



## **Request for Proposal for the carriage of a Digital Television Programme Service on Multiplex PSB2 on the UK DTT Platform March 2024**

Digital 3 and 4 Limited ("D3&4") is pleased to invite offers from channel providers for a Digital Television Programme Service (a "channel") on the PSB2 Multiplex, one of the national multiplexes that forms part of the UK Digital Terrestrial Television (DTT) platform. The PSB2 Multiplex is broadcast from all 80 main stations and 1,000+ relays in the UK DTT network and currently covers around 98.5% of all UK households.

D3&4 anticipates being able to provide carriage of a single channel on the PSB2 Multiplex, subject to contract and the grant of an Ofcom DTSP licence, on the following headline terms:

- **Service:** Standard definition television channel (Full resolution; 128kb/s audio)
- **Anticipated Term Start Date:** April/May 2024
- **Term:** Offers will be considered to either 30 June 2025 or 31 December 2026
- **Hours:** 24 hours per day, 7 days per week
- **Terms:** A copy of D3&4's standard form contract will be made available to those successful in getting through to the final stages in this process.

### **Channel Provider Proposal Content**

Proposals should cover, at a minimum, the following:

#### **Proposed Use and Requirements**

1. Details of the proposed channel – genre, target audience and a draft 7 day programme schedule. Please include an assessment of the attractiveness of the content to viewers and the ability of the content to attract new viewers to DTT.
2. Proposed launch date.

#### **Company Information**

3. Details of the proposed contracting legal entity, registered number and address and, in the case of a subsidiary company, an organisation chart showing its relationship to the parent company.
4. A copy of the proposed contracting legal entity's latest published audited annual accounts. D3&4 also reserves the right to require further evidence of the party's ability to meet the cost of the contract throughout the term. Please note that D3&4 may require financial surety in respect of a party's ability to pay the charges payable under the contract (e.g. a bank or parent guarantee or other suitable security may be required).



## Commercial Terms

<b>Commercial Term</b>	
Proposed length of the contract term(s).	
Pricing in GBP (excl VAT)	
Against proposed contract term(s) a firm price offer, subject to contract, for the fee to be paid to D3&4 over the term of the contract.	
Confirmation of acceptance of the following invoicing terms: a. Invoices will be issued on a calendar year basis eg. For a service period starting in June, invoices will be from June to December inclusive. b. Invoices will issued 30 days advance of the service period c. Payment terms 30 days from date of invoice.	
Details of any qualifications or assumptions made by the channel provider.	

## Additional Obligations of the Channel Provider

1. Responsibilities of the channel provider will include:
  - Responsibility for all data, programming and any other content comprising the channel including the data streams required to transmit it together with appropriate indemnities relating to the channel content
  - Responsibility for obtaining the relevant Ofcom DTSP licence
  - Delivery, at the channel provider's cost, of the input signals to D3&4's point of contribution, located at D34's Network Interface Points at either the RedBee playout centre in London W12 or CTA2 at Blue Tower Media City, Salford.
  - Compliance with all applicable codes, including the D3&4 Technical Code, Ofcom's Broadcasting Code and the terms of the Ofcom licence for the channel.
  - Ensuring that the content broadcast is not persistently bandwidth intensive such as fast moving sports
2. The channel provider will also be required to contract with Everyone TV for the logical channel number required for the carriage of the channel on the DTT platform.



## **Timetable**

Channel Provider Proposal Submission deadline via [D34Enquiries@channel4.co.uk](mailto:D34Enquiries@channel4.co.uk) – 10<sup>th</sup> April 2024, 6pm.

## **Contacts during RFP**

Channel provider proposals should be submitted to [D34Enquiries@channel4.co.uk](mailto:D34Enquiries@channel4.co.uk) addressed to D34. The inbox is monitored by the team in Channel 4 and D34, who will respond to any queries. If required a call can be arranged to answer any of the more complex questions.

## **Selection Process / Evaluation Criteria**

Proposals will be evaluated in accordance with D3&4's allocation principles contained in Schedule A to this RFP.



## SCHEDULE A

### PRINCIPLES FOR THE FAIR, REASONABLE AND NON-DISCRIMINATORY ALLOCATION OF CAPACITY ON MULTIPLEX PSB2

#### 1. Introduction

- 1.1 When seeking to allocate the available capacity on PSB2, D3&4 will follow the principles set out below.

#### 2. Notification of availability

- 2.1 D3&4 will use reasonable endeavours to:

- (a) notify all potential content providers of the availability of such capacity; and
- (b) give potential content providers sufficient time to express an interest in such capacity, negotiate terms and, where appropriate, prepare a bid for submission to D3&4.

