



MAKING DIGITAL BROADCASTING ACCESSIBLE TO ALL
DIGITAL BROADCASTING MEETING GENERAL INTEREST OBJECTIVES

**Consultation Document on the Eligibility Criteria
for the Classification of Broadcasters that fulfil General Interest Objectives**

Background

In September 2007, the Broadcasting Authority and the Malta Communications Authority had issued, for the purposes of a public consultation, a document entitled '***Making Digital Broadcasting Accessible to All – A Policy and Strategy for Digital Broadcasting that meets General Interest Objectives***'. The period of consultation, originally intended for a period of three months, was subsequently extended by another two months. By the end of the consultation period, a number of submissions had been received, including a joint response from all the local analogue television broadcasters as well as separate responses from the two local broadcast television network operators.

Following an evaluation of these responses as well as additional considerations, the Minister for Infrastructure, Transport and Communications, in February 2009, announced the Policy and Strategy that had been adopted by Government for Digital Broadcasting that meets General Interest Objectives.

The purpose of this latest document now is to conduct a process of consultation on the actual implementation of a particular aspect of this Policy, namely on the eligibility criteria that the Broadcasting Authority proposes to establish for the selection of broadcasters that are deemed to fulfil general interest objectives and whose content, therefore, would be entitled to carriage on the proposed GIO network on a free-to-air basis.

Interested parties who may wish to re-visit in more detail the above-mentioned Government Policy and Strategy are advised to view the relative document issued in February 2009 which is available on the BA website (www.ba-malta.org)

Fundamental Principles

As already stated in previous consultation documents on this subject, the conceptual framework within which the proposed GIO set-up has been modelled is based on a number of fundamental principles, namely:

- the right of the public to free-to-air viewership of GIO channels via unencrypted transmission;
- the availability of an adequate number of GIO broadcasters, balanced against minimal distortion of market mechanisms;
- the efficient use of spectrum;
- the allocation of sufficient frequency spectrum for GIO broadcasting such as to cater for future needs;
- the concept of GIO broadcasting to embrace both the public service broadcaster as well as a number of private broadcasters;
- the application for GIO status, by privately owned stations, on a voluntary basis;
- the award of GIO status only on the basis of stringent qualifying/ eligibility criteria;
- the acceptance of PBS as the *de facto* public service broadcaster;

- the need for digital transition costs to be kept at manageable levels;
- the understanding that local television broadcasting is to go beyond GIO broadcasting via the award of commercial licences subject to a carriage arrangement with a local network.

The Role Assigned to the Broadcasting Authority

The above-mentioned Government Policy and Strategy had assigned to the Broadcasting Authority a number of responsibilities, which the Authority is gradually carrying out under the aegis of a Digital Switchover (DSO) Committee. This Committee meets under the chairmanship of the Chairman of the Malta Communications Authority and has been entrusted with the co-ordination of the implementation of the Strategy. The following are the main responsibilities assigned to the Broadcasting Authority and the status of implementation at this particular stage:

Drafting of amendments to the Broadcasting Act

The actual implementation of this Government Policy requires various amendments to the Broadcasting Act, including amendments to current licensing provisions (the Act currently does not provide for the different categories of licences that would have to be issued to the various types of nationwide television services contemplated in this Policy, namely a general interest broadcast content licence to the public service broadcaster, a general interest broadcast content licence issued to any broadcaster other than the public service broadcaster, and a commercial broadcast content licence issued to any broadcaster) as well as new provisions on the licensing and regulation of the GIO network operator. Moreover, the amendments should enable the Authority to establish, by regulation, the required GIO eligibility / qualifying criteria and selection processes.

In fact, following extensive discussions within the DSO Committee and within the Authority itself, the Authority has already submitted to Government, for its consideration, draft amendments to the Broadcasting Act. The Authority will only be in a position to proceed with the GIO qualifying / eligibility process once the relating legislative amendments and the ancillary regulations have been enacted and made.

Definition of detailed eligibility criteria and implementation of relative selection process

The above-mentioned Government Policy and Strategy document had already established a basic set of eligibility criteria that the Broadcasting Authority '*can utilise in the determination of candidates' eligibility to GIO status*'. However, the Authority is expected to define more detailed criteria, and these are now being proposed further on in this document.

In this respect, the document also states that '*existing analogue free-to-air broadcasters (excepting PBS by virtue of its 'de facto' status of public service broadcaster) will, in the first instance, be requested to confirm whether they want to assume the role of broadcasters meeting general interest objectives in line with the revised (i.e. more detailed) criteria. However, this option can only be exercised subject to their agreeing to (and proving that they have the means to abide by) the new criteria that will be set and administered by the Authority*'. The document furthermore states that '*calls for prospective GIO broadcasters to fill vacant slots on the GIO network will subsequently be made by the Broadcasting Authority via a call for expressions of interest*'.

