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# **Digital Television Programme Services (DTPS) and Digital Television Additional Services (DTAS) Licences**

Guidance notes for licensees

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# 1. General Disclaimer

- 1.1 These notes are intended to help Digital Television Programme Services (DTPS) and Digital Television Additional Services (DTAS) licensees understand the licensing requirements and the conditions that licensees are subject to. The guidance notes should not be relied upon as legal advice, or be understood as modifying the effect of the statutory requirements or the conditions of the licence.
- 1.2 Licensees should seek their own legal advice on licensing requirements.
- 1.3 Ofcom makes no representation or warranty, express or implied, with respect to information contained in these guidance notes (together with the standard form licence and other documents referred to in this document) or with respect to any written or oral information made or to be made available to any potential applicant or its professional advisers. Any liability therefore is expressly disclaimed.
- 1.4 There may be further costs and contractual obligations involved with any arrangements you make with platform providers and you may also wish to contact them for further information about these costs and the types of contractual obligations that may be imposed. Ofcom cannot provide advice on these issues with regards to these costs.
- 1.5 These guidance notes may be updated from time to time. Licensees should check Ofcom's website to make sure they are using the most recent version. Ofcom may alter or correct any part of this document. Licensees should also be aware that certain key features such as fees, procedures and content codes, may also change in the future.

## 2. After you have been granted a DTPS or DTAS licence

These guidance notes set out key information you may find useful throughout the duration of your licence.

### Variations to your licence by Ofcom

- 2.1 Ofcom may vary the licence by notice served on the licensee, provided that the licensee has been given a reasonable opportunity to make representations to Ofcom about the proposed variation.

### Change of jurisdiction

- 2.2 A DTPS/DTAS licence will only enable a broadcaster to broadcast its services as long as that broadcaster continues to fall within the UK's jurisdiction. Should a broadcaster cease to remain within the UK's jurisdiction, the Ofcom licence for that service should be surrendered. The licensee will need to obtain a new authorisation from the country in whose jurisdiction it is operating.
- 2.3 DTPS/DTAS licence holders are required under their licence to notify Ofcom of any changes which might affect the criteria determining the jurisdiction of the licensed service.

### Changes to name and nature of service

- 2.4 If you wish to change the name or the nature of the licensed service, the change must be agreed in writing with Ofcom before any changes are made. Any request to change should be accompanied by a proposed schedule for the service, as well as an outline of the proposed changes. Requests for service name changes are dealt with on a first come, first served basis and you should allow four weeks for your request to be processed. An [application form to vary an existing DTPS/DTAS licence](#) is available at the Ofcom website.

### Changes to contact details

- 2.5 If there are any changes to the broadcaster's contact details once the licence is granted, the licensee must inform Ofcom immediately by submitting the [contact update form](#) available on our website.

### Transferring your licence

- 2.6 A DTPS/DTAS licence is transferrable only with Ofcom's prior written consent. A request for consent to transfer a licence must be submitted in writing by the proposed transferee using the [transfer application form available on our website](#). The form must be accompanied by the

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- correct fee and a written letter from an authorised individual<sup>1</sup> of the current licensee consenting to the transfer application.
- 2.7 The current transfer application fee is £1,000 (fees are revised annually). The fee is non-refundable.
- 2.8 To be able to consent to a transfer of a licence, Ofcom must be satisfied that the proposed transferee can comply with all of the conditions of the licence. We therefore require the same information about the proposed transferee as when considering an application for a licence from a new applicant. We may need to ask for further information before deciding whether to consent to a transfer of a licence.
- 2.9 In cases where Ofcom has instigated sanctions procedures against an existing licensee which may lead to the revocation of any licences(s) it holds, it will not generally consider any applications for transfers of licences by the same licensee or by a person/body connected to that licensee until such time as that aspect of the sanctions procedure against the existing connected licensee is concluded. Similarly, Ofcom will not generally consider transfer applications either to or from a licensee while a sanctions procedure which may lead to licence revocation is ongoing.
- 2.10 We will not normally consider a transfer application if either the current licensee or proposed licensee has outstanding annual licence fees.
- 2.11 If consent to transfer the licence is granted, it is for the relevant parties to effect the transfer of the licence. Once the transfer has taken place, the transferor must inform Ofcom in writing (within three months of consent) that the transfer has been completed. We will not be able to amend our records to reflect the transfer until we have received this information. This confirmation should be signed by an authorised individual, and include both the date of the signature and the date that the transfer was completed. A notice of transfer will then be issued by Ofcom to the new licensee.

