



# Statement on revised rules on the allocation of LCNs to public service channels

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# 1 Executive Summary

## 1.1 About Digital UK and Freeview

Digital UK leads the development of Freeview, the nation's most widely used television platform. Our goal is to create the best free TV service, both live and on-demand.

Freeview is the biggest TV platform in the UK, used in 18 million homes, giving viewers access to the country's most popular TV shows, for free. Its connected TV service, Freeview Play, brings together the best of the UK's free content, live and on-demand from BBC iPlayer, ITV Hub, All 4, STV Player, My5, UKTV Play, CBS Catchup Channels UK and Horror Bites. The service is available on the majority of smart TVs sold in the UK and with over 20,000 hours of on-demand content, has quickly become a 'must-have' feature for consumers. In 2019, Freeview launched its mobile app for smartphones and tablets giving viewers access to the country's most watched television programmes all in one place, on the go.

In a world of changing viewing behaviour and increasing online delivery, Freeview is the only major TV platform in the UK that is growing its user base. Offering viewers a compelling foundational TV service on to which OTT services can be added, the platform plays a critical role in delivering consumer choice and supporting the UK's broadcasters by driving share and prominence. The principle of ensuring universal and free access to the best of the nation's content for all UK viewers continues to drive Freeview's evolution in a changing media landscape.

Digital UK holds Ofcom licences to provide an Electronic Programme Guide ('EPG'). Its listing of logical channel numbers ('LCNs') and its LCN Policy (the 'LCN Policy') both conform to the requirements of the Communications Act 2003 and Ofcom's Code of Practice on Electronic Programme Guides (the 'Ofcom EPG Code').

The Digital UK LCN listing is used by Freeview, Freeview Play, BT TV, TalkTalk TV, YouView, EE TV and Now TV.

## 1.2 The consultation

In July 2019, Ofcom published a statement on changes to the EPG Code. The statement set out minimum levels of prominence for public service broadcaster ('PSB') channels, which must be in place by 4 January 2021.

Digital UK's channel listing already meets each of these obligations, except one: BBC Four must be in the first 24 LCNs. In our listing, BBC Four is at LCN 9 in every part of the UK

except Scotland, where LCN 9 is allocated to BBC Scotland and LCN 55 is allocated to BBC Four<sup>1</sup>.

We proposed to revise Section 5.1 of the LCN Policy, to the following:

*“Public service channels will at the very least be assigned an LCN in accordance with any prominence obligations specified by Ofcom. If there is one or more vacant LCN within their relevant genre at a lower position than that specified by Ofcom, then the lowest vacant LCN will be assigned. In cases where there is no suitable slot available for a public service channel to meet any prominence obligations specified by Ofcom, Digital UK will normally create a slot by requiring the channel that is currently in the slot required for the public service channel, and all channels in higher LCNs, to move up by one LCN each. If there is a vacant LCN between the slot required by the PSB and the last channel in the genre, then only channels between the slot required and the vacant LCN will be moved. If Digital UK considers in any particular case that one or more other methods of creating a suitable slot for a public service channel may be appropriate, Digital UK will issue a consultation under section 8 of this Policy on the options under consideration and decide which method to adopt in the light of the responses received. Where no prominence obligations are specified by Ofcom, public service channels will be assigned the lowest available vacant LCN within their relevant genre (unless Sections 5.10 and/or 5.12 apply).”*

We proposed to use that method in order to create a slot for BBC Four in Scotland at LCN 24, as required by Ofcom. We proposed that every channel between LCN 24 and BBC Four in Scotland (which is currently allocated LCN 55) would move up by one slot in the whole of the UK in early November 2020, and that Digital UK and Freeview would co-ordinate the technical changes and provide support through a national retune campaign.

### 1.3 Decisions

We decided that our proposals remained the fairest way to meet our regulatory obligations. We have therefore decided to implement the proposals.

Two respondents informed us that they will write to Ofcom to request an extension of the implementation deadline. In the event that Ofcom grants such an extension, we will inform channel providers and carefully reconsider the timing of the LCN changes.

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<sup>1</sup> As at 2 September 2020, BBC Four is at LCN 68 in Scotland, but will move to LCN 55 on 17 September 2020.

## 1.4 Timetable and next steps for implementation

The LCN changes will take place on **4 November 2020**.

If Ofcom grants an extension on the implementation deadline following requests from channel providers, then we will reconsider the timing of the changes; however, unless and until such an extension is granted, channel providers should assume the changes will go ahead on 4 November 2020 and plan accordingly.

Digital UK, working with Freeview, will co-ordinate the technical changes and provide support through a national retune campaign. Activity will include a combination of on-screen retune messages, provision of information on the Freeview website, online advertising, social media activity, and troubleshooting advice via a team of agents at the Freeview Advice Line. We will work closely with the channel providers affected on how they can also inform their viewers, and we will ensure that all channel-led activity is co-ordinated with the wider campaign.

## 2 Digital UK's decisions

### 2.1 Background: prominence requirements of the Ofcom EPG Code

In July 2019, Ofcom published a statement on changes to the EPG Code. The statement set out minimum levels of prominence for public service broadcaster ('PSB') channels, which must be in place by 4 January 2021.

Significantly, the revised EPG Code requires BBC One, BBC Two, Channel 3 licensees, Channel 4/S4C and Channel 5 to be allocated LCNs 1-5. Previously, television platforms had discretion over which LCNs to allocate to these services. In practice, platforms have exercised their discretion by allocating LCNs 1-5 in line with viewer expectations, but these positions are now guaranteed by regulation.