In a subsequent part of this document, the Authority is providing an indication of the GIO selection process which the Authority is proposing to conduct.

Oversight of the GIO Network

The Government policy document states that '*the relationship between PBS as the network operator and the hosted GIO broadcasters will require an element of oversight. The Broadcasting Authority will play a key role regulating the relationship between the various players involved, in order to ensure seamless provision of GIO content to the public*'. The document furthermore states that '*in regulating these relationships, the Broadcasting Authority can draw on the MCA's expertise in technical matters if such advisory assistance is required*'.

The implementation of these arrangements will require the Broadcasting Authority to issue a 'multiplex licence' to PBS as the officially designated network operator. Accordingly, the Broadcasting Authority and the Malta Communications Authority have jointly drawn up a draft multiplex licence, a copy of which is being attached to this consultation document as Appendix I. It should be noted that the provisions of the licence cover a variety of matters, including the operation of the multiplex, carriage fees to be levied on broadcasters as well as procedures for the handling of complaints from both consumers and broadcasters.

The issue of this multiplex licence will not remove the need for the conclusion of separate 'Service Level Agreements' between the network operator (PBS Ltd.) and the respective GIO broadcasters. The 'Service Level Agreement' will be a standard agreement applicable to all GIO broadcasters.

Proposed GIO Eligibility Criteria for 'Generalist' Broadcasting Stations

The following are the proposed criteria which prospective GIO broadcasters would need to satisfy to qualify for a GIO television broadcast licence. These are subdivided into mandatory and non-mandatory criteria. In the case of the latter set of non-mandatory criteria, the Authority will generally evaluate the degree to which these have been reflected in programme schedules and this will be duly weighted in the evaluation process. These criteria would be applicable to 'generalist' broadcasting stations whilst separate criteria, which are listed separately in a subsequent part of this document, are being established for prospective 'niche' broadcasting stations. It should be pointed out that, once GIO licences have been issued, the Authority will monitor the licensees' broadcasting content on an ongoing basis and the retention/renewal of their licences would be dependent on their adherence to the obligations that they would be assuming.

MANDATORY CRITERIA

General Programming Requirements

- the adoption, on an ongoing basis, of broadcasting schedules based on quality programming across the full range of public tastes and interests

- a daily broadcasting schedule of a minimum duration of sixteen (16) continuous hours, to cover a broadcasting time-table between 07.00 hours and 23.00 hours. The re-transmission (simultaneous or delayed) of broadcasting content aired on other broadcasting stations or of content relayed on other electronic media will be allowed, subject to the following conditions:
 - that re-broadcasting rights, where these are applicable, have been duly obtained

 - that the duration of this re-transmission does not exceed a total of two (2) hours out of the above-mentioned mandatory broadcasting time-table; although additional re-transmission of content will be allowed outside the mandatory broadcasting time-table

- the duration of repeat programming is not to exceed 20% of the total mandatory broadcasting time during the October – June broadcasting schedule and 35% of the total mandatory broadcasting time during the July – September schedule; although no limit on repeat programming is being established during the non-mandatory broadcasting time-table. In this respect, repeat programming refers to programmes whose original version has been aired under any previous schedule of the broadcasting station. However, this requirement will not apply to repeat programmes of the following genres: drama, cinematographic productions, documentaries, and programmes of an educational and cultural nature

- teleshopping programmes not to exceed a period of three hours during the mandatory broadcasting time-table. Otherwise, no limits on the duration of teleshopping is to be imposed during the other hours of the day, this in line with new provisions in the EU Audio-Visual Media Services (AVMS) Directive

- an adequate technical infrastructure to enable the station to meet acceptable technical transmission requirements, both video and audio

Promoting Education, Culture and the Arts and the National Identity

Broadcasting stations that are to be assigned a GIO status would generally be expected to broadcast content of an educational nature and to include in their schedules programmes that are intended to promote our national identity, the Maltese language, as well as culture and the arts.

In this respect, broadcasting schedules are to specifically include the following programmes:

- a programme, at least on a fortnightly frequency and of a duration of not less than 30 minutes, that focuses on the island of Gozo and, in particular, that highlight Gozitan society, culture and way of life
- a programme, likewise at least on a fortnightly basis and of a duration of not less than 30 minutes, that focuses on Maltese communities abroad
- the transmission, on a weekly basis, of a calendar of current local cultural activities and events. This information can be incorporated within a programme of an appropriate nature such as a breakfast show or a magazine programme
- at least one programme during a period of three consecutive months intended to advance the Maltese language, which programme shall be of a duration of not less than 30 minutes but which can be broadcast as a number of segments in successive programmes. This requirement has already been included in the provisions of the Code on the Correct Use of the Maltese Language in the Broadcasting Media
- the transmission, during the October – June schedule, of at least one drama programme in the Maltese language, preferably an original drama by a Maltese author. The duration of this programme would be at the broadcaster's discretion.