## Notification of agreement with a multiplex provider

- 2.12 You will need to request Ofcom to vary your licence if:
- you make a new agreement with a multiplex provider (for example, for carriage of an additional service); or
  - there is a variation or a cessation to the agreement between yourself and the multiplex operator.
- 2.13 If you need to request Ofcom to add an additional service or if you wish to vary your licence, you should complete the [Application to vary an existing service or to add a new service to an existing Digital Television Programme Service \(DTPS\)/Digital Television Additional Service \(DTAS\)](#). You should submit this to Ofcom as soon as the agreement with the multiplex provider has been made, and in any event no later than 28 days after that agreement.

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<sup>1</sup> In the case of: a) a company, this will be the company secretary or clerk; b) a partnership, this will be a partner or another person who is in control of the business; and c) an unincorporated body or association, this will be a member of the organisation's governing body.

## 3. Licence conditions

- 3.1 This section provides an overview of some of the conditions that DTPS and DTAS licensees are subject to. It is not an exhaustive account of the licence conditions or relevant legislation. Standard form copies of the DTPS/DTAS licences are available on the [Ofcom website](#). Licensees must refer to the licence and consult the legislation for themselves, and may wish to seek their own legal advice for this purpose. In the event of any conflict between these notes and the terms of the licence and relevant legislation, the terms of the licence and relevant legislation prevail.
- 3.2 Where Ofcom has contracted out functions to other bodies (such as the contracting out of the regulation of broadcast advertising to the Advertising Standards Authority), the references to Ofcom in the licence conditions should, where relevant, be read to also refer to those other bodies.

### Purpose and length of licence

- 3.3 The DTPS/DTAS licence authorises the provision of the licensed service. The licence does not oblige the licensee to provide the service (although Ofcom may revoke the licence if the licensee ceases to provide the licensed service where appropriate). The licensee must make its own arrangements for the delivery of the service.
- 3.4 The licence remains in force from the commencement date until it is surrendered by the licensee or revoked by Ofcom.

### Quotas for independent programmes (DTPS only)

- 3.5 DTPS licensees must ensure that in each year not less than 10 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in each service provided under the licence is allocated to the broadcasting of a range and diversity of independent productions.

### Annual licence fees

- 3.6 The licensee pays an annual fee to Ofcom. The fees are revised annually and published no later than 31 March of each year. The annual fees for editorial services are based on a percentage of “Relevant Turnover”, which in the television sector relates to any turnover that is derived from advertising/sponsorship, subscriptions and interactive activities.<sup>2</sup> The minimum fee is currently £1,000 for the charging year.
- 3.7 A self-promotional service – which consists of a particular kind of advertising whereby the broadcaster promotes its own products, services or channels – is charged the minimum fee of £1,000 for the charging year.

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<sup>2</sup> Please refer to Ofcom’s [Statement of Charging Principles](#) (Annex B) for further details.