For the other PSBs, Ofcom has set a minimal threshold for prominence, but continues to permit a degree of discretion.

Channel	Obligation
BBC One, BBC Two, Channel 3 licensees, Channel 4 and Channel 5	Slot position 1-5
S4C and Channel 4 on EPGs specific to Wales	S4C in slot position 4 in Wales & Channel 4 within first 8 slots
BBC Four; BBC Scotland and BBC Alba in Scotland; and S4C on UK-wide EPGs	Within first 24 slots
BBC Children's channels – CBBC and CBeebies	Within first 8 slots of children's section
BBC News & BBC Parliament	Within first 8 slots of news section
Local TV services	Within first 24 slots on digital terrestrial television only

**Figure 1: Ofcom's minimum levels of prominence for PSB channels from 4 January 2021**

Digital UK's channel listing already meets each of these obligations, except one: BBC Four must be in the first 24 LCNs. In our listing, BBC Four is at LCN 9 in every part of the UK except Scotland, where LCN 9 is allocated to BBC Scotland and BBC Four is currently at LCN 68. (LCN 55 was recently vacated on BBC Four will move into that slot in Scotland on 17 September 2020.) Note that BBC Scotland is also required to be in the first 24 LCNs, and it would therefore not be an option to swap BBC Four in Scotland with BBC Scotland.

We are aware that the BBC is currently examining options for the return of BBC Three as a linear channel, which would also require an LCN. However, at this time we do not know whether or when BBC Three will return, nor what Ofcom's prominence requirements would be in relation to that channel. The consultation document covered general principles for how we would allocate LCNs to any new PSB channels that might require a prominent slot in the future.

## 2.2 Options in the consultation document

### 2.2.1 Proposed method for creating slots as required for PSBs

We proposed to revise Section 5.1 of the LCN Policy, to the following:

*“Public service channels will at the very least be assigned an LCN in accordance with any prominence obligations specified by Ofcom. If there is one or more vacant LCN within their relevant genre at a lower position than that specified by Ofcom, then the lowest vacant LCN will be assigned. In cases where there is no suitable slot available for a public service channel to meet any prominence obligations specified by Ofcom, Digital UK will normally create a slot by requiring the channel that is currently in the slot required for the public service channel, and all channels in higher LCNs, to move up by one LCN each. If there is a vacant LCN between the slot required by the PSB and the last channel in the genre, then only channels between the slot required and the vacant LCN will be moved. If Digital UK considers in any particular case that one or more other methods of creating a suitable slot for a public service channel may be appropriate, Digital UK will issue a consultation under section 8 of this Policy on the options under consideration and decide which method to adopt in the light of the responses received. Where no prominence obligations are specified by Ofcom, public service channels will be assigned the lowest available vacant LCN within their relevant genre (unless Sections 5.10 and/or 5.12 apply).”*

### 2.2.2 Proposal for applying the revised LCN Policy rules to BBC Four in Scotland

We proposed to use the method in the revised Section 5.1 in order to create a slot for BBC Four in Scotland at LCN 24, as required by Ofcom.

At the time the consultation was issued, BBC Four was allocated LCN 68 in Scotland. Since then, a vacancy arose at LCN 55, and BBC Four in Scotland was allocated that LCN, and will move on 17 September 2020. In our consultation, we proposed that every channel between LCN 24 and BBC Four in Scotland (i.e. every channel between LCN 24 and LCN 54 inclusive) would move up by one slot in the whole of the UK.

We proposed to publish a statement in September 2020, amending the LCN Policy as per Paragraph 2.2.1 above, and giving notice to those channels that would be required to change their LCN.

We proposed that the LCN changes should take place in early November 2020; this would give channels the maximum amount of notice whilst avoiding the Christmas period.

We said that Digital UK, working with Freeview, would co-ordinate the technical changes and provide support through a national retune campaign. Activity would include a combination of on-screen retune messages, provision of information on the Freeview website, online advertising, social media activity, and troubleshooting advice via a team of agents at the Freeview Advice Line. We said we would work closely with the channel providers affected on

how they can also inform their viewers, and we would ensure that all channel-led activity was co-ordinated with the wider campaign.

## 2.3 Consultation responses

We received thirteen responses:

- Five from viewers
- Five from channel providers: BBC, Channel 4, ITV, TG4, and one which submitted a confidential response
- One from the COBA, which is the industry body for commercial broadcasters and on-demand services
- Two from television platforms, BT TV and YouView.

### 2.3.1 On the proposed method for creating slots are required for PSBs

BT TV, YouView, BBC, Channel 4, ITV, TG4, and the channel provider which submitted a confidential response all agreed with our proposal.

The five viewers who responded all argued that the method would be unnecessarily disruptive in this case, and proposed alternative methods. Their proposals were:

- For BBC Scotland to swap its LCN with that of BBC Four in Scotland, such that BBC Four would be on LCN 9 in the whole of the UK and BBC Scotland would be at LCN 55
- For the local TV channels on LCNs 7 and 8 to move into less prominent LCNs to create a slot
- For the channel Dave (currently at LCN 19) to move to LCN 55 in Scotland only, which the viewer felt would be justified since Dave is owned by BBC Studios
- For us to create additional genres, which would see some channels move out of the first 24 LCNs and into a new LCN range. Suggestions for new genres included teleshopping, movies, or timeshifted (+1) channels
- For channels to move up by one LCN each in Scotland only, and remain at their current LCNs in the rest of the UK.