Apart from the above-mentioned specific requirements, due weighting will also be given in the assessment process to programmes that enhance public knowledge and appreciation of Maltese history, our heritage and of the arts.

In the case of the first two of the above-mentioned requirements, the Authority would be prepared to consider requests for exemptions if it is satisfied that these requirements are being satisfactorily met by other GIO broadcasting stations.

News and Current Affairs Programming

GIO broadcasters will generally be expected to broadcast at least one comprehensive news bulletin on a daily basis and of a minimum duration of thirty minutes. This duration could include segments dedicated to sports and financial news but should exclude advertisements.

Prospective GIO broadcasters therefore would need to provide satisfactory evidence that they have adequate resources to meet this requirement and would be expected to provide information *inter alia* on the following:

- the staffing and operational arrangements to be adopted to support the necessary news gathering and the provision of in-depth analysis
- the arrangements to be adopted for the gathering of international news

Moreover, GIO broadcasters would be expected to produce at least one current affairs programme per week during their October – June schedule.

Programming for Children

As television viewing forms part of the daily routine of most children and constitutes a key factor in their growth and development, GIO broadcasters would be expected to dedicate a reasonable proportion of broadcasting time to programming for children, although no specific proportion is being established in this context. In view of the particular importance that GIO broadcasters would be expected to assign to this

programme genre, the Authority is providing in an appendix to this document (Appendix II) a set of guidelines on good quality programming for children.

Programming that provides Access to Persons with Disability

Article 3c of the AVMS Directive provides that '*Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability*'. It is recognised that a comprehensive and immediate application of this requirement would, in the local context, create significant technical, financial and human resource difficulties for television broadcasting stations. Therefore, at this initial stage, GIO broadcasters would be expected to meet the following requirements:

- to broadcast either a short daily news bulletin or at least thirty (30) minutes of weekly programming for persons with a hearing disability. These latter programmes can be foreign programmes with subtitles in Maltese or English;
- to provide running headings with their main news bulletins, including the sports news and weather report sections of the news bulletins.

Broadcasting Content Prepared by Independent Producers

Article 5 of the AVMS Directive states that '*Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10% of their transmission time, excluding the time apportioned to news, sports events, games, advertising, teletext services and teleshopping, or alternatively, at the discretion of the Member State, at least 10% of their programming budget, for European works created by producers who are independent of broadcasters*'.

Prospective GIO broadcasters will be expected to provide satisfactory evidence that they would be meeting, on the basis of the first of the two above-mentioned options (i.e. 10% of transmission time), this AVMS Directive requirement. In fact, such a requirement is already largely being met by the existing local television broadcasters.

NON-MANDATORY CRITERIA

A Comprehensive and Accurate Information Service in the Interests of a Democratic and Pluralistic Society

GIO broadcasters would generally be expected to provide a comprehensive and accurate information service in the interests of a democratic and pluralistic society and although, in this respect, no mandatory programming requirements are being established, appropriate weighting will be given in the selection process to proposals with regard to:

- the amount and scheduling of informative programmes;
- the range of subjects to be covered in such programmes, which could include topics of a social, cultural, religious, educational, environmental, economic, industrial or political nature.

Promoting a Healthy Lifestyle

GIO broadcasting stations would generally be expected to adopt a programming strategy with a sense of social responsibility and would therefore also be expected to include programmes, or segments in programmes, in their schedules intended to promote a healthy lifestyle. These programmes could be of various genres and would obviously also include sports programmes.

In the local broadcasting scenario, sports programmes have long been limited to the simple studio format featuring a number of guests who more often than not are exclusively focused on local football. GIO broadcasters would be expected to cover a wider range of sporting disciplines. With close to 50 different

national sporting associations on the Island, stations are spoilt for choice in identifying different disciplines that can be packaged into interesting sports programmes.

Sports programmes on GIO stations should be of an acceptable quality and the Authority has therefore prepared a set of guidelines on good quality sports programming which is attached as Appendix III to this document.