#### 3. Selection of content providers and terms offered

- 3.1 D3&4 will make available its draft carriage terms and conditions to potential content provider who reach the later stage of the bidding process.
- 3.2 PSB2 is a public service multiplex which is required under its licence conditions to carry the main public service channels provided by ITV, Channel 4, Five and S4C in Wales. Accordingly it will expect that the service proposed by the content provider will meet the consumer expectations for high quality content that are provided by the other services carried on the multiplex.
- 3.3 The draft terms and conditions provided under paragraph 3.1 will be indicative only and D3&4 will enter into further discussions with shortlisted content providers based on the selection principles set out in paragraph 3.5 below.
- 3.4 In agreeing carriage terms and conditions, D3&4 will not unduly discriminate between content providers.
- 3.5 The selection of content provider will be based at a minimum upon the following objective factors:
- (a) the commercial package offered by the potential content supplier;
  - (b) the level of commercial risk to be undertaken by D3&4 in contracting with the potential content supplier - which will be affected, for example, by certainty of income, the length of the contract and the scale of the risk in the context of D3&4's overall business;
  - (c) the attractiveness of content to viewers and the ability of the content to attract new viewers.



(d) the provisions of D3&4's licence which relate to the capacity of services on the multiplex to appeal to a variety of tastes and interests; and

(e) market conditions at the time.

3.6 If Digital 3&4 decides to make use of any further selection criteria it will ensure that all qualified candidates are informed about these and given a reasonable opportunity to provide further information to Digital 3&4 about their ability to meet these additional criteria.

#### 4. **Specifics of Licence Conditions**

We can confirm that the capacity released by Channel 4 will be made available in compliance with the Licensee's licence obligations in respect of fair and effective competition, specifically Licence Conditions 11(1)(a) and 11(2) which state:

11(1)(a) The Licensee shall not enter into or maintain any arrangement, or engage in any practice, which is prejudicial to fair and effective competition in the provision of licensed services or of connected services.

11(2) In the terms on which the Licensee contracts, or offers to contract, for the broadcasting of digital television programme services,

**D3&4 Limited**



## Terms & Conditions

In submitting a bid in response to this Request for Proposal (“RFP”) issued by Digital 3 and 4 Limited (“D3&4”), you (“Respondent”) agree to accept the terms set forth below. D3&4 is a joint venture owned by Channel Four Television Corporation and ITV Network Limited. The D3&4 Group means D3&4, its holding companies and their group companies.

### 1. Confidentiality

- 1.1 Without limiting any other confidentiality agreement between the parties, all information contained in this RFP or disclosed to the Respondent in connection with this RFP by or on behalf of D3&4 is confidential, should be treated as “**commercial in confidence**” by the Respondent and may not be used or passed on to any third party other than as is strictly necessary for the purposes of submitting its proposal.
- 1.2 The Respondent must ensure that an equivalent obligation of confidentiality is placed upon any third party to whom the Respondent may need to disclose any confidential information for the purposes of responding to the RFP. Likewise, all information provided by the Respondent in their proposals will be treated in confidence by D3&4 and authorised third parties.
- 1.3 The D3&4 Group reserves the right to use the information included in the Respondent’s response for any reasonable purpose connected with this RFP. In particular, once the Respondent has been excluded, the D3&4 Group reserves the right to use any ideas contained in the Respondent’s proposal in any ongoing discussions with other respondents but agrees not to reveal the identity of the provider of such ideas.
- 1.4 Further, the Respondent acknowledges that D3&4 may receive proposals which resemble its own proposal and that in some cases similar or identical ideas may be generated independently.

### 2. Intellectual Property

- 2.1 Any and all intellectual property rights in this RFP and any and all materials provided by D3&4 or any of the D3&4 Group, its business partners and/or its professional advisors in connection with this RFP are, and shall, remain the property of D3&4, the D3&4 Group and/or its business partners and/or professional advisors and the Respondent is only permitted to use such materials solely for the purpose of preparing a proposal in response to this RFP and not further or otherwise.
- 2.2 The Respondent must not use the trademarks or logos of D3&4, the D3&4 Group or its business partners, or otherwise make reference to D3&4, the D3&4 Group, its business partners, or this RFP or any of the materials provided by D3&4, the D3&4 Group or its business partners in connection therewith without D3&4’s prior written permission.
- 2.3 Intellectual property rights in the proposal remain the property of the Respondent or its licensors. The Respondent grants to D3&4 and the D3&4 Group a licence to retain, use, copy and disclose information contained in the proposal for any purpose related to the RFP process, including in accordance with Clause 1.3, and to keep appropriate records. The Respondent warrants that the D3&4 Group’s receipt of the proposal and use in accordance with this Clause 2.3 shall not infringe the intellectual property rights of, nor any duty of confidentiality owed to, any third party.

