



Ofcom consultation on the Digital Dividend Review

Submission by Teachers TV

Introduction

Teachers TV welcomes this opportunity to submit evidence to Ofcom on the Digital Dividend review. We believe that the review represents an important opportunity to strengthen broadcasting in the UK for the next generation and to ensure that it meets the needs of all of our citizens in a variety of ways: providing broadcasting and content that not only entertains, but educates, informs, and contributes to the social goals that we all share as citizens.

Because of the importance of this subject, we would be delighted to discuss this submission with the Ofcom digital dividend team at any stage.

Executive summary

Teachers TV is a service that in common with some other broadcasters offers important contributions to public service goals, in particular enhanced citizenship through better information.

We understand that Ofcom has considered what to do with the spectrum freed by the ending of analogue broadcasting and has concluded that competitive auction is the best way to decide.

Our view is, however, that substantial amounts of potential citizen and social value would be lost if that method were to be inflexibly and universally applied to all the available spectrum. Instead we urge Ofcom to seek alternative methods for allocating part of the spectrum, focused on the digital terrestrial platform.

We argue that this approach is justified by a probable market failure in the provision of social value under the pure auction model; and we think Ofcom is required to take account of this as part of its statutory remit. The results of so doing would be beneficial for citizens and society as a whole.

About Teachers TV

Teachers TV is a channel whose mission is to raise standards in schools. It is funded by the Department for Education and Skills against robust key performance indicators and its contribution has been strongly welcomed by ministers and educationalists.

The channel has 24 hour distribution on satellite and cable as well as all its content being available on the web. We suggest that Ofcom examine it as a model for delivering content in a converged world.

Freeview distribution has always been a problem for Teachers TV. We currently have 2 hours daily between 11:00 and 13:00 but with clear potential to benefit the teaching profession if more were to become available. As one of our survey respondents commented: "air times on Freeview are appalling. I would watch more Teacher's TV if it was on in the same manner as Sky." We share this frustration.

Teachers TV fulfils virtually all of the characteristics that Ofcom defines in the PSB review for a public service broadcaster:

- High quality – well funded and well produced.
- Original – new UK content, rather than repeats or acquisitions.
- Innovative – breaking new ideas or re-inventing exciting approaches, rather than copying old ones.
- Challenging – making viewers think.
- Engaging – remaining accessible and enjoyed by viewers.

- Widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it.

Independent research conducted for the DfES shows that for the core schools' audience and a wider audience of interested stakeholders and parents, Teachers TV delivers significant value. In particular it is clear that teachers are building skills and implementing new ideas in the classroom as a result of watching the channel.

The most recent research shows that the channel is steadily increasing reach and maintaining its previous high scores for loyalty and viewer value. Teachers TV loyalty scores at 76% are considerably higher than other niche channels we have surveyed, and viewing compares well with educational strands on the (far better-resourced) BBC4 and Discovery channels.

Audience reactions to Teachers TV: Some extracts from our audience research

"I hugely appreciate the chance to see what is happening in other schools and using their ideas to instigate change in my school where applicable."

"I frequently use Teachers TV programmes as a basis for reflection and review, on ways in which I might improve my classroom practice"

"It enables me to see other classroom practice in a way I couldn't possibly hope to access, and as a result to raise my expectations for my class, collect new ideas and find out about new initiatives that could benefit my school."

"I hate the fact that I have to record it as I only have Freeview, this has made me less likely to watch the channel. I would watch 10 times more if I could access the programmes at times to suit me, rather than having to record them. Something should be done about this if you want to increase your viewing figures, as a lot of teachers I have spoken to feel the same."

"It is only on Freeview for 2 hours weekdays so I've been unable to catch that slot. If it was 2 hours in the evening, say 7-9 or 8-10, it would probably be watched by more people, particularly teaching staff!"

In addition to its audience among the education community, Teachers TV is also watched and valued by the general public. Our audience splits roughly one-third specialist educational and two-thirds general audiences. While this is not what we are primarily funded for and measured by, we regard the provision of material which both fulfils the needs of educational audiences **and** attracts wider viewing as an important part of the social value we create.

The auction model

Subjecting the whole of the spectrum freed up by the ending of analogue transmissions to a competitive auction has some attractions, notably that of simplicity. Unfortunately there are disbenefits as well.

The universe of potential spectrum bidders contains a clear and elongated hierarchy of financial power. At the top are the telecommunications companies, including the former state monopolies and the mobile phone operators. These are businesses of immense market capitalisation – BT Group and Vodafone are FTSE100 heavyweights and highly cash-generative.

Ranking below them are other FTSE100 companies of lesser size but in the same market areas – Cable & Wireless, ITV, BSkyB, and Reuters. This group also includes the unlisted not-for-profit PSBs, the BBC and C4. It is conceivable that this group might include some successful bidders, although perfectly possible that they might not, depending on demand from the first group.