Promoting Environmental Awareness and Education

Malta, as in the case of most other developed countries, is witnessing a growing public interest in environmental issues, and although, in this respect, it may not be appropriate to establish mandatory programming requirements, due weighting will be given to programmes that are intended to:

- increase public awareness and education about local environmental matters and issues
- sensitise and educate the public on international environmental issues

Proposed GIO Eligibility Criteria for 'Niche' Broadcasting Stations

As already indicated, the Policy and Strategy adopted by Government for Digital Broadcasting that Meets General Interest Objectives envisages the possibility of assigning GIO status to 'niche' broadcasting stations and enabling provisions for the purpose have therefore been included in the proposed amendments to the Broadcasting Act.

The eligibility criteria being proposed for 'niche' broadcasting stations are, for obvious reasons, of a different nature to those being proposed for 'generalist' stations and will be limited to the following:

- the adoption, on an ongoing basis, of broadcasting schedules based on quality programming across the full range of public tastes and interests ***in the 'niche' area in respect of which the broadcasting station has been licensed.*** For example, a GIO 'niche' music channel would be expected to include in its programme schedule a list of programmes covering a wide variety of music genres, while a GIO 'niche' education channel would be expected to satisfy the educational and cultural aspirations of a wide spectrum of society. Broadcasting content which is unrelated or only broadly related to the 'niche' for which the station has been licensed would not be allowed;
- GIO 'niche' broadcasting channels would also generally be expected to promote the national identity in the areas in respect of which the station has been licensed e.g. the promotion of music by Maltese composers in the case of a music channel and the promotion of the Maltese language, culture and heritage in the case of an education channel;
- except in the case of dedicated GIO news channels, GIO 'niche' channels will not be allowed to carry any news bulletins, unless these news bulletins are intended to report on developments pertaining to the 'niche' for which they have been licensed;
- a daily broadcasting schedule of a minimum duration of twelve (12) hours at any time between 07.00 hours and 23.00 hours. The re-transmission (simultaneous or delayed) of broadcasting content aired on other broadcasting stations or of content relayed on other electronic media, in both cases of the same genre for which the station has been licensed, will be allowed. This re-transmission would be subject to the following conditions:
 - that re-broadcasting rights, where these are applicable, have been duly obtained;
 - that the duration of this re-transmission does not exceed a total of two (2) hours out of the above-mentioned mandatory broadcasting time-table, although additional re-transmission of content of the genre for which the station has been licensed will be allowed outside the mandatory time-table.

The re-transmission of static information displayed on other electronic media cannot be considered as transmission time for the purpose of the mandatory broadcasting time-table.

- the duration of repeat programming is not to exceed 30% of total mandatory broadcasting time computed over a period of one calendar year; although no limit on repeat programming is being established during the non-mandatory broadcasting time-table. In this respect, repeat programming refers to programmes originally broadcast on the station during the same calendar year. This requirement would not apply to a niche news channel which by its very nature requires a repetition of the same news bulletin at different intervals of the day;
- no advertising to be allowed during periods of the day when no broadcasting is being carried out; otherwise, advertising is to be regulated by the pertinent provisions of the Broadcasting Act;
- teleshopping programmes not to exceed a period of two hours during the mandatory broadcasting time-table. Otherwise, no limits on the duration of teleshopping is to be imposed during the other hours of the day, this in line with new provisions in the EU Audio-Visual Media Services (AVMS) Directive;
- an adequate technical infrastructure to enable the station to meet acceptable technical transmission requirements, both video and audio.

The Proposed GIO Selection Process

In line with the parameters established in the relative Government Policy and Strategy, the Broadcasting Authority proposes to conduct a two-stage process for the selection of GIO broadcasters.

The **first stage** of the process will be a qualifying one and will be limited to existing licensed analogue free-to-air broadcasters, namely NET Television, One Television and Smash Television. Television Malta (TVM), as the public service broadcaster, is already deemed to be a '*de facto*' GIO broadcaster (as already indicated in a previous part of this document).

Once the required amendments to the Broadcasting Act have been enacted, the above-mentioned broadcasters will be invited to formally express their interest to assume a GIO status, in which case they will also be expected to provide detailed programming information to the Authority in respect of their broadcasting schedule for October 2010 – June 2011, proving that they would be in a position to meet the criteria to be established by regulation following the conclusion of this consultation process. In this respect, the Authority recognises that broadcasting stations would only be in a position to provide detailed programme information if this qualifying process is conducted within a reasonable time before the commencement of the broadcasting schedule. It has to be pointed out that the programming and other proposals to be submitted to the Authority in the context of this exercise will be binding on the stations if and once they have been assigned a GIO status.

The Authority will then conduct a detailed evaluation of the proposals and other information submitted by the applicants, which will constitute a basis for its decisions.

Once the first stage of the process has been completed, the Authority will embark on the **second stage**, which will, however, now be a competitive one. In this case, the assignment of GIO status will be dependent both on the residual space on the GIO multiplex as well as on the proposals and, where applicable, the past performance of the applicants.