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- 3.8 For teleshopping services, there is a fixed annual fee. The current fixed fee for the charging year is £2,000.
- 3.9 For further information about fees, see Ofcom's [Statement of Charging Principles](#), and Ofcom's [Tariff Table](#).
- 3.10 It is important that licensees pay their annual licence fees on time. If fees are not paid by the date stated in the invoice, Ofcom may consider whether to impose a financial penalty and/or to revoke the licence.
- 3.11 As long as the licence is live, it will continue to incur annual licence fees even if the service is not broadcasting. Therefore, if a licence is no longer required it should be surrendered. If a licence is surrendered before the end of the annual licence period, no refund for the remaining period will be made.
- 3.12 Ofcom also charges a fee for considering requests for consent to transfer TLCS licences. This fee is currently £1,000.
- 3.13 The three methods of paying your annual licence fee are set out below.
- 3.14 **Paying online:** We offer the facility to pay for your annual licence fees online by credit or debit card, through our [online payment portal](#). We accept all major credit/debit card types against any invoice with a value of up to £5,000. To use our online payment service you will need your Customer Reference Number and Invoice Number which can be found on your invoice.
- 3.15 **Paying by bank transfer:** annual licence fees can be paid directly by bank transfer using your Invoice Number as a reference. Confirmation of payment, including your Customer Reference Number and Invoice Number, should be emailed to [broadcast.licensing@ofcom.org.uk](mailto:broadcast.licensing@ofcom.org.uk). The payment details for paying via bank transfer are:
- |                 |  |
|-----------------|--|
| Account Name:   | Office of Communications                               |
| Bank details:   | Lloyds Bank, 69-73 Borough High Street, London SE1 1NQ |
| Account number: | 00782415   |
| Sort code:      | 30-97-90   |
| BIC:            | LOYDGB21351  |
| IBAN:           | GB05 LOYD 3097 9000 7824 15                            |
| SWIFT:          | LOYD GB 2L   |
- 3.16 **Paying by Direct Debit:** if you wish to pay your annual licence fee by direct debit, please submit a [direct debit mandate form](#).

## Revocation and surrender of the licence

- 3.17 As long as the licence is live, the licence holder is responsible for complying with the conditions set out in it. This includes providing information to Ofcom on request and paying annual licence fees. Failure to comply with the conditions of the licence, even if the service is no longer broadcasting, may lead to enforcement action being taken by Ofcom. This could lead to the imposition of a statutory sanction on the licence holder, which could include a financial penalty. If you no longer require your DTPS or DTAS licence, the licence should be

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surrendered as soon as possible. To surrender your licence, you must email the request to [broadcast.licensing@ofcom.org.uk](mailto:broadcast.licensing@ofcom.org.uk). The request must be sent by an authorised individual on behalf of the licensee. You should also make clear the date upon which you wish to surrender the licence, i.e. either the date of the letter or a date in the future.

- 3.18 Ofcom may consider revocation of the licence for a number of reasons including, but not limited to:
- the licensee has failed to pay its annual licence fees or provide information requested by Ofcom;
  - the licensee has provided false information (or withheld information) with the intention of misleading Ofcom;
  - the licensee becomes a “disqualified” person;<sup>3</sup>
  - any change takes place affecting the nature, characteristics or control of the licensee which, if in place originally, would have resulted in Ofcom not granting the licence;
  - Ofcom ceases to be satisfied that the licensee is “fit and proper” to hold a licence;<sup>4</sup>
  - the licensee fails to comply with any requirement to hold (or have held on their behalf) a licence under the Wireless Telegraphy Act 1949 (as amended), or if the licensee ceases to comply with the requirements as set out in Chapter 1, Part 2 of the Communications Act (relating to electronic communications networks and services); or
  - the service provided by the licensee no longer constitutes a service licensable by Ofcom as a DTPS or DTAS respectively;
- 3.19 Before revoking a DTPS or DTAS licence, Ofcom must first notify the licensee of its intention to revoke and give the licensee a reasonable opportunity to make representations.
- 3.20 When a licence has been revoked or surrendered, the information about the licensed service is removed from the list of licensed services on Ofcom’s website. Notice of the revocation or surrender will be published in our [Television Broadcast Licensing monthly update](#).

## Provision of information to Ofcom

- 3.21 The licensee must supply to Ofcom by the deadline provided, any information that we may require for carrying out our duties. This includes (but is not limited to) information about the licensee’s corporate structure, any information that Ofcom may need to determine whether the licensee is on any ground a “disqualified” person,<sup>5</sup> and information relevant to the calculation of annual licence fees. Please note that the requirements in the licence for the provision of information to Ofcom are broad, and that this is only a brief overview.

