

**EXPLANATORY MEMORANDUM TO
THE BROADCASTING DIGITAL TERRESTRIAL SOUND (TECHNICAL
SERVICE) ORDER 2006**

2006 No. 2793

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 “Technical services” are a type of signal that can be found carried on a digital radio multiplex service, which is the means by which digital audio broadcasting (“DAB”) and digital additional services (i.e. data services) are broadcast. They are not themselves DAB programmes or data services, but are signals connected with the encryption or decryption of such programmes or services. This Order adds a new category of technical service to the definition, namely, signals connected with the encryption or decryption of television programmes. That is because technological developments, followed by changes in the relevant legislation (mainly the Broadcasting Act 1996), have made it possible for television services now to be carried on digital radio multiplex services.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Order is made under section 63(3)(b) of the Broadcasting Act 1996, which gives power to specify certain services as “technical services”. The services that may be so specified¹ are those provided “for technical purposes connected with the encryption or decryption of one or more digital sound programme services², television licensable content services³ or digital additional services”. One effect of doing so is to distinguish technical services from “digital additional services” as defined in section 63, so that the former will not require to be licensed in their own right by Ofcom.

4.2 A service “consisting of the transmission of electronic signals... by means of which access to programmes or other information included in digital sound programme services or digital additional services is controlled” (so that only those authorised to receive the services in an intelligible form can do so) is already specified as a technical service.⁴ The 2006 Order adds a service consisting of the transmission of signals to control access to programmes or other information included in television licensable content services.

¹ See section 63(3)(a).

² i.e. DAB services.

³ The reference to television licensable content services was added by article 5(10) of SI 2006/2131.

⁴ See article 2 of the Broadcasting Digital Terrestrial Sound (Technical Service) Order 1998 (SI 1998/685, as amended by SI 2003/2155).

4.3 The Order has become necessary because of technological developments which have made it possible for television programmes to be carried on digital radio multiplexes, alongside DAB and data services. The legislative changes needed to give effect to this were made by the Television Licensable Content Services Order 2006 (SI 2006/2131).

5. Extent

5.1 This instrument applies to all of the United Kingdom. It also extends to Jersey and Guernsey but not to the Isle of Man, because the amendments referred to above that allow television services to be carried on a digital radio multiplex service do not extend there.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The reasons for extending the law to allow television channels to be carried alongside DAB and data services on a digital radio multiplex service was set out in the Explanatory Memorandum to the Television Licensable Content Services Order 2006.⁵ The changes made by this Order are technical in nature and a necessary consequence of the substantive changes. Without this Order, technical services connected with television channels on a digital radio multiplex service would require separate licences, which would be an unnecessary burden and put such services in a different position from DAB and data services for no good reason.

7.2 No consultation has been conducted for this Order specifically, since (as explained above) it is a necessary consequence of the substantive legal changes. Those substantive changes were, however, the subject of public consultation conducted by the Department for Culture, Media and Sport.⁶ The majority of the responses (71%) supported the Government's proposals to allow TV services to be carried on a radio multiplex and to increase the level of data limits on a radio multiplex.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The instrument has no impact on the public sector.

⁵ Available at www.opsi.gov.uk/si/em2006/uksiem_20062131_en.pdf.

⁶ See http://www.culture.gov.uk/NR/rdonlyres/82BFEEF8-3266-4597-B6C5-C8002EACBFF2/0/ConsultationBroadcasting_radio.pdf. A summary of responses can be found at http://www.culture.gov.uk/NR/rdonlyres/0DDCF8AF8-3C71-4157-8753-8CCDCF9C8DF1/0/data_limits_summary.pdf.

9. Contact

John Mottram at the Department for Culture, Media and Sport (telephone 020 7211 6414, or e-mail John.Mottram@culture.gsi.gov.uk) can answer any queries regarding the instrument.