This competitive stage of the process will be applicable to two categories of applicants, namely:

- i) existing holders of a television broadcasting licence who, however, have not been assigned an analogue frequency to broadcast on a free-to-air basis and who, in principle, could be in a

position to satisfy the criteria listed in previous parts of this document. At present, the broadcasting stations in this category are *Education 22*, *Favourite Channel* and *Calypso Music TV*. Also in this case, applicants would be expected to submit binding programming proposals and other information to prove that they can satisfy the criteria to be established by regulation;

- ii) applicants for a new television broadcasting licence and who are interested in the assignment of GIO status. In this case, applicants would, in the first instance, need to satisfy the requirements of the application process for a new broadcasting licence provided for in the Broadcasting Act and, only if this application is successful, would they be subsequently included in the relative competitive process together with the other category of applicants, in which case they would then also be expected to submit the binding programming proposals indicated in the previous subparagraph. It has to be pointed out, in the case of this category of applicants, that in the event that their bid for GIO status is not successful, their broadcasting licence would only remain valid if they satisfy the Authority that they have concluded arrangements with a network operator for the carriage of their content.

The Broadcasting Authority would then carry out a detailed evaluation of the proposals and an order of priority would be established for those stations who are deemed to satisfy the established GIO criteria.

Provided that the required amendments to the Broadcasting Act have been enacted in due time, the Authority hopes to complete this assignment process well ahead of the established digital switchover date.

Reactions to Consultation Document

Reactions to the proposals being made in this Consultation Document as well as to the provisions of the Draft Multiplex Licence, a copy of which is attached to this document, are to be submitted by Friday, 23rd April 2010 and should be addressed to:

The Chief Executive
Broadcasting Authority
7 Mile End Road
Hamrun
HMR1719
E-mail: anna-maria.buhagiar@ba.org.mt
Fax: 21240 855

22nd March 2010

PBS Multiplex Licence

This Licence is being issued by the Broadcasting Authority with the object of regulating the operation of a multiplex service in respect of broadcasting that meets general interest objectives..

Article 1. Definitions and Interpretation

unless the context otherwise requires :

- 1.1. "Authority" means the Broadcasting Authority established under article 118 of the Constitution of Malta.
- 1.2. "Act" means Chapter 350 of the Laws of Malta.
- 1.3. "Multiplex" means a number of GI broadcast stations together with any related ancillary digital services such as EPG, that are grouped together for broadcast over a digital TV channel.
- 1.4. "Multiplex Service" means the broadcast of the Multiplex over one or more digital TV channels for consumption by the public.
- 1.5. "General Interest broadcast station" or "GI broadcast station" means a broadcast station which has been issued with a general interest broadcast licence.
- 1.6. "Commencement Date" means the **[enter date]**.
- 1.7. "Expiry Date" means **[enter date]**.
- 1.8. "the Licensee" means **[enter name of licensee including company details, if applicable]**.
- 1.9. "broadcaster" means the natural or legal person who has editorial responsibility for the GI broadcast station.
- 1.10. "*Business Day*" shall be construed as 08:00 to 17:00 Monday to Friday, excluding Saturdays, Sundays and public holidays in Malta.

Article 2. Grant of Licence

- 2.1. By virtue of this Licence, the Authority hereby grants to the Licensee the authorisation to operate the Multiplex Service in accordance with the conditions stated in this Licence.
- 2.2. The Licensee shall comply with any direction, code or guideline issued from time to time by the Authority to the Licensee in relation to the operation of the Multiplex Service.
- 2.3. The Authority may amend the Licence in any respect provided that any such amendments may only be made in objectively justified cases:

Provided that the Authority before making any such amendment shall give notice in such manner as it considers appropriate of its intention, inviting interested parties in particular GI broadcast stations, to make representations on the proposed amendments within such period of not less than thirty (30) calendar days as may be specified in the notice. The Authority may in circumstances which it considers to be exceptional, shorten such period.

- 2.4. This Licence is non-transferable.

Article 3. Duration of Licence

- 3.1. This Licence shall commence on the Commencement Date and shall remain in force until the Expiry Date, unless otherwise lawfully terminated in accordance with the Act and/ or this Licence.
- 3.2. Unless otherwise communicated by the Authority to the Licensee at least two (2) years prior to the Expiry Date of the Licence, this Licence shall be renewed for further periods of eight (8) years upon expiry of the term mentioned in article 3.1 of this Licence:
- 3.3. Without prejudice to the Authority's right not to renew the Licence beyond the term of this Licence, this Licence may not be renewed should any of the following conditions occur:
- i) any laws, directives, and, or decisions however so described of the Authority are breached by the Licensee;
 - ii) the overriding policy need arises.

