costs of DTT rollout to 1154 sites compared with 80 sites would be around £30-40m per multiplex with additional operating expenditure of approximately £10m per year.
219. The extra costs of full DTT rollout compared with a partial rollout option which uses more than the current 80 DTT transmitters are significantly lower. For example, Ofcom estimates that the capital expenditure of extending DTT to 700 sites would be approximately £20-25m per multiplex, meaning that the capital expenditure involved in an extension from 700 sites to 1154 would be approximately £10-15m per multiplex. Using 1154 transmitters as opposed to 700 would also entail additional operating expenditure of around £1m per year. These additional costs of full DTT rollout could be borne by consumers if the broadcasters who paid the extra costs of full DTT rollout had less funds to invest in programming as a result (though additional competition for viewers after switchover would create a counter-effect).
220. Since the full DTT rollout option involves the construction of more DTT infrastructure, it is also likely to take more time to implement with consequent greater risks of delay. This option also represents a higher degree of regulation than an alternative of allowing broadcasters to decide the appropriate level of DTT rollout.
221. The advantages of full DTT rollout are the obverse of the disadvantages of partial rollout. Hence, full DTT rollout makes digital TV more affordable for consumers, and particularly for low-income households. Full rollout of DTT would also allow more consumers to choose the digital TV platform they preferred rather than being obliged to choose a particular platform.
222. It is important to remember that building out DTT does not compel consumers to use DTT rather than satellite, cable or other TV platforms: it allows all consumers to choose the digital TV option they prefer best. It therefore expands the choices available to consumers and hence helps to promote competition as well as the interests of consumers in respect of choice, price, quality of service and value for money. For example, extending DTT coverage nationwide would allow more viewers, if they wished, to obtain channels such as ITV2 which are free-to-air on DTT but only available to pay TV subscribers on other platforms. If, on the other hand, consumers preferred the greater number of services available on the non-subscription digital satellite platform, or indeed wanted a pay TV platform, they could, if available, choose those options instead.
223. Full DTT rollout is also more likely to enable all consumers with analogue TV to carry on receiving TV after switchover. As indicated earlier, the SPG has indicated to Ofcom that it will be possible for DTT coverage to exceed current levels of analogue coverage. There is some element of risk involved since the

SPG’s planning model may be incorrect, leading to a situation whereby some households with analogue coverage are denied DTT coverage. But Ofcom considers that the model is sufficiently accurate for these risks to be minor.

224. By creating universal DTT coverage, Option 3 also ensures that households throughout the country pay similar costs for converting to digital TV. It also makes it easier to provide information on switchover since it prevents the need for specially tailored information in areas without DTT coverage.

225. It is difficult to estimate the size of these benefits and compare them to the costs of full DTT rollout. For example, although extending DTT nationwide has distributional advantages by making digital TV more affordable for low income households, it is difficult to quantify the resulting benefits. Nor is it easy to quantify the benefits of increasing choice for consumers. Ofcom has considered the evidence available to it and considered all the relevant factors.

Conclusions

226. The table below summarises the advantages and disadvantages of the three options discussed above.

	Advantages	Disadvantages
Option 1	<p>Likely to be less costly overall than full DTT rollout.</p> <p>Less risk of delay.</p>	<p>Does not take into account the extra costs to consumers of using TV platforms other than DTT.</p> <p>TV platforms other than DTT are more expensive for consumers.</p> <p>Leads to greater consumer costs in non-DTT areas than in DTT-covered areas.</p> <p>Other TV platforms may not be available to consumers without DTT coverage.</p> <p>Providing information about switchover would be more difficult and expensive than if DTT were available to all consumers.</p>
Option 2	<p>Likely to be less costly overall than full DTT rollout.</p> <p>Less risk of delay.</p> <p>Takes into account all of the costs involved in conversion to digital TV.</p>	<p>TV platforms other than DTT are more expensive for consumers.</p> <p>Leads to greater consumer costs in non-DTT areas than in DTT-covered areas.</p> <p>Other TV platforms may not be available to consumers without DTT coverage.</p>

		Providing information about switchover would be more difficult and expensive than if DTT were available to all consumers.
Option 3	<p>DTT is likely to be cheaper for consumers than other TV platforms.</p> <p>Ensures that households throughout the country pay similar costs for converting to digital TV.</p> <p>Ensures consumers can choose DTT if they so decide.</p> <p>More likely to ensure that digital TV is available to all households with analogue TV coverage.</p> <p>Makes it cheaper and easier to provide information about switchover.</p>	<p>Likely to cost at least £10m more in overall terms than a partial DTT rollout option.</p> <p>Greater risk of delay.</p>