### 2.3.2 On the proposal for applying the revised Policy to BBC Four in Scotland

BT TV, YouView, Channel 4, ITV and TG4 all agreed with our proposal.

The BBC argued that we should have consulted on creating a slot for BBC Four in Scotland at another, more prominent LCN: the BBC's favoured option would be LCN 10.

COBA, and the channel provider which submitted a confidential response, both argued that implementing the changes in November 2020 would be detrimental to commercial channels. The channel provider pointed out that November and December are the most valuable months for TV advertising, and that the 2020 Christmas advertising period is particularly important due to the impact of Covid-19 on advertising revenues this year. COBA and the channel provider both highlighted the possibility of BBC Three returning to broadcast linear platforms, which might mean that channels will need to move again soon to create a further slot. Both COBA and the channel provider informed us that they would write to Ofcom to request an extension to the implementation deadline.

### 2.3.3 Additional issues raised in consultation responses

TG4's response argued that TG4 should be considered a PSB in Northern Ireland, and should move into LCN 8 (which is vacant in Northern Ireland).

We note TG4's arguments. The LCN Policy ensures that public service channels, as defined by section 310 of the Communications Act 2003, are given prominence in accordance with Ofcom's EPG Code. However, TG4 is not currently designated a public service channel, and it would not be compatible with Digital UK's obligation to treat channels on a fair, reasonable and non-discriminatory basis to treat TG4 as a public service channel without TG4 having been designated as such.

BT TV's response said:

- "While we support regulatory protection for the PSBs with regards to prominence, this should come with an appropriate supply obligation such as "must offer";
- There should be a move away from the current framework based on 'traditional' channel listing and methodologies and towards one which is technology neutral. This contrasts with the existing Digital UK approach which distinguishes between different transmission technologies, rather than grouping all Ofcom-licensed channels by genre; and
- Extension of regulatory obligations, more generally, should be technology neutral and apply equally to all platforms which carry PSB content."

These points are matters that are beyond the scope of the present consultation and raise issues around the regulatory framework that would need to be addressed (if at all) by Ofcom or the Government. In relation to the question of how Digital UK distinguishes between different transmission technologies, this is a matter which we are currently considering but it is beyond the scope of this consultation.

## 2.4 Consideration of responses

### 2.4.1 On the proposed method for creating slots are required for PSBs

All channel providers and TV platforms who responded to this question agreed with our proposal. All five responses from viewers did not agree with our proposal.

Alongside the weight of responses, we have also considered the merits of arguments and any evidence presented by respondents.

We note the alternative methods proposed by viewers.

- **For BBC Scotland to swap its LCN with that of BBC Four in Scotland, such that BBC Four would be on LCN 9 in the whole of the UK and BBC Scotland would be at LCN 55** – this would not be compliant with the EPG Code, since BBC Scotland is also required to have a slot within the first 24 LCNs. We have therefore discounted this option.
- **For the local TV channels on LCNs 7 and 8 to move outside of the first 24 LCNs to create a slot** – this would not be compliant with the EPG Code, since the local television services are required to have slots within the first 24 LCNs. We have therefore discounted this option.
- **For the channel Dave (currently at LCN 19) to move to LCN 55 in Scotland only** – one of our criteria for assessing options was that our method should not have a disproportionate impact on any particular channel. This proposal would have a disproportionate impact on Dave – and this would not, in our opinion, be mitigated by the fact that Dave is owned by BBC Studios. We have therefore decided not to use this method.
- **For us to create additional genres, which would see some channels move out of the first 24 LCNs and into a new LCN range** – one of our criteria for assessing options was that our method should not have a disproportionate impact on any particular group of channels. This proposal would have a disproportionate impact on teleshopping, movie or timeshifted channels. We have therefore decided not to use this method.
- **For channels to move up by one LCN each in Scotland only, and remain at their current LCNs in the rest of the UK** – no channel provider or TV platform disagreed with the view we expressed in our consultation document: “Whilst this method has some benefits in terms of minimising disruption to the LCN position of channels in the rest of the UK, this would come at the expense of introducing more discrepancies between the channel listing in different nations of the UK. Digital UK does not believe that this would be in the best interests of viewers, channels or the platform. Such discrepancies would, we believe, make it more difficult for channels to market their channel number, more difficult for TV platforms using the Digital UK channel listing on a UK-wide basis to inform viewers about how to find certain channels, and consequently more difficult for viewers to discover content.” We have therefore decided not to use this method.

**We have therefore decided to implement the proposal in paragraph 2.2.1.**

## 2.4.2 On the proposal for applying the revised Policy to BBC Four in Scotland

The majority of channel providers and TV platforms who responded to this question agreed with our proposal.

Alongside the weight of responses, we have also considered the merits of arguments and any evidence presented by respondents.

We note the BBC's view that LCN 10 would be a more appropriate slot for BBC Four in Scotland than LCN 24, and that we should have consulted on a range of options. Digital UK was guided by Ofcom's definition of 'appropriate prominence' for BBC Four, and by a desire to minimise disruption to viewers and channels so far as possible. Nonetheless, Digital UK is fully supportive of the principle of PSB prominence, and we will retain section 5.6 of the LCN Policy which states that vacated LCNs will be offered first to a public service channel at a higher LCN within the genre, starting with the public service channel that is nearest to the vacant LCN, and then to the next nearest and so on until it has been offered to all public service channels at higher LCNs within the genre. This will mean that, should an LCN between 10 and 24 become vacant, it will be offered to BBC Four in Scotland.