Provided that the decision not to renew the Licence is based on justifiable grounds.

Provided further that the Authority before making any such amendment shall give notice in such manner as it considers appropriate of its intention, inviting interested parties in particular GI broadcast stations, to make representations on the proposed amendments within such period of not less than two (2) years from the date when this Licence expires.

Article 4. Operation of the Multiplex

- 4.1. Subject to unforeseen circumstances, the Licensee is to ensure that the Multiplex Service shall be fully operational as from midnight of **[enter date]**.
- 4.2. The Licensee shall ensure that the Multiplex Service shall not be unavailable to the public in excess of twenty four (24) hours in any given calendar year

Provided that in the case of scheduled suspension of the Multiplex Service due to maintenance required on any equipment required to operate the Multiplex Service as specified in and carried out in accordance to 4.3 shall not be considered as downtime for the purposes of clause 4.2.

- 4.3. In case of a proposed suspension of the Multiplex Service due to maintenance, upgrades or any work required on the GI Network, the Licensee shall use reasonable efforts to give five (5) calendar days notice to the Authority and to all broadcasters prior to the suspension taking effect.
- 4.4. If within the first 3 days of the 5 day notice period, either the Authority or any of the broadcasters has reasonable objection to the proposed suspension of service, the Licensee shall endeavour to reschedule the suspension of service accordingly.
- 4.5. The Licensee shall ensure that independently verifiable records of service availability are kept at all times for the duration of the Licence.
- 4.6. The Licensee shall do all that is reasonably possible to meet the needs of persons with disability with respect to the services provided by the Multiplex Service. In particular, it shall ensure that all features, such as subtitling and audio description, aimed at the said group of end-users and made available by GI broadcast stations are made available through the Multiplex Service at all times.

Article 5. Subcontracting

- 5.1. The Licensee may sub-contract the operation of the Multiplex Service, in part or in full, subject to the prior consent of the Authority.
- 5.2. In determining whether or not to consent to the sub-contracting agreement, the Authority shall take into account, *inter alia*, the integrity and abilities of the sub-contractor to fulfil its rights, obligations and liabilities arising by virtue of the sub-contracting arrangement.
- 5.3. Where the Licensee sub-contracts, in part or in full, the operation of the Multiplex Service:
 - i) The Licensee shall in no way retract from its obligations and/or liabilities arising under this Licence; and
 - ii) no obligations and/or liabilities arising by virtue of this Licence are transferred to the sub-contractor.

Article 6. Composition of the Multiplex

- 6.1. The Multiplex Service will be used exclusively for the distribution of GI broadcast stations and under no circumstances will broadcast stations other than such GI broadcast stations be allowed to be included in the Multiplex.
- 6.2. The Licensee shall distribute up to six (6) GI broadcast stations, as identified by the Authority, over the Multiplex or such other number of GI stations as the Broadcasting Authority may from time to time determine.

Article 7. Carriage fees levied on broadcasters

- 7.1. Fees charged to broadcasters included in the Multiplex are to be determined in line with the non-profit nature of the Multiplex Service as set out in the principles established by the policy document, and are to be approved by the Authority.
- 7.2. The approved fees are to be made public.

Article 8. Equitable Access

- 8.1. The Licensee shall not engage in any practice or enter into an arrangement or give effect to any arrangement which is prejudicial to the fair and equitable access of a particular GI broadcast station or stations.
- 8.2. The Licensee shall comply with any direction, code or guideline issued from time to time by the Authority to the Licensee for the purposes of ensuring fair and equitable access to all GI broadcast stations for the provision of GI broadcasting.
- 8.3. The Licensee shall not show undue discrimination either against or in favour of a particular GI broadcast station or stations.

Article 9. Provision of Information to the Authority

- 9.1. The Licensee shall facilitate and ensure access to any information that the Authority may, in accordance with its functions at law, request. In particular, the Licensee shall promptly provide the Authority, in such a manner and at such times as the Authority may reasonably request, any information related to any agreements for the operation of the Multiplex, or any other information that the Authority considers necessary to ensure compliance with this Licence and, or with the provisions of any law, or for statistical purposes.

- 9.2. The Licensee shall ensure that any person authorised in writing by the Authority is permitted at reasonable times to enter any premises of the Licensee with the Licensee in order to:
- i) Inspect or examine any documentation related to the operation of the Multiplex Service and to the arrangements made with GI broadcast stations; and
 - ii) Inspect and examine all statutory books and financial and other business records of the Licensee in relation to arrangements made with GI broadcast stations and to the operation of this Licence.
- 9.3. The licensee is to keep separate accounts in such form as instructed by the Authority. The Licensee shall supply the Authority with:
- (a) Half-yearly income and expenditure returns and supplementary annexes in such form and at such times as the Authority shall require;
 - (b) Statements of its multiplex revenue at such times as the Authority may specify and also in respect of each accounting period in such form as the Authority may require.
 - (c) Quality of service records as reasonably specified by the Authority from time to time.