227. A disadvantage of allowing broadcasters to decide the level of rollout (Option 1) is that it does not necessarily lead broadcasters to consider the extra costs to consumers of using TV platforms other than DTT. There is, therefore, a risk that DTT rollout is likely to be below the optimal level since all of the relevant costs and benefits would not be considered.
228. The decision between Options 2 and 3 is more finely balanced. Option 2 would have considerable advantages as it is likely, in overall terms, to make switchover cheaper and easier to implement. By contrast, Option 3, which involves Channel 3 licensees and Channel 4 building out DTT to all 1154 analogue transmitters, is likely to cost at least £10m more than Option 2 in terms of capital expenditure with additional running costs of approximately £1m a year. Option 3 is also likely to take more time to implement with consequent greater risks of delay.
229. But in deciding the optimal level of DTT rollout it is also important to consider the direct effects of switchover upon consumers. As a result of its duties, Ofcom puts particular weight upon the effects of switchover upon consumers. Switchover will force some, perhaps most, consumers to engage in expenditure on digital TV equipment which they would not voluntarily have chosen. These costs are not negligible, particularly for poorer households. Ofcom considers that the interests of consumers are served best if the costs to consumers of digital TV are as low as possible. In addition, Ofcom considers that the interests of consumers are furthered if TV continues to be available to all households with analogue coverage after switchover; DTT is more likely than other platforms to ensure this happens with minimal inconvenience and cost.

230. On balance, therefore, and taking into account what appear to be the most accurate and up-to-date estimates of costs, and other relevant circumstances, the benefits of extending DTT coverage to all current analogue transmitters appear to outweigh the additional costs for the following principal reasons:
- Nationwide DTT rollout will help ensure that those households unable to install cable, satellite or DSL do not lose TV coverage altogether after switchover.
 - It is cheaper for consumers to purchase DTT receiving equipment than use other digital TV platforms; hence, full DTT rollout makes it more likely that digital TV is affordable for all.
 - Full DTT rollout allows greater equity because it is more likely to ensure that all households face similar costs in converting to digital TV.
 - Full DTT rollout allows more consumers to choose DTT if they so wish, and thereby furthers the interests of consumers in respect of choice, price, quality of service and value for money.
 - Nationwide DTT coverage makes it easier to provide information to consumers on converting to digital TV.
231. Ofcom considers therefore that, on balance, its duties under the Act, and in particular its obligations to further the interests of consumers and to secure the availability throughout the UK of a wide range of electronic communications services, are most likely to be achieved if DTT is extended to all current analogue transmitters.

Choice of Mode

232. As discussed above, no decision has yet been taken on the transmission mode used by multiplex operators after switchover. Ofcom will have further discussions with the broadcasters on this issue as more information becomes available from the spectrum planners and the transmission companies.
233. However, Ofcom believes that it is important to ensure that the analysis carried out above is robust enough to allow for variations in the overall coverage of the PSB services which may emerge from these discussions. It is believed that up to 625,000 households would not be covered by DTT transmission if the 64QAM mode were adopted by the broadcasters without an accompanying power increase. Because of the nature of mode change, these households will be distributed fairly evenly around the country and the overall number affected is not likely to vary significantly with the number of transmitters adopted beyond the first 200–300.
234. Ofcom has therefore concluded that whilst the choice of mode and power will have an impact on the overall coverage of DTT it does not significantly affect the conclusions of this RIA carried out on the basis of the 16QAM mode.

Information provision

235. Paragraph 11 of Part 2 of the Annex relate to the provision of information on switchover. If such conditions were not included it is likely that broadcasters would nevertheless provide information to viewers on how to continue receiving

their services post-switchover since it would be in their commercial interests to do so.