We note the arguments from COBA and the channel provider which submitted a confidential response, that implementation should be delayed, preferably until after BBC Three has returned to broadcast linear platforms or it has become clear that it will not return. Both respondents acknowledged that a delay would require a change in Ofcom's requirements. Digital UK is therefore not in a position to delay the implementation. However, we acknowledge that the two respondents plan to write to Ofcom to request an extension; and Digital UK will also write to Ofcom to express the points made in these consultation responses. If Ofcom grants an extension then Digital UK will carefully reconsider re-timing the implementation, and will inform channel providers accordingly.

The objections from viewers are addressed in section 2.4.1 above.

**We have therefore decided to implement the proposal in paragraph 2.2.2; but in the event that Ofcom grants an extension to the implementation deadline, we will inform channel providers and carefully reconsider the timing of the LCN changes.**

## 2.5 Decisions

We have decided to implement the proposals in paragraphs 2.2.1 and 2.2.2 above.

In the event that Ofcom grants an extension to the implementation deadline, we will inform channel providers and carefully reconsider the timing of the LCN changes.

## 2.6 Implementing the changes

The revised LCN Policy will become effective immediately, and LCN changes will take place on **4 November 2020**.

If Ofcom grants an extension on the implementation deadline following requests from channel providers, then we will reconsider the timing of the changes; however, unless and until such an extension is granted, channel providers should assume the changes will go ahead on 4 November 2020 and plan accordingly.

Digital UK, working with Freeview, will co-ordinate the technical changes and provide support through a national retune campaign. Activity will include a combination of on-screen retune messages, provision of information on the Freeview website, online advertising, social media activity, and troubleshooting advice via a team of agents at the Freeview Advice Line. We will work closely with the channel providers affected on how they can also inform their viewers, and we will ensure that all channel-led activity is co-ordinated with the wider campaign.

## 3 Appendix – LCN Policy v6.1

Changes versus v6.0 are highlighted.

### 1 INTRODUCTION

- 1.1 Digital UK supports Freeview and channels, providing viewers with information about their options for receiving terrestrial TV and advice on reception and equipment. Digital UK also handles day-to-day technical management of the Freeview Electronic Programme Guide ('EPG'), allocates logical channel numbers ('LCNs') and manages the launch of new services onto the digital terrestrial television ('DTT') platform.
- 1.2 Digital UK holds Ofcom licences to provide an EPG<sup>2</sup> and allocates LCNs to a wide range of different services on the DTT platform, e.g. television, radio, text and interactive. For the sake of convenience, all DTT services are referred to within this Policy as 'channels' and those who provide such services are referred to as 'channel providers'.
- 1.3 This Digital UK LCN Policy (the 'Policy') governs the way in which the Digital UK LCN Group (the Digital UK-member approval forum) will allocate channels to genres, and to LCNs within genres. It was implemented following a consultation<sup>3</sup> and **replaces Version 6.0 of this Policy that was published on 3 April 2017.**
- 1.4 The Policy conforms with the requirements of the Communications Act 2003 and Ofcom's Code of Practice on Electronic Programme Guides published in July 2004 (the 'Ofcom EPG Code'). Within this regulatory framework, Digital UK's objective will be to apply the Policy in such a way as it considers to be for the long-term benefit of the DTT platform and in the interests of viewers (in each case as determined by Digital UK members in accordance with the Policy) and in compliance with the fair, reasonable and non-discriminatory ('FRND') requirements of the Ofcom EPG Code (or any equivalent Code published by Ofcom and in force at the relevant time).
- 1.5 For the avoidance of doubt, Digital UK interprets its FRND obligation to mean that the Policy is applied consistently to all channels on or joining the platform regardless of their ownership.
- 1.6 Digital UK's terms and conditions of LCN allocation are contained within the Digital UK LCN Allocation Terms and Conditions (the 'Terms'). By making an application to Digital UK for allocation of an LCN, or broadcasting a channel using an LCN, channel providers also agree to be bound by the Terms<sup>4</sup>. Furthermore, the benefits of this Policy are only available where the channel provider accepts the Terms in full.
- 1.7 Where there is a change of control of a channel or a channel provider, it is the

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<sup>2</sup> See <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/dtas000044ba2dttepgservicemux2.htm> and <http://www.ofcom.org.uk/static/radiolicensing/html/tv/cs/tlcs101213ba1enhancedipmetadataforthetttbroadcastepg.htm>

<sup>3</sup> Link to be updated

<sup>4</sup> Link to be updated

responsibility of the new provider to comply with the Policy and the Terms.

- 1.8 After an LCN allocation has been made by Digital UK, the LCN continues to belong to Digital UK and will remain subject to its discretion and the Policy. Digital UK reserves the right to move a channel to an alternative LCN in accordance with this Policy.
- 1.9 LCN trading between channel providers is not allowed. See section 7.
- 1.10 Digital UK will allocate LCNs to channels using DTT capacity that meet the criteria for an LCN as set out in sections 2.2 and 2.3. Pursuant to the Terms and this Policy, Digital UK will not allocate LCNs to any channels delivered without use of any DTT capacity, for example those that are delivered solely by IP or by any other means. Digital UK has reserved a range of LCNs in which IP television platforms may allocate channels according to their own allocation policy. As such Digital UK takes no responsibility for channel allocation in the IP-delivered range. In the future, if and when channels delivered solely by IP appear on the Freeview Play platform, Digital UK will allocate LCNs to them within this range.
- 1.11 For the purposes of this Policy, the following definitions are applied:
- i. **‘Lower LCNs’** refers to lower channel numbers; i.e. smaller numbers which appear closer to the beginning of the LCN list. **‘Higher LCNs’** refers to larger channel numbers which are further away from number 1 in the channel list.
  - ii. **‘Public service channels’** are those channels identified as such in accordance with section 310 of the Communications Act 2003, and HD simulcasts thereof. When allocating LCNs to public service channels, Digital UK will seek to give ‘appropriate prominence’ to these channels in the appropriate genre in accordance with the Ofcom EPG Code.
  - iii. **‘Associated channels’** are two or more channels that:
    - are classified into the same genre as each other; and
    - are under common control; and
    - have common branding and/or a significant degree of existing or intended cross-promotion.