Article 10. Technical Standards

- 10.1. Each broadcasting channel that is broadcast on the Multiplex Service shall consist of a single MPEG-2 4:2:0 PAL video component and an MPEG-1 Layer - 2 audio in either Mono or Stereo Modes. Additionally, each broadcasting channel may have an embedded teletext according to standard System B (ETSI EN 300 472) capped to 380Kbps.
- are to be transmitted free from any form of encryption.
 - shall be encoded using the MPEG-2 4:2:0 PAL video system in standard format as defined in ISO/IEC 13818-1 [5] and ETSI TS 101 154 [3].
- 10.2. The multiplex shall support 4:3 or 16:9 display formats, which format is to be decided by the broadcaster.
- 10.3. Broadcasts over the multiplex should be encoded in such a way to ensure that all of the available bit-rate on the multiplex is utilised in the most efficient manner thus maximising the broadcasting quality.
- For this purpose, unless otherwise directed by the Broadcasting Authority, the Licensee shall utilise statistical multiplexing techniques as part of its head-end. Furthermore, the Licensee shall ensure that the configuration of the multiplexor(s) in use apply(ies) equal prioritisation to each and every broadcaster stream in a manner that ensures that the average picture quality of each station is at par.
- 10.4. The Licensee shall assign the logical channel numbers to each of the GIO stations as instructed by the Broadcasting Authority.
- 10.5. The Licensee shall ensure that it transmits EPG information using the mandatory fields of the DVB-SI standard, provided that the broadcaster provide the necessary EPG listing information in the required format and that this is received by the Licensee within 14 calendar days in advance of the listing.
- 10.6. The transmissions of the Multiplex Service shall conform to the mandatory technical features of the DVB-T standard.
- a) EN 300 468 v1.7.1 - Specification for Service Information (SI) in DVB systems
 - b) EN 300 472 V1.3.1 - Specification for conveying ITU-R System B Teletext in DVB bitstreams

- c) MPEG-PSI (ISO/IEC 13818, February 2000) standards

Article 11. Complaints received

- 11.1. The Licensee shall adopt procedures acceptable to the Authority for handling complaints in respect of the operation of the Multiplex Service, and shall ensure that such procedures are duly observed.
- 11.2. If, in the opinion of the Authority, the number or nature of complaints referred to the Authority indicate (or if the Authority otherwise becomes aware) that the Licensee's complaint handling procedures are not adequate, the Authority may require the procedures to be reviewed and improved.
- 11.3. The Licensee shall for a period of two (2) years keep a written record of any complaints received in respect of the Multiplex Service and of any response given in relation to any such complaint by the Licensee and shall make such records available to the Authority in writing at such times as the Authority may require.
- 11.4. The Licensee shall adopt procedures acceptable to the Authority for handling complaints received from broadcasters in respect of any matters related to the operation of the Multiplex Service, and shall ensure that such procedures are duly observed. Furthermore, the Licensee shall co-ordinate with all involved person or persons to ensure that the complaint is duly remedied.
- 11.5. Where a dispute however so described arises between the Licensee and a broadcaster or broadcasters further to a complaint by a broadcaster or broadcasters, any party to such a dispute may refer the dispute to the Authority:

Provided that in making a complaint the broadcaster or broadcasters must *prima facie* show that he or they have been affected by the act or omission of the Licensee giving rise to the complaint and that the Licensee was allowed reasonable time to remedy the complaint.

- 11.6. Upon receipt of any reference as aforesaid, or upon otherwise becoming aware of any such dispute that the Authority believes should be investigated, the Authority shall notify all the parties to the dispute that the matter is being investigated. In doing so the Authority shall regulate its own procedure, which procedure shall, as far as is reasonably possible, be transparent, simple, inexpensive and conducive to a prompt and fair settlement of the dispute, and shall afford all parties to the dispute reasonable opportunity to make their submissions and to produce any relevant information:

Provided that the Authority may decide not to initiate an investigation in accordance with this article where it is satisfied that other means of resolving the dispute in a timely manner are available to the parties or if legal proceedings in relation to the dispute have been initiated by any party to the dispute.