236. However, this information may not be provided with sufficient clarity or with enough frequency to ensure that all consumers are fully informed about when switchover will occur in their particular region. For example, the licensed broadcasters may rely upon each other (or upon the BBC) to provide the necessary information to viewers rather than engaging in the necessary expenditure themselves. Were this to be the case, there is a possibility that not enough information would be provided, leading in turn to a danger that not all consumers will have converted to digital by the time of switchover. This may cause some people to lose TV coverage altogether when switchover occurs as a result of a failure to adopt digital TV.
237. Ofcom considers that an important means of providing information to viewers is through the medium of TV itself. Information to viewers could be provided through paid advertisements but the frequency of paid advertisements may not be sufficient to ensure that all viewers are provided with adequate information. There would also be some costs to Ofcom in monitoring these obligations but these could be minimised if licensees were also required to submit an annual report to Ofcom setting out their plans on information provision (see below).
238. Ofcom considers, therefore, that placing conditions on licensed broadcasters to provide information on switchover would be appropriate. The broadcasters would encounter some costs since information on switchover would be likely to displace promotional trails or other programming. But by ensuring that viewers are informed about the detailed timing of switchover in their region and allowing them time to make the necessary changes, the benefits are likely to be proportionate to the costs. It is also important to note that the costs to broadcasters in providing information are transitional in nature; whereas the benefits of switchover are permanent.

Co-operation with SwitchCo

239. The proposed conditions in Paragraph 9 of Part 2 of the Annex relate to co-operation between broadcasters and SwitchCo, the proposed body to co-ordinate the process of switchover. Implementing switchover will be a complicated process. If these conditions were not imposed the broadcasters would, in any case, have an incentive to co-operate with the body which was implementing switchover since the date of switchover would be included in their licences and they would have an incentive to ensure that this date was met. But there would be a risk that the steps taken by broadcasters would not be adequately co-ordinated with each other. For example, information provision on the date of switchover may begin on different channels at different times.
240. Ofcom does not consider that the costs of requiring such co-operation would be disproportionate since it would involve regular discussions between the relevant parties and implementation of the steps deemed necessary to implement switchover. The benefits, in terms of minimising the risks of lack of adequate co-ordination, however, are likely to be significant.

Annual report to Ofcom

241. In order to enforce the licence commitments relating to switchover Ofcom will need information from licensees. Rather than submitting irregular requests for information Ofcom has proposed conditions in Paragraph 10 of Part 2 of the Annex which would require submission of an annual report to Ofcom on the measures taken by the licensee in relation to switchover and on the plans of the licensee in relation to switchover in the forthcoming year. This information would allow Ofcom to ensure that licensees had undertaken steps towards achieving the switchover date. It thereby minimises the costs of ensuring compliance with licence conditions.
242. If such an annual report were not required, then it may not be possible for Ofcom to ensure that the proposed licence conditions relating to switchover, such as those relating to provision of information, are being met. There would, however, be costs for the licensee in compiling the report. Given that the information which would be provided in the annual report should be readily available to licensees, however, the costs of compilation should not be so large as to outweigh the benefits.

Consultation

243. Ofcom welcomes the views of respondents on this RIA. In particular views on the following questions are welcome.
- Ofcom has considered the costs and benefits of different dates for completing digital switchover. Is a date for completion of 2012 appropriate?
 - Ofcom has considered the advantages and disadvantages of three options relating to rollout of DTT. Are there other, more appropriate but practical, coverage options which would allow the statutory requirements to be fulfilled?
 - Ofcom's initial view is that, on balance, consumers' interests are best served if DTT is provided through 1154 transmitters. Is this level of DTT coverage appropriate?
 - The RIA sets out the view that it is appropriate to include a condition in the DRLs which oblige broadcasters to inform viewers about switchover. Do respondents agree?
 - The RIA concludes that licensed broadcasters should be required to co-operate with the body given responsibility for implementing switchover (commonly known as SwitchCo). Do respondents agree?
 - The RIA also suggests that it would be appropriate for the DRLs to contain a duty upon licensees to provide an annual report to Ofcom on the measures undertaken by the licensee in relation to switchover and on the licensee's plans in the year ahead. Do respondents agree?

Section 9

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on 25 October 2004**.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to **trevor.barnes@ofcom.org.uk**.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Trevor Barnes
Competition and Markets
4th Floor
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3333

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 3. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Trevor Barnes on 020 7783 4675.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

Please also note that copyright in responses will be assumed to be assigned to Ofcom unless specifically retained.

Next steps

Following the end of the consultation period, Ofcom intends to publish in early November a brief summary of responses and a statement confirming next steps in, and the proposed timetable for, the process leading up to issue, of the DRLs.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.

This consultation is shorter than Ofcom's standard 10 week period because of the reasons set out in paragraph 108 of the consultation document.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
Tel: 020 7981 3585
Fax: 020 7981 3333
E-mail: philip.rutnam@ofcom.org.uk

Annex 1

Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

1. Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow ten weeks for responses, other than on dispute resolution.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a red flag consultation, which needs their urgent attention.