Public service channels are not considered to be associated channels.

In order to improve viewer or listener navigation Digital UK considers that it is in the best interests of viewers and listeners to group associated channels together.
  - iv. **‘Common branding’** may take a number of forms. In considering whether two channels have common branding, Digital UK will consider the following non-exhaustive factors: the names of the channels, and the look and feel of their logos and idents.
  - v. Channels will be considered to be under **‘common control’** where they are owned or controlled by companies in the same corporate group. The corporate group consists of a holding company and all its subsidiaries, the terms ‘holding company’ and ‘subsidiary’ having the meanings given in section 1159 of the Companies Act 2006. In addition, where a holding company directly or indirectly holds 50% of the voting rights in a channel which does not otherwise fall within the definition of ‘subsidiary’ in section 1159 of the Companies Act 2006, that channel will be treated as under common control with any of the holding company’s subsidiaries with which the channel in question has common branding.

- vi. **'Streamed channels'** are channels where audio visual content is delivered over IP but access is enabled via an MHEG or HbbTV application which is broadcast over DTT. They should not be confused with channels that are delivered solely by IP (see section 1.10). When assessing whether streamed channels qualify for associated channel status, or whether they are under common control, Digital UK will consider a 'channel' to be the audio-visual content accessible via the LCN, rather than the MHEG/HbbTV application and/or any MHEG/HbbTV slate carried on the LCN.
- 1.12 Previous decisions of Digital UK regarding the allocation of LCNs prior to the adoption of this version of the Policy will not be considered relevant in the interpretation of this Policy and will not bind Digital UK as precedent.

## 2 REQUIREMENTS TO BE ELIGIBLE FOR AN LCN

- 2.1 By making an application to Digital UK for allocation of an LCN, or broadcasting a channel using an LCN, channel providers agree to be bound by the Terms.
- 2.2 To be eligible for an LCN a channel is required to have:
- a DTT capacity agreement with a multiplex operator (a 'carriage agreement'); and
  - a valid broadcasting licence (or equivalent authorisation) permitting the channel to broadcast on the DTT platform in the UK (a 'broadcast licence'); and
  - arrangements for providing EPG schedule data (a 'schedule provider agreement').
- 2.3 In order to be allocated or retain an LCN, channels must broadcast a minimum of two hours per day or 14 hours per week of audio-visual content via DTT. A static slate does not count as audio-visual content for the purpose of this rule. However:
- This rule does not apply to channels in the Adult genre, the Streamed services genre, the Text genre or the Radio genre.
  - Channels which were broadcasting on the DTT platform for less than 14 hours per week prior to 3 April 2017 must comply with this rule by 3 April 2019 or (if later) upon the expiry of their current carriage agreement with a multiplex operator.
  - A channel may reduce its broadcast hours to less than the minimum threshold for up to 12 weeks, accrued in any 12-month rolling period. The channel provider should (where circumstances permit) notify Digital UK in advance in writing before reducing its broadcast hours. If a channel falls below the minimum broadcast hours for more than 12 weeks accrued in any 12-month rolling period then, upon notice from Digital UK to the channel provider, its LCN will be withdrawn.
- 2.4 A channel provider may cease to make a channel available for up to 12 weeks in any rolling 12-month period without losing its LCN. The channel provider should notify Digital UK in advance in writing of its intention to temporarily cease broadcasting its channel. If the channel does not resume broadcasting within the 12-week time limit, then the LCN will be deemed vacated and can be re-allocated by Digital UK in accordance with this Policy.
- 2.5 Digital UK may allocate LCNs for test channels if, at its absolute discretion, it thinks it appropriate to do so.
- 2.6 A channel in any DTT genre may link to supplementary content carried via IP, but this content must be licensed by an appropriate regulatory authority and suitable for the genre of the DTT channel.

### 3 APPLICATION FOR AN LCN

3.1 Any channel provider which intends to launch a channel onto the DTT platform should submit its LCN application as per the process set out in Schedule 1, between eight and four weeks prior to the channel provider's intended launch date of the channel. Applications received less than four weeks before the intended launch date of the channel will be processed, but in such cases Digital UK cannot guarantee that the intended launch date will be met.

3.2 The channel provider should:

- provide evidence confirming that its channel meets the criteria for an LCN as set out in sections 2.2 and 2.3. Evidence of a capacity agreement will be by way of a letter of corroboration from the relevant multiplex operator; and
- state which genre it believes would be most appropriate for the channel; and
- at its cost, supply Digital UK with any other information as specified in the allocation process or as Digital UK may otherwise reasonably request regarding the channel.

The channel provider must ensure that all information provided by it or on its behalf is accurate, complete and up-to-date. Once a valid application with the relevant detail is received, it will usually take two weeks for Digital UK to allocate an LCN to the channel.

