



Renewal of Channel 3  
licences: proposed changes to  
licensed area for Wales and West  
of England Licence and South  
West of England Licence

Statement

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## Section 1

# Summary

- 1.1 In 2004, Ofcom issued digital replacement licences under the Communications Act 2003 (“the Act”) for the operation of the regional Channel 3 services, the National Breakfast licence and Channel 5 (“the Licensees”). These licences are due to expire on 31 December 2014. Under the provisions of the Act, the licensees may apply to renew their licence(s) for a further period of 10 years. Applications for licence renewal have been received from all the current licensees.
- 1.2 On 21 February 2013 Ofcom published a consultation setting out proposals to amend the geographic scope of the Channel 3 licences for Wales, the West of England and the South West of England from 1 January 2015.<sup>1</sup>
- 1.3 This was one of three consultations that Ofcom published on the same day regarding the proposed renewal of the Channel 3 and 5 licences. The other two consultations related to the programming commitments for Channel 3 and Channel 5 licensees under their existing licences and the methodology for setting the financial terms for Channel 3 and Channel 5 licences from 1 January 2015.
- 1.4 Ofcom has carefully considered the contributions in response to the consultation.<sup>2</sup> These contributions have been summarised in Section 3.
- 1.5 In light of the responses to the consultation, we have decided it is appropriate to amend the geographic scope of the Channel 3 licences for Wales, the West of England and the South West of England in order to create two separate licences: one for Wales and one for the West & South West of England from 1 January 2015.

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/consultations/c3-licensed-area/>

<sup>2</sup> <http://stakeholders.ofcom.org.uk/consultations/c3-licensed-area/>

## Section 2

# Background to the consultation

## Statutory requirements and background

- 2.1 The existing regional Channel 3 licences, the National Breakfast licence and the Channel 5 licence expire on 31<sup>st</sup> December 2014.
- 2.2 The Act places a duty on Ofcom to report to the Secretary of State about matters which are relevant to the question of renewal of the Channel 3 and Channel 5 licences. As required under section 229 of the Act, we submitted a report to the Secretary of State in May 2012.<sup>3</sup> This report set out our views as to whether the existing licence holders would be able to contribute, at a commercially sustainable cost, to the fulfilment of public service broadcasting purposes in the 10 years following expiration of their licences. It was then open to the Secretary of State to act in one of three different ways:
- to intervene to block licence renewal, requiring Ofcom to auction the vacant licences;
  - not to intervene, so that Ofcom proceeds with the renewal process; or
  - to extend the existing licences for a number of years.
- On 21 November 2012, the Secretary of State published a statement making clear that she did not intend to block the renewal of the existing licences.<sup>4</sup>
- 2.3 Under section 216 of the Act, Ofcom may decide not to renew a licence if it is not satisfied that the existing licence holder (if his licence were renewed) would continue to meet the requirements set in its existing licence in relation to:
- the public service remit for the licensed service;
  - programming quotas;
  - news and current affairs programmes; and
  - programme production and regional programming.
- 2.4 We indicated in our section 229 report that we are satisfied that the existing licensees would be able to meet these requirements if their licences were to be renewed for a further 10 years. In light of the Secretary of State's statement, we are therefore continuing with the renewal process of the regional Channel 3 licences, the National Breakfast licence and the Channel 5 licence.
- 2.5 Section 216 of the Act requires that renewal must be on the same terms and conditions subject to the following: the geographic scope of Channel 3 licences and the financial terms of the licence. This consultation was concerned with the first of

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<sup>3</sup> <http://stakeholders.ofcom.org.uk/broadcasting/tv/c3-c5-licensing>

<sup>4</sup> <http://www.culture.gov.uk/publications/9535.aspx>

these provisos; a modification to the geographic scope of two of the Channel 3 licences.

- 2.6 Under section 216A of the Act, for the purposes of renewal of a Channel 3 licence, such a modification:
- must include all or part of the area to which the licence currently relates; and
  - may include all or part of another area if the holder of the licence for the other area gives (and does not withdraw) consent before the determination is made.
- 2.7 Any proposal to modify the geographic scope of a Channel 3 licence must be consistent with our general statutory duties (as set out under section 3 of the Act). Section 3(1) of the Act provides that it shall be Ofcom principal duty in carrying its functions to:
- further the interests of citizens in relation to communications matters; and
  - further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.8 In carrying out our duties, we must have regard to the considerations listed in section 3(4) of the Act to the extent this may appear to be relevant. These include:
- the opinions of consumers in relevant markets and of members of the public generally;
  - the different interests of persons in the different parts of the United Kingdom.
- 2.9 As set out above, this consultation only related to the proposed modification of the geographic scope of the Channel 3 licences for Wales, the West of England, and the South West of England. We consulted separately on proposed changes to the licences programming commitments so that, subject to consultation, any changes to the terms of the licences will take place prior to any renewal.
- 2.10 Subject to the licensee's consent, this consultation proposed to remove the West of England from the Wales and West of England licence to attach this sub-region to the South West of England licence. This would result in the creation of two separate licences: one for the West & South West England and one for Wales.

## Section 3

# Consultation responses

- 3.1 We received a total of 10 responses; five from interested organisations (ITV, the Ofcom Advisory Committee for Wales, Plaid Cymru, the Welsh Government and the Welsh Conservative party) and five from individuals. Four of the five individuals were either members of the Welsh Assembly or a Member of Parliament. Copies of non-confidential responses can be found on the Ofcom website.<sup>5</sup>
- 3.2 One individual's response commented only on the programming obligations for Channel 3. This was the subject of a different consultation, and the individual's remarks will be taken into account in that consultation statement.
- 3.3 All other respondents agreed with our proposal to make changes to the geographical areas of the Wales and West of England Licence and to the South West of England licence, to create stand-alone licences: one for West and South West England and one for Wales. As part of their submission, several respondents noted that this proposal reflected that Wales is a devolved nation and that this was in the interest of those residing in Wales.
- 3.4 ITV Broadcasting Limited reconfirmed that it does consent to these proposals.
- 3.5 Several respondents noted the need to ensure that public service programming obligations should not be eroded in the new licence term. As already noted, the programming obligations for the next licence term are subject to a separate consultation process.

## Conclusion

- 3.6 Having carefully considered all the responses to the consultation we have concluded it is appropriate to amend the geographic scope of the Channel 3 licences for Wales, the West of England and the South West of England in order to create two separate licences: one for Wales and one for the West & South West of England. We will write to ITV Broadcasting Limited to formally notify it of our decision and will vary the affected licences with effect from 1 January 2015.

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<sup>5</sup> <http://stakeholders.ofcom.org.uk/consultations/c3-licensed-area/?showResponses=true>