

# **Guidelines for fair, reasonable and non-discriminatory allocation of capacity on Multiplex B operated by BBC Free To View Limited**

## **1 Notification of availability**

1.1 When seeking to allocate capacity on its multiplex, the BBC shall use reasonable endeavours to:

- a) notify potential capacity users of the availability of such capacity. This may, if appropriate, include advertising the availability of the capacity in appropriate journals; and
- b) give potential capacity users sufficient time to express an interest in the available capacity and negotiate terms with and, where appropriate, prepare a bid for submission to the BBC.

1.2 The BBC shall use reasonable endeavours to give advance notice to potential capacity users where an existing contract is coming to an end.

## **2 Selection of content providers and terms offered**

2.1 The BBC will enter into discussions on price and terms with the potential capacity users based on the principles set out in the BBC's Fair Trading Guidelines and in paragraph 2.2 below. The price charged by the BBC must, at a minimum, cover the BBC's costs of providing access and must, in any event, be compliant with the legal obligations imposed on the BBC.

2.2 In agreeing prices and other terms and conditions, the BBC will not unduly discriminate between potential capacity users. Any difference in treatment will be based on objective factors (which may include but are not necessarily limited to) some or all of the following:

- a) the uses to which the capacity will be put, including the attractiveness of content to viewers and the ability of content to attract new viewers, and compatibility with the BBC's Fair Trading Guidelines;
- b) cost differentials;
- c) the level of commercial risk to be undertaken by the BBC in contracting with the potential capacity users – which will be affected, for example, by certainty of income, the length of the contract and the level of risk;
- d) market conditions at the time at which the contract is negotiated; and
- e) legal obligations.