3.3 Digital UK will review the proposed genre, in accordance with Schedule 3 of this Policy. If the channel might meet the definition of more than one genre, the following considerations will apply, in this order:

- Whether any consumer protection issues might exist (in particular, any service which would qualify for an LCN in the Adult genre will be placed in that genre).
- Whether the channel is HD, streamed, text, interactive or radio in nature.
- The nature of the content on the channel as per our genre definitions.

3.4 If a channel is allocated an LCN and does not launch within eight weeks of the specified launch date, the LCN which was allocated to the channel may be withdrawn.

3.5 Requests for an LCN made on a speculative basis (i.e. channels without confirmed genre and intended launch date) will not be considered. However, Digital UK will be willing to engage in confidential pre-application discussions with channel providers about the availability of LCNs and other matters connected with the operation of Policy and will permit the use of 'working' channel names in any application for an LCN.

3.6 The LCN allocation process may change from time to time. Any amendments to Schedule 1 will be published on the Digital UK website.

### 4 GENRES

4.1 Genres are the basis for grouping channels. They assist viewer navigation, and can protect consumers from content that may harm or offend.

4.2 Digital UK may from time to time add, remove, merge or move genres, following a consultation process.

4.3 In the event a genre overflows its prescribed LCN range, Digital UK will temporarily place any additional channels of that genre in the most appropriate alternative location as determined by Digital UK.

4.4 See Schedule 3 for descriptions of genres. Any amendments to Schedule 3 will be

published on the Digital UK website.

## 5 ALLOCATION OF LCNs

- 5.1 Public service channels will at the very least be assigned an LCN in accordance with any prominence obligations specified by Ofcom. If there is one or more vacant LCNs within their relevant genre at a lower position than that specified by Ofcom, then the lowest vacant LCN will be assigned. In cases where there is no suitable slot available for a public service channel to meet any prominence obligations specified by Ofcom, Digital UK will normally create a slot by requiring the channel that is currently in the slot required for the public service channel, and all channels in higher LCNs, to move up by one LCN each. If there is a vacant LCN between the slot required by the PSB and the last channel in the genre, then only channels between the slot required and the vacant LCN will be moved. If Digital UK considers in any particular case that one or more other methods of creating a suitable slot for a public service channel may be appropriate, Digital UK will issue a consultation under section 8 of this Policy on the options under consideration and decide which method to adopt in the light of the responses received. Where no prominence obligations are specified by Ofcom, public service channels will be assigned the lowest available vacant LCN within their relevant genre (unless sections 5.10 and/or 5.12 apply).
- 5.2 For all other channels, unless section 5.6 is invoked, Digital UK will allocate the channel the next available LCN at the end of the genre.
- 5.3 As soon as a channel has been allocated an LCN, Digital UK considers that it is occupying its LCN for the purpose of the rules in this sections 5.6, 5.7 and 6, even if the channel has not yet launched or moved.
- 5.4 If a channel is allocated an LCN in the HD genre and the channel has no equivalent standard definition simulcast channel on the DTT platform, Digital UK may also reserve the lowest available LCN in the genre in which such simulcast channel would otherwise have been allocated an LCN. Digital UK may at any time elect to revoke or amend any reservation made under this section 5.4 if it considers it appropriate for prudent LCN management. For the avoidance of doubt, sections 5.6 and 6 shall not apply to LCNs reserved in accordance with this section 5.4. Reservations made under this section 5.4 will automatically be revoked if:
- a) a standard definition version of the channel is allocated an LCN on the DTT platform (in which case, the standard definition channel would be allocated an LCN in the same way as any other new channel launch); or
  - b) the HD channel is withdrawn.

### *Vacated LCNs*

- 5.5 Where a channel is withdrawn from its LCN for any reason, it will trigger the vacated LCNs procedure below.
- 5.6 Vacated LCNs will be offered to channels in the following order:
- To a public service channel at a higher LCN within the genre, starting with the public service channel that is nearest to the vacant LCN, and then to the next nearest and so on until it has been offered to all public service channels at higher LCNs within the genre.

- To existing associated channels (as defined under section 1.11) at higher LCNs within the genre, in the following way:
  - First, Digital UK will identify the channel that appears next in the listing in a lower LCN than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
  - Second, Digital UK will look at the channel that appears next in the listing in a higher LCN than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
  - Third, Digital UK will look at the channel that is two positions lower than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
  - Fourth, Digital UK will look at the channel that is two positions higher than the vacated LCN. Digital UK will offer the vacated LCN to any channel associated with this channel
  - And so on for five positions higher and lower than the vacated LCN
- Finally, to any new associated channel (as defined under section 1.11) launching on the platform.

Any channel provider which is offered a vacated LCN will have two weeks in which to consider the offer and respond in writing to Digital UK. If no response is received within that timescale, Digital UK may offer the LCN to another channel provider in accordance with this Policy.

5.7 Where vacated LCNs have still not been filled pursuant to section 5.6, Digital UK may either:

- undertake a 'shuffle-up' procedure. The channel in the next highest LCN will be offered the opportunity to move into the vacant LCN. They will usually be given two weeks to decide whether to take up the offer. No channel will be obliged to move, but if the offeree chooses not to move then the vacant LCN may be offered to the channel in the next highest LCN; or
- use the LCNs for any other reason it deems reasonable.

5.8 Any channel that already has an LCN on the platform which is allocated a different LCN under any of the above processes will have eight weeks to complete its move following the allocation, or it will lose the right to use the vacated LCN. Any new channel launching onto the platform into a vacated LCN will be subject to the timelines in section 3.