## Notifications to Ofcom

- 3.22 The licence also obliges the licensee to inform Ofcom about changes to the nature, characteristics or control of the licensee body.

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<sup>3</sup> Under Schedule 2, Part II of the Broadcasting Act 1990.

<sup>4</sup> Under section 3 of the Broadcasting Acts 1990 and 1996.

<sup>5</sup> Under Schedule 2, Part II of the Broadcasting Act 1990.



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- 3.23 You should notify Ofcom in writing if there is a change in the persons having control over the licensee as soon as reasonably practicable. In particular:
- Of any changes to persons that hold a **majority interest** in the licensee. A person holds a majority interest if they hold or are beneficially entitled to more than 50 per cent of the equity share capital, or possess more than 50 per cent of the voting power in the company;
  - Of any changes to persons who exercise **de facto control** over the licensee. A person can exercise de facto control where they do not have a majority interest, but are regarded as controlling a company where it is reasonable, having regard to all the circumstances, to expect that they would (if they chose to) be able in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of the body are conducted in accordance with their wishes; and
  - If any person in control of the Licensee enters into a **control arrangement**. A person in control of the licensee enters into a control arrangement where they hold, or are beneficially entitled to, 50 per cent of the company's equity share capital, or possess 50 per cent of the voting power in the company, and have an arrangement with any other participant in the company as to how any voting power possessed by either of them is to be exercised or not.
- 3.24 You should notify Ofcom in writing *immediately* of the following changes:
- Changes in management, key staff and contact details.
  - If the licensee becomes aware that any order is made or resolution passed which would result in the licensee going into administration, liquidation, or if the licensee may become insolvent.
  - If a court judgment is passed against the licensee or the licensee is convicted of a criminal offence.
- 3.25 The licence also requires the licensee to inform Ofcom of any changes which might affect the criteria under which the licensed service falls under the jurisdiction of the UK. Ofcom must be notified of such changes in advance in cases where they are known to the Licensee, or as soon as reasonably practicable. In particular:
- 3.26 If at the time the licence is granted the service falls under UK jurisdiction by appearing on a regulated UK Electronic Programme Guide (EPG), the licensee should notify Ofcom of any changes to the EPG carrying the service.
- 3.27 If at the time the licence is granted the service falls under UK jurisdiction under the primary establishment criteria the licensee must notify Ofcom of any changes to:
- The location of the licensee's head office;
  - The location at which editorial decisions on programme schedules are taken;
  - The location where a significant part of the workforce operates.
- 3.28 If at the time the licence is granted the service falls under UK jurisdiction under the subsidiary technical criteria, the licensee must notify Ofcom of any changes to:
- The location of any satellite uplinks used to broadcast the service;
  - The location of any satellite capacity used to carry the service.

## **Data Protection**

3.29 We require the above information in order to carry out our licensing duties under the Broadcasting Act 1990, Broadcasting Act 1996 and the Communications Act 2003. Please see [Ofcom's General Privacy Statement](#) for further information about how Ofcom handles your personal information and your corresponding rights.

## **Retention and production of recordings**

3.30 The licensee must retain, or arrange for the retention of, recordings of everything broadcast on the licensed service for a period of 90 days. If Ofcom requests a copy of any broadcast material, the licensee must provide this by the deadline given. Recordings must be of a standard and in a format which allows Ofcom to view the material as broadcast. The content should be clearly visible, audible and legible. The licensee must also provide Ofcom with scripts or transcripts of any material included in the service when requested to do so.

3.31 If the licensed service is an EPG, providers are not required to retain recordings or provide these to Ofcom. However, they must instead retain, or arrange for the retention of, the information contained in the EPG in an alternative form (e.g. in an Excel spreadsheet), so long as it is human readable and shows an accurate and complete record of the EPG service including all variations that viewers can receive.