### 3. RFP Principles

- 3.1 Nothing contained in this RFP or any other communication made between the D3&4 Group or its representatives and the Respondent shall constitute an agreement, contract or representation between the D3&4 Group and the Respondent (except for a formal, written contract entered into between the parties in accordance with Clause 14.1). Receipt by the Respondent of this RFP does not imply the existence of a contract or commitment by, or with, D3&4 and the Respondent should note that provision of this RFP may not result in a grant of license. Further, the preparation of a proposal will be made without obligation by D3&4, or to select the Respondent’s response, or to discuss the reasons why a proposal contained within a response is accepted or rejected.
- 3.2 D3&4 reserves the right to, without incurring any liability to the Respondent or any other affected respondents:



- 3.3.1 amend this RFP at any time prior to the submission deadline (any change will be notified to the Respondent in writing, which may be by email) and D3&4 may (at its discretion) extend the submission deadline to allow the Respondent to address any such amendment(s);
- 3.3.2 cancel this RFP at any time; or
- 3.3.3 accept or reject the Respondent's proposal at any time prior to the notification of the award.

This RFP does not restrict any Respondent's day-to-day business with D3&4 to facilitate pre-existing business matters.

#### **4. Proposal Selection**

- 4.1 D3&4, in its sole discretion, reserves the right to select one or more successful proposal(s) based strictly on the RFP responses or to continue negotiations with one or more respondents related to issues that may or may not be included in this RFP. D3&4 may request additional data, a discussion and/or any presentation in support of any respondent's proposal.
- 4.2 Further, D3&4, in its sole discretion, reserves the right to postpone or defer indefinitely acceptance of any proposal, without incurring any liability to the Respondent.

#### **5. No Obligation**

- 5.1 The submission, receipt, and review of proposals does not obligate D3&4 in any way to choose the Respondent and D3&4 makes no representations, implied or express, that it will accept or approve any proposal submitted. This RFP is not an offer but is intended solely for information and review purposes and as an invitation to bid. D3&4 is not under any obligation to grant a licence on the basis of this RFP and is not obligated to explain its rationale for the selection or elimination of any respondent. D3&4 may, at its discretion, award business in part or in whole to any respondent based on the proposals submitted in response to this RFP, or otherwise.

#### **6. Respondent Responsibilities**

- 6.1 Respondents shall be responsible for obtaining all information necessary for the preparation of the RFP submission as information provided by D3&4 is for general guidance only in the preparation of proposals. Further, D3&4 shall not be liable to the Respondent for any costs, liabilities and/or expenses incurred by the Respondent in the preparation or presentation of the proposal, regardless of whether a contract is awarded.

#### **7. Bids**

- 7.1 The Respondent shall be bound by its proposal, in all respects, for a period of 180 days following the date of submission, subject to Clause 10.1 and any amendments that are reasonably required following any change to the RFP scope by D3&4 following submission.

#### **8. Decision not to Bid**

- 8.1 If the Respondent elects not to submit a proposal, the Respondent shall submit a "No Bid" statement by the date for submission of a response to the RFP. If the Respondent does not respond to the RFP in the form of either a proposal or a "No Bid" statement, D3&4 may, in its sole discretion, remove the Respondent from the distribution list for future projects.

#### **9. RFP Checking**

- 9.1 The Respondent must ensure that all information provided to D3&4 is true, accurate and complete and is not misleading in any way. No liability will be accepted by D3&4 for errors or omissions in the RFP that could have been identified by the Respondent.

#### **10. Modification and Withdrawal**

- 10.1 The Respondent may modify its proposal by giving written notice to D3&4 at any time before the date for submission of a response to the RFP. The Respondent may withdraw its proposal by giving written notice to D3&4 at any time prior to the notification of the contract award.



## **11. Anti-Bribery Compliance**

11.1 The Respondent shall not give, or agree to give, to any person any bribe or other form of illegal payment or advantage with the object of obtaining or inducing the procurement of this RFP or any other contract, right, interest, privilege or benefit for themselves or for any other party and shall not engage in any activity or practice which would constitute an offence under any applicable anti-corruption laws including, but not limited to, the Bribery Act 2010.

## **12. Disqualification**

12.1 If the Respondent has been found to be in breach of confidentiality or intellectual property provisions or anti-bribery compliance with respect to this RFP or has directly or indirectly canvassed any employee of D3&4 concerning the award of the contract, the Respondent will be disqualified and D3&4 may pursue any remedy or take any other action for breach as it considers appropriate. D3&4's decision will be final and no correspondence will be entered into.

## **13. Damages**

13.1 While D3&4 has taken all reasonable steps to ensure, as at the date of this document, that the facts which are contained in this RFP are true and accurate in all material respects, D3&4 does not make any representation or warranty as to the accuracy or completeness or otherwise of this RFP and accepts no liability to the Respondent whatsoever arising from the RFP, or any omissions or deficiencies therein. The Respondent waives any right to claim damages of any nature based on the selection process, final selection and/or any communication(s) associated with such selection.

## **14. Formal Agreement**

14.1 If D3&4, in its sole discretion, elects to accept and proceed with the Respondent's proposal, the Respondent will be required to execute a formal agreement ("**Agreement**") for the licence of capacity in accordance with the RFP.

## **15. Governing law**

15.1 These Terms and Conditions and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with their subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales and each party irrevocably submits to the exclusive jurisdiction of the English courts in respect of any matter and/or dispute arising hereunder.