5.9 Channels already on the platform may not request vacant LCNs from Digital UK; Digital UK will always offer vacant LCNs to channels as described above.

### *Sharing LCNs*

5.10 Where channels broadcast to distinct areas of the UK, and their coverage does not overlap (except where section 5.12 applies), those channels may share an LCN if:

- all of the channels under consideration are public service channels, or
- all of the channels under consideration are associated with one another.

Digital UK may, in the interests of LCN efficiency and viewer benefit, require that channels which meet these criteria share an LCN.

5.11 Where channels share an LCN and one channel expands its coverage such that it overlaps with the coverage of one or more other channels on the LCN (except where

section 5.12 applies), the expanding channel must apply for a new LCN.

- 5.12 In the case of some local public service channels, while the channels may be licensed to serve distinct geographic areas, in practice there may be some overlap in their actual coverage. In such cases, Digital UK may decide that the channels should share an LCN.

## 6 CHANGING A CHANNEL AFTER AN LCN HAS BEEN ALLOCATED

### *Requests to reorder channels*

- 6.1 Digital UK will consider all applications to reorder LCNs of channels that are under common control (as defined under section 1.11) and in the same genre. The channel provider should set out its preferred date for the channel changes and explain its rationale for requesting the change, and Digital UK will usually permit it unless:
- The channel provider's annual limit of swaps has already been met (see section 6.3); or
  - Digital UK believes that proposed changes would not be in the best interests of viewers and listeners and/or the platform. For example, Digital UK may decide it would not be in the best interests of viewers for a part-time channel to move into a more prominent position and a full-time channel into a less prominent position, or for a channel that is only available to a minority of viewers to move into a more prominent position and a channel that is available to the majority of viewers to move into a less prominent position.
- 6.2 Public service channels are allowed to reorder their channels (if they meet the criteria in 6.1 above) except those at LCNs 1-5 and 101-105. Public service channels may not be reordered with non-public service channels.
- 6.3 A channel provider may reorder channels under this rule on no more than two occasions in any 12-month rolling period. A channel provider may reorder multiple channels in its portfolio on each occasion.
- 6.4 The timing of any channel reordering must be agreed with Digital UK. Where possible, Digital UK will seek to co-time the reordering with other changes to the platform to minimise disruption for viewers and listeners.
- 6.5 Where a timeshifted channel (e.g. a +1 service) moves or launches into a vacated LCN, and this move results in the timeshifted channel appearing in a lower LCN than the channel of which it is a timeshift, the channel provider may reorder the two channels without this counting towards the limit of its annual channel reordering.
- 6.6 Channel providers may reorder the LCNs of two or more of their channels and then close one of the affected channels.

### *Changing a channel's name and/or content*

- 6.7 Channel providers may change the content and/or name of a channel, and nonetheless retain that channel's LCN so long as it remains appropriate to the genre in which it has been placed. This could mean replacing the channel with a new channel or a channel that already exists but is not currently carried on the DTT platform.
- 6.8 To minimise disruption on the platform, channel providers may only submit one request to change the name of their channel in any 12-month rolling period. This

request may be for a temporary name change, i.e. one where the channel changes its name at a certain date and reverts to the old name at a certain date, for example for a seasonally reflective branding change.

- 6.9 If, at any time, Digital UK finds, at its discretion, that a channel has changed such that it would be more appropriately placed in a different genre, Digital UK may then require that the channel be moved to that genre. It will be allocated an LCN within that genre according to the principles in section 5.

## 7 TRADING

- 7.1 An LCN is not the asset of a channel provider and may not be sold. If a channel is sold as a going concern, the new channel provider will be required to inform Digital UK in writing prior to the sale completion that it will continue to use the LCN in accordance with this Policy and the Terms.

## 8 CONSULTATIONS

- 8.1 Digital UK will consult with channel providers on any proposed enforced move of LCNs (i.e. where the moves are not conducted under sections 5.6, 5.7, 5.10, 5.11, 5.12, 6.1 or 6.7 of this Policy).
- 8.2 Where there are fewer than five channels to be moved, Digital UK will generally conduct a 'light' consultation process. A notification of the consultation will be sent to all channel providers, and responses invited from the channels proposed to be moved and any other channels which Digital UK believes will be significantly affected by the proposed changes. A notification will also be placed on the Digital UK website. A consultation period of approximately four weeks will be used (time limit to be set and communicated by Digital UK in its discretion), following which Digital UK will consider responses, communicate its conclusion to the channel providers and publish a notice on the Digital UK website at least eight weeks prior to the date set to coordinate any move(s).
- 8.3 Where there are more than five channels to be moved, Digital UK will generally conduct a full consultation process with all channel providers. Responses will be invited from all channel providers and stakeholders and a notification will be placed on the Digital UK website. A consultation period of approximately eight weeks will be used (time limit to be set and communicated by Digital UK in its discretion), following which Digital UK will consider responses, communicate its conclusion to channel providers and any other responders and publish a notice on the Digital UK website at least eight weeks prior to the date of any move(s).
- 8.4 Digital UK reserves its right to conduct an expedited consultation process where there are deemed to be, or might be, consumer protection issues.
- 8.5 Where Digital UK reviews the Policy and believes there is a need to make substantive amendments to the Policy, Digital UK will conduct a consultation process with channel providers and stakeholders following that described in 8.3 of this Policy.