After the consultation

7. We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 2

Consultation response cover sheet

1. In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.
2. We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
3. The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to confirm on the response cover sheet that Ofcom can publish their responses upon receipt.
4. We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the .Consultations. section of our website.
5. Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Annex 3

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Ofcom can publish my response: on receipt once the consultation ends

Name

Signed (if hard copy)

Annex 4

Consultation questions

Comments are invited on any aspect of the consultation document and the four draft DRLs (Channel 3, Channel 4, Channel 5 and Public Teletext) [available on the Ofcom website - see Annex 5]. However we are inviting views, specifically, on the following questions:

- Question 1: Is the proposed wording of condition 2(2) of the Channel 3 DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.
- Question 2: Are the provisions contained in draft paragraphs 9 of the Regional Channel 3 DRL; 7 of the National Channel 3 DRL and 8 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.
- Question 3: Are the provisions contained in draft paragraphs 10 of the Regional Channel 3 DRL; 8 of the National Channel 3 DRL and 9 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.
- Question 4: Are the provisions contained in draft paragraph 11 of the Regional Channel 3 DRL; 9 of the National Channel 3 DRL and 10 of the Channel 5 DRL in Part 2 of the Annex of the respective DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.
- Question 5: Is it necessary, appropriate and proportionate to include a back stop digital switchover date in the draft DRLs? If so, should that date be 31 December 2012? If not, please explain why and propose alternative wording.
- Question 6: Are the provisions contained in in Part 3 of the Annex (digital switchover timetable) of the Channel 3 DRLs necessary, appropriate and proportionate? If not, please explain why and propose alternative wording.
- Question 7: Is it appropriate and proportionate for Ofcom to include draft condition 2(2) in the Channel 4 DRL? If not, please explain why and propose alternative wording.
- Question 8: Is it necessary, appropriate and proportionate to include condition 33 and the provisions contained in draft paragraphs 10 to 14 inclusive of Parts 2 and 3 of the Annex in the Channel 4 DRL? Please comment on the draft wording if you consider it could be improved.
- Question 9: Is proposed condition 2(2) in the draft Channel 5 DRL appropriate and proportionate? In not, please propose alternative wording.

- Question 10: Are the provisions contained in the draft paragraphs in Parts 2 and 3 of the Annex to the Channel 5 DRL appropriate and proportionate? In not, please propose alternative wording.
- Question 11: Is it appropriate and proportionate for Ofcom to include draft condition 2(2) in the public teletext DRL? If not, please explain why and propose alternative wording.
- Question 12: Are the provisions contained in the draft paragraphs in Parts 2 and 3 of the Annex to the Public Teletext DRL appropriate and proportionate? In not, please propose alternative wording.
- Question 13: Is the proposed process and timetable leading up to issue of the DRLs before 29 December 2004 appropriate? If not, please explain why and make alternative proposals, giving reasons.
- Question 14: Is a date twelve months from the date when a DRL offer closes an appropriate time for an existing licence to cease to have effect, should the licensee concerned reject their offer of a DRL? Should there be one such date for all DRL offers or different ones? If a single date please suggest what it should be and give reasons. If different dates please propose what they should be for each licensee and explain your suggestions.

Regulatory Impact Assessment Questions

- Question 15: Ofcom has considered the costs and benefits of different dates for completing digital switchover. Is a date for completion of 2012 appropriate?
- Question 16: Ofcom has considered the advantages and disadvantages of three options relating to rollout of DTT. Are there other, more appropriate but practical, coverage options which would allow the statutory requirements to be fulfilled?
- Question 17: Ofcom's initial view is that, on balance, consumers' interests are best served if DTT is provided through 1154 transmitters. Is this level of DTT coverage appropriate?
- Question 18: the RIA sets out the view that it is appropriate to include a condition in the DRLs which oblige broadcasters to inform viewers about switchover. Do respondents agree?
- Question 19: the RIA concludes that licensed broadcasters should be required to co-operate with the body given responsibility for implementing switchover (commonly known as SwitchCo). Do respondents agree?
- Question 20: The RIA also suggests that it would be appropriate for the DRLs to contain a duty upon licensees to provide an annual report to Ofcom on the measures undertaken by the licensee in relation to switchover and on the licensee's plans in the year ahead. Do respondents agree?

Annex 5

Draft Digital Replacement Licences

Draft DRLs can be found on the Ofcom website at the following address:
www.ofcom.org.uk/consultations/