Finally are the minnows, including most of the broadcasters and channels which are devoted **solely** to producing content of public value, mostly on a not-for-profit basis. In this group Teachers TV belongs.

It is important to note that we are not arguing that this final group is the only provider of content of social value. The BBC and C4 do so as part of their mission, and commercial companies do so too, often for good market reasons. But there is a clear difference between that being **part** of one's activities and it being the **sole** reason.

Not only does the auction process discriminate against organisations in the third group, but it has an inbuilt bias in favour of large centralised organisations competing with small atomised sectors.

The other substantial deficiency of the auction model is obvious – victory goes to those who bid the highest regardless of their plans for the spectrum. No account is taken of the social and citizen value generated by potential activities.

We find Ofcom's reluctance to recognise this surprising, given not only its statutory duty to take into account the interests of citizens and consumers (not the latter at the expense of the former); but the extensive discussion in the DDR consultation document of the likely citizen value generated by the auction and the risk of market failure. This discussion clearly points in favour of modifying the auction process. We believe that Ofcom should consider that option seriously.

In particular we find it strange that Ofcom has:

- failed to give due consideration to the mixed results of previous major auctions in this sector, notably the ITV licences in the 1980s and the 3G licence auction in the 1990s, which demonstrated that the process

did not necessarily produce a response from the market that protected the public interest.

- been willing to 'predict the future' in its work on public service broadcasting, the telecommunications market and the proposed Public Service Publisher, but not in this case.
- carried out market research which focused largely on the attraction of competing services on spectrum (eg high definition) but did not explore greater social value and its attractions in a citizen jury deliberative process.
- not attempted to explore the possibility that positive social impact can be valued and assessed alongside market data – a process which lies at the heart of the BBC new service approval methodology in which Ofcom plays a highly-significant role – in order to maintain a level playing field between commercially-driven bidding and content which fulfils social and cultural goals.
- failed to outline how it would prevent spectrum 'warehousing' by successful bidders. Warehousing in this context includes, it should be noted, not simply the purchase but non-use of spectrum; it is also the ability of commercial providers to buy spectrum in order to prevent competitors from using it, and delivering sub-optimal (commercially speaking) content simply for competitive advantage.

Social value and social broadcasting

The concept of social value is one which Ofcom has used successfully in previous consultation exercises. It was explored particularly during Ofcom's work on public service broadcasting. It is in accord with Ofcom's core purpose and it should be a central criterion when judging the methodology for the allocation and use of spectrum

In Annex 7.24 of the DER consultation Ofcom sets out a number of components of '*broader social value*':

- access and inclusion
- quality of life
- belonging to a community
- educated citizens
- cultural understanding
- informed democracy
- social 'bads' (sic – i.e. failure to achieve the above)

Teachers TV believes that its work, both as a broadcaster and through other platforms, supports all the items on Ofcom's list (and other items of social value such as improved skills, greater understanding of children's needs and so on).

Unfortunately, having identified these characteristics as components which are material to its policy, Ofcom has not really explained how they can in practice be encouraged as part of the DDR process.

Ofcom also observes that the auction process might not be optimal for delivering social value. In 6.23 it identifies potential market failures including the major one we note above: the comparative buying power of larger commercial providers and the potential inability of for a large number of small users to combine effectively to bid. No real solution is offered.

Ofcom adds in 6.23:

"There is a possibility that some uses or users of spectrum may deliver a high value to society but that this may not be fully reflected in the bids made in an auction. For example, some uses or users may be able to create a high value for society but not to earn sufficient commercial values from using the spectrum. This may reduce the amount they can bid in an auction compared to a user who can earn large revenues but may not create so much value for society."

We agree. The task of Ofcom is to find a way to avoid this consequence. The corollary of establishing social value as a policy consideration is to identify organisations which provide it. This lies at the heart of our concept of **social broadcasting**, which we define as the provision of broadcasting content which supports social value to those in society who would benefit from it. Put more simply, it is content – and the organisations focused on providing it – whose primary or sole purpose is to generate social value, and to encourage citizens not merely to consume content, but to contribute to society directly and indirectly: broadcasting leading to positive change.

In practice, a significant element of this is content delivered over the digital terrestrial (DTT) platform. Compared to other broadcasting platforms, or to other delivery methods such as broadband internet, DTT is highly significant to the socially excluded, will be the primary migration route to digital communications by those who have yet to switch from analogue (as the increasing success of Freeview has demonstrated), and is suitable for those who cannot, or do not wish to, use pay TV services. It is interesting that the research done for Teachers TV shows that watching conventional broadcast television is the preferred route of over 90% of our audience.