## **Fair and effective competition**

3.32 Ofcom has a duty to ensure fair and effective competition in the provision of licensed services and services connected with them. Ofcom's general policy is to include in Broadcasting Act licences a condition requiring the licensee:

- not to enter into or maintain any arrangements or engage in any practices which are prejudicial to fair and effective competition in the provision of licensed services or connected services;
- to comply with any code or guidance approved by Ofcom for the purpose of ensuring fair and effective competition in the provision of licensed services or connected services; and
- to comply with any direction given by Ofcom for that purpose. Ofcom has adopted this general policy because of the merits of ex ante regulation in securing fair and effective competition.

3.33 Before taking enforcement action under the licence pursuant to this condition, Ofcom would need to consider whether, in the circumstances, it would be more appropriate to proceed by enforcing the relevant provisions of the Competition Act 1998 rather than by enforcing the licence condition.

## **Listed events (DTPS only)**

3.34 Certain sports events are "listed" by the Secretary of State. The Broadcasting Act 1996 restricts the acquisition by broadcasters of exclusive rights to the whole or any part of live

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television coverage of listed events and the broadcasting on an exclusive basis of such coverage without the previous consent of Ofcom.

- 3.35 Ofcom publishes a [Code on Sports and other Listed Events](#) which includes details of the events that are currently listed. Events may be added to, or deleted from, the list by the Secretary of State after consultation with Ofcom, the BBC, the Welsh Authority and appropriate rights holders.

## Complaints relating to the licensed service

- 3.36 Licensees must ensure that they have in place procedures acceptable to Ofcom for the handling and resolution of complaints about their service. Licensees must keep a record for 12 months of all complaints it receives and its responses to them and make this available to Ofcom on request.
- 3.37 The licensee must also comply with all of the specific provisions relating to fairness complaints (such as the provision of transcripts, copies of documents and correspondence related to the complaint, recordings etc. to Ofcom and the complainant).
- 3.38 If requested by Ofcom, the licensee must publicise Ofcom's functions in relation to complaints.

## Compliance with ownership restrictions

- 3.39 The Broadcasting Act 1990 lays down a number of restrictions on who may hold Ofcom's broadcasting licences. The licensee is obliged to comply with these ownership restrictions and failure by a licensee to do so will constitute a breach of the licence which, if not rectified, may result in revocation of the licence.

## Subtitling, signing and audio-description (DTPS only)

- 3.40 A domestic television service achieving an average audience share of all UK households of 0.05% or more may be required to provide subtitling, signing and audio description ("television access services"), subject to passing an affordability threshold and not facing technical difficulties that are impracticable to overcome. These obligations would apply from the first anniversary of the launch of the service. Similar obligations apply to qualifying non-domestic channels. Further details are provided in the [Code on Television Access Services](#) which sets out the targets that apply, and how they change over time.
- 3.41 Television services excluded from the requirement to provide television access services include those comprising advertising only, for example: teleshopping channels, and Electronic Programme Guides.

## Equal opportunities and training

- 3.42 Licensees which employ more than 20 people and operate for more than 31 days in a year are required to put in place arrangements for the promotion of training and equal opportunities. Specifically, licensees must:

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- make and from time to time review arrangements for promoting equal employment opportunities in relation to sex, race and disability. Examples of such arrangements may include policies and initiatives designed to help licence holding companies employ and retain a diverse workforce;
- make and from time to time review arrangements for training staff. Examples of such arrangements may include mentoring schemes or professional skills training programmes;
- take appropriate steps to make those affected by the arrangements specified above aware of them; and
- publish at least annually observations on the current operation and effectiveness of their arrangements. Companies may, for example, devote a section of their annual report to their training and equal opportunities programmes.