## 9 APPEALS PROCESS

9.1 The appeals process is available should a channel provider (the ‘appellant’) wish to appeal the Digital UK LCN Group’s decision on:

- (a) The application of sections 4.3, 5 or 6 of this Policy, i.e.
  - allocating an LCN or genre to a new channel;
  - moving an existing channel to a different LCN or genre;
  - placing a channel in an ‘overflow’ section;
  - applying the vacated LCN rules;
  - allowing, not allowing, or insisting on LCN sharing;
  - allowing or not allowing channels to reorder their LCNs;
  - allowing or not allowing a channel to change its name.
- (b) Changes to the LCNs of existing channels that are made following a consultation process as set out in section 8.

The appeals process does not apply to other policy decisions made by Digital UK.

9.2 Any appeal to Digital UK is without prejudice to recourse to Ofcom, or other relevant authorities as may be available to the appellant.

9.3 The appellant may appeal a decision only if it can demonstrate that one or more of its channels is directly affected by the decision.

9.4 Where the appellant appeals against a decision that benefits or adversely affects a third party, the third party may make representations in the appeal.

### *Appealing a decision made under sections 4.3, 5 or 6 of this Policy:*

9.5 The following process will apply:

- i. The appellant should appeal in writing to the Chair of Digital UK.
- ii. Where the decision relates to a channel under the appellant’s control, the appellant must appeal within four weeks of being notified of the decision. Where the appeal relates to another channel (but nonetheless directly affects the appellant’s channel), the appellant must appeal within four weeks of the decision being published on the Digital UK website or taking effect in the channel listing.
- iii. The letter must be as evidence-based as possible and explain why, in the appellant’s view, the decision does not meet the Policy. If relevant, the letter should explain which genre or LCN the appellant thinks the channel should be eligible for, and why.
- iv. The channel may launch at or move to the LCN allocated without prejudice to the concurrent appeals process.
- v. The appellant may be named publicly by Digital UK, and where the appeal relates to a channel other than those operated by the appellant, the relevant channel provider affected will also be informed of the appeal.
- vi. The Chair of Digital UK will review the process that was followed in allocating the LCN, and decide whether the correct process was followed.
- vii. The Chair of Digital UK may take up to four weeks to consider the appeal, and will then respond in writing to the appellant and, where they are different, the provider of the channel whose LCN allocation was appealed.
- viii. Within the four-week period of consideration, the Chair of Digital UK may ask any channel provider for further information to assist with the review.
- ix. If the Chair of Digital UK agrees that the appellant has presented a sufficiently

compelling case that the decision does not meet the Policy, the decision will not stand. The Digital UK LCN Group will then reconsider its decision including (if relevant) the appellant's proposal for an alternative genre or LCN allocation. Digital UK may move the relevant channel into the relevant LCN or genre at the earliest reasonable date.

- x. If the Chair of Digital UK does not agree that the appellant has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand.
- xi. Digital UK may publish appeal adjudications subject to redaction of any commercially sensitive material.

### *Appealing changes to the LCNs of existing channels following a consultation*

9.6 The following process will apply:

- i. The appellant should appeal in writing to the Chair of Digital UK.
- ii. The appellant must appeal within four weeks of the consultation statement being published on the Digital UK website.
- iii. The letter must be as evidenced-based as possible and explain why, in the appellant's view, the consultation decision should not stand.
- iv. Receipt by Digital UK of an appeal will place the appealed move on hold until the end of the appeals process.
- v. The appellant may be named publicly by Digital UK, and where the appeal relates to a channel other than those operated by the appellant, the relevant channel provider affected will also be informed of the appeal.
- vi. The Chair of Digital UK will review the consultation process that was followed, and decide whether the correct process was followed.
- vii. The Chair of Digital UK may take up to four weeks to consider the appeal, and will then respond in writing to the appellant and, where they are different, the provider of the channel whose LCN allocation was appealed.
- viii. Within the four-week period of consideration, the Chair of Digital UK may ask any channel provider for further information to assist with the review.
- ix. If the Chair of Digital UK agrees that the appellant has presented a sufficiently compelling case, the appealed changes to the LCNs will not go ahead. The Digital UK LCN Group may decide to undertake a further consultation.
- x. If the Chair of Digital UK does not agree that the appellant has presented a sufficiently compelling case, the Digital UK LCN Group's decision will stand and Digital UK will move channels as per its consultation statement generally no more than eight weeks from the date of the Chair of Digital UK's decision.
- xi. Digital UK may publish appeal adjudications subject to redaction of any commercially sensitive material.

## 10 CHARGES

10.1 Digital UK reserves the right to levy fair and reasonable charges in respect of the allocation and use of any LCNs and to suspend or withdraw the allocation or use of LCNs if any such charges are not properly paid in accordance with Digital UK's payment terms.

## 11 INFORMATION PROVISION AND MONITORING

11.1 Digital UK is not obliged to monitor the content of the channels which are on the DTT platform in order to ensure that they continue to comply with any representations made to Digital UK by the channel provider about the channel or to investigate allegations brought by channel providers about such on-going compliance. However, Digital UK reserves the right at its discretion to monitor the content of channels and to investigate allegations that may arise.

11.2 Channel providers shall at their cost provide all such information as Digital UK reasonably requests in order to enable it: (i) To conduct any monitoring or investigations which Digital UK at its discretion wishes to conduct; and/or (ii) To provide viewers with scheduling information.

11.3 Channel providers must take steps to ensure that all information provided by them or on their behalf is accurate, complete and up-to-date. Channel providers are expressly obliged to inform Digital UK of changes to their channel (including, but not limited to, change of name and/or change in broadcast hours).

## 12 REVIEWS

12.1 Digital UK will carry out periodic reviews of the Policy.