- 11.7. The Authority in resolving any disputes referred to it under this article, may issue directives to the Licensee requiring the Licensee to comply with any measure the Authority may specify for the resolution of the dispute. Such directives may, having regard to its determination of the dispute and to all other relevant matters, include an order to effect the reimbursement of payments received or to make compensation payments. Such payments may also include the whole or part of the costs of any party relating to the engagement of a lawyer and, or of a technical adviser in relation to any submissions relating to the dispute.
- 11.8. The Authority shall make publicly available any administrative procedures it may from time to time establish in relation to the handling of any disputes referred to it under this article.

11.9. In issuing a decision under this article the Authority shall state the reasons on which it is based, and shall, subject to such requirements of commercial confidentiality as it may deem appropriate, notify the parties to the dispute with a copy of the decision.

11.10. The Authority shall publish notice of a decision given under this article and shall indicate where copies of or information regarding the decision may be obtained.

Article 12. Sanctions for breaches of conditions

12.1. Sanctions for breach of conditions shall constitute an administrative offence in terms of article 41 and the Fifth Schedule to the Broadcasting Act.

Guidelines on Good Quality Programming for Children

Good quality programming for children should meet the following requirements:

- Children's programmes should include prosocial elements. Quality content targeted for children should present and interweave positive values like cooperation, self-control, appreciation of others, helping, sharing, understanding and appreciation of diversity. Also they should help the children to understand that in order to live within the societal norms; jealousy, greed and anger are feelings that must be controlled. Stories must generally reflect respect for law and order, guardians, mentors, elders and fellow human beings. Stories should clearly portray good morals e.g. hero and villain characters must be distinguishable, and the lifestyles of gangs and gangsters should not be portrayed as desirable.
- Children's programmes should foster emotional intelligence. "Inter-personal Intelligence is the ability to relate to and understand others. Intra-personal Intelligence is the ability to self reflect and understand inner emotions and identify strengths and weaknesses. Emotional intelligence combines the two intelligences and helps a child to manage their feelings and emotions as well as empathize with the feelings and emotions of others".
- Children's programmes should be age-specific and age-appropriate. The content of the programmes should be appealing to the age-group it is trying to target. Presenters should communicate with children in a non-patronizing way and use language and material which is age-appropriate.
- Children's programmes should be stimulating. A young mind is eager to absorb and ready to be inspired. The content should stimulate the child's imagination and expand their understanding of and also his or her interaction with the real world.
- Children's programmes should be interactive. Interaction should take place with the audience if any and with the viewers. Communication should be appropriate and children not used as a backdrop or passive receivers of information.
- Children's programmes should be creative. Young people should be encouraged to foster their creativity and imagination. Introduction of fantasy in some programmes and creative space provided for both the audience and the viewers will help in this aspect. The concept of originality should be fostered within the production of the programme and also in the content.
- Children's programmes should be accessible. Producers should strive to incorporate visuals and/or sign language for the hearing impaired.
- Children's programmes should promote a healthy physical and psychological lifestyle. Programming should include educational material about nutritious food, sport and exercise, promotion of hobbies and how to tackle traumas.
- Stereotypes and Gender. Language used should be gender-neutral and presenters should avoid using gender loaded language and material. They should also avoid using stereotypical language and material.
- Producers should strive to invite a heterogeneous audience and participants for children's programmes. The children invited should be a mix of girls and boys, Maltese and different minorities and different abilities.

- Media Education. Every broadcasting station should dedicate a programme every season or slots in programmes about media education targeted for children. The educational aspect is that children will learn from an early age how to access, evaluate and analyse media products.
- Children's programmes should be current. Good quality programmes should reflect the time and age we are living in. They should appeal to children so as to be able to identify with the content.
- Programming for young viewers shall feature news and current events as well as cultural and artistic expressions.
- Children's programmes including cartoons must steer away from excessive violence especially if featuring humans or human-like characters.

Guidelines on Sports Programmes

Sports programmes on GIO stations should be of an acceptable quality and should therefore meet the following criteria:

- the topic is well researched and the presenter is well versed on the topic/subject/discipline being tackled
- the information is topical, factual and immediate. As sporting events tend to date almost immediately, stations should strive to present the latest news and views on both local and international sports
- a sport programme should attempt to go beyond the simple format of being a notice-board of results of various sporting disciplines broadcast in an orderly fashion
- a sport programme should have adequate location filming of various disciplines, coupled with creative editing that elicits the joys, anguish and human emotion of the proceedings
- diverse opinions are sought and encouraged without the need to elicit controversy in each and every show. Supporters of different and opposing sides should be represented, as ultimately any sporting concept is a competition between individuals and groups.

Programming should also include an educational aspect that conveys the essential message that sports is crucial for healthy living. Youngsters participating in sporting activities or sports for all events such as the Olympic Day Run, Swimathon, etc. should be adequately covered by General Interest Objective stations.