## Sanctions

- 3.43 Ofcom can impose sanctions on a licensee for serious, deliberate, repeated and/or reckless breaches of the licence conditions (including circumstances where broadcast content does not comply with the relevant codes). The sanctions available to Ofcom range from requiring the licensee to broadcast a statement of Ofcom's findings on the relevant service, to the imposition of a financial penalty on the licensee, and/or revocation of the licence. For further information about sanctions, please consult [Ofcom's Procedures for the consideration of statutory sanctions in breaches of broadcast licences](#).
- 3.44 In cases where Ofcom has instigated sanctions procedures against an existing licensee which may lead to the revocation of any licences(s) it holds, it will not generally consider any applications for transfers of licences by the same licensee or by a person/body connected to that licensee until such time as that aspect of the sanctions procedure against the existing connected licensee is concluded. Similarly, Ofcom will not generally consider transfer applications either to or from a licensee while a sanctions procedure which may lead to licence revocation is ongoing.

## 4. Frequently asked questions

### How do I change the name of my service?

If you wish to change the name of the licensed service, this must be agreed in writing with Ofcom before the change is made.

### How do I change the name of the licensee / transfer the licence?

You may transfer a DTPS/DTAS licence from one company to another only with Ofcom's prior written consent. A request for consent to transfer a licence must be submitted in writing by the proposed transferee using the [transfer application form](#) available which can be found on our website.

### I want to change the type of content the service broadcasts. How can I do this?

If you wish to change the nature of the licensed service, the change must be agreed in writing with Ofcom before any changes are made.

### I want to add another service to the licence. How do I do this?

If you need to request Ofcom to add an additional service or if you wish to vary your licence, you should complete the [Application to vary an existing service or to add a new service to an existing Digital Television Programme Service \(DTPS\)/Digital Television Additional Service \(DTAS\) licence](#). You should submit this to Ofcom as soon as the agreement with the multiplex provider has been made, and in any event no later than 28 days after that agreement.

### There has been a change to the agreement with the multiplex provider. What do I need to do?

You will need to request Ofcom to vary your licence if:

- you make a new agreement with a multiplex provider (for example, for carriage of an additional service); or
- there is a variation or a cessation to the agreement between yourself and the multiplex operator.

If you need to request Ofcom to vary your licence, you should complete the form entitled [Application to vary an existing service or to add a new service to an existing Digital Television Programme Service \(DTPS\)/Digital Television Additional Service \(DTAS\) or variation to an existing DTPS/DTAS](#). You should submit this to Ofcom as soon as the agreement with the multiplex operator has been made, and in any event no later than 28 days after that agreement.

## **I no longer want/need my licence. What do I do now?**

If you no longer require your licence, you can surrender it by emailing [broadcast.licensing@ofcom.org.uk](mailto:broadcast.licensing@ofcom.org.uk). In the email, please provide your licensee name and the names and licence numbers of any licences you wish to surrender.

## **There has been a change of control at the licensee company. How do I inform Ofcom?**

If there has been a change of control at your licensee company, you are required to inform Ofcom as soon as you are aware of the details of the change or within 28 days of the change taking effect, by completing a [Change of Control notification form](#). The form can be found on our website and explains in greater detail what a change of control entails.

## **One of our Ofcom contacts has changed their contact details. How do I inform Ofcom?**

If any contact details have changed, it is important that you inform Ofcom so that we can ensure that you receive any correspondence from us. You can inform us of a change of contact details by completing a [Television Licensee update form](#), which can be found on our website.

## **What do I need to do if I intend to broadcast music?**

The licensee is responsible for reaching agreement with those owning copyright or performing rights to any of the material which it proposes to broadcast. If you intend to broadcast any music you must apply for a licence from PRS for Music. The address and telephone number for PRS for Music can be found [on its website](#), or you can apply online at the same address.

To broadcast any commercial sound recordings you must also apply for a licence from Phonographic Performance Limited (PPL). The address and telephone number for PPL can be found [on its website](#), or you can apply online at the same address. The playing of music originating outside the UK is also subject to copyright or performing rights licensing.

The copying/synchronisation of music for any purpose, including production music (also known as library music), will require a licence from the Mechanical-Copyright Protection Society (MCPS) which has the same contact details as PRS. Ofcom cannot advise on copyright or performing rights requirements, and you should contact the relevant bodies directly for such information.