For many socially-excluded people, moreover, broadcast television is the **only** means through which they access important information about issues which affect them or which offer them an opportunity of development. Ofcom seems to have neglected this significant social dimension of the DDR process.

Ofcom's best suggestion instead is that if social value is considered to be important to society (a proposition with which it agrees), then increased inputs by government and other funders will be necessary to enable its provision. This may well happen, but it could never be done on a scale that would enable organisations such as Teachers TV to compete for spectrum against commercial providers. And although Ofcom suggests that it is 'willing to commit its resources and expertise to assist in this task' (paragraph 6.71),

without a clearer definition of what Ofcom intends to do to fulfill this promise, the commitment is empty.

The risk of market failure, therefore, defined as the failure of the auction model to provide sufficient, or indeed any, social value because it attaches no weight to the concept at all, is a real one.

Instead of this hypothetical and uncertain approach, Ofcom has an immediate opportunity to ensure directly that social value is a significant part of the DDR process through its responsibility for the efficient allocation of spectrum, a policy area which is directly under its control. Since, as noted above, the incorporation of social value questions is a statutory part of Ofcom's remit, then the universal application of the market-led auction model could and should be revisited.

Does 'social value' have a real value?

Ofcom certainly thinks so. In annex 7 to the DDR consultation Ofcom spells out ways of measuring this:

- assessment of willingness to pay/willingness to forgo
- pricing techniques
- deliberative approaches/citizen juries
- expert-based approaches
- political processes.

But in the research which underpins Ofcom's preference for the auction method, only three of these methods were used: market research; deliberative market research; and consultation with a single expert.

On closer examination the deliberative market research Ofcom has relied on was primarily concerned with what sort of services people wanted to **consume**. This is an interesting and useful piece of information, but it does

not help us much with measuring people's expectation of social value as **citizens**, which is Ofcom's clear obligation and indeed preferred methodology in other contexts (such as the future of PSB).

Alternative approaches

Ultimately Ofcom will manage the DDR process. What we have outlined below is a number of possible options which might be used to modify the auction model and which we suggest that Ofcom should consider and explore with stakeholders.

- one approach might be to reserve a portion of spectrum specifically for social value creation and create a secondary auction for this spectrum. This could be equivalent to a single DTT multiplex, and the successful bidder for the operation of the multiplex could then allot capacity based on clear social value creation criteria, perhaps via a tertiary auction, or through a scorecard, or conceivably by submitting proposals to an expert group, through market research and citizens' juries; or more likely through a combination of all of these methods.
- a second possibility – a modification of the preceding – is to adapt the concept that lies at the root of Ofcom's discussion of the Public Service Publisher and allow that spectrum to be managed and allocated by the PSP itself. The current discussion document on the PSP includes some of these elements, but its focus on new media content misses the point that the deficit meant to be addressed by the PSP is in public service **broadcasting**. To replace that deficit through other platforms, given the importance of broadcasting in peoples' lives seems odd.
- a third concept worth exploring is to weight the auction by attaching discounts to certain categories of bidders, as has been done for relatively small enterprises by the Federal Communications Commission in past US spectrum auctions. The downside to this is

that that the weighting is necessarily arbitrary (why 25%? Why not 50% or 75%?); that the difference in resources between say a listed telco and a social value provider in the UK is so huge that only an equally skewed weighting would make any difference; and that tinkering with a flawed auction model, rather than thinking again, is bad methodology. As the FCC has found, there are ways of circumventing the system (e.g. the creation of 'front companies' to bid, funded by bigger concerns which thus enjoy a 25% discount they do not merit). Nonetheless, if modeling and research shows that it would deliver sufficient social value, it should be explored.

- a final possibility is that the whole of the auction should be held with successful bidders required to set aside some capacity for delivering social value. This would require regulatory supervision to ensure that commercial content could not simply be claimed to convey social value under some vague definition which would be easy to manipulate. It should be a regulatory requirement in this model for successful bidders to seek partner organisations which are focused on social value.

None of these suggestions is particularly radical nor foreign to Ofcom's policy criteria. Attaching conditions to broadcasting licenses to ensure the delivery of PSB content has been a part of broadcasting policy for fifty years and has worked well. Although there is more spectrum now available, digital spectrum is not unlimited, or there would be no need to have an auction at all. Conditionality is a perfectly respectable regulatory approach.

Our suggestion of setting aside spectrum from the main auction is also already part of the process. On a smaller scale, Ofcom has reserved one spectrum band for radio astronomy. On a larger scale, the interleaved spectrum will be subject to a separate locally-based auction rather than simply offered to the highest bidder.

Finally, as already noted, experimentation around weighted bidding is already part of the regulatory philosophy in one of the most free-market broadcasting environments in the world, the US.

Conclusion

Teachers TV operates as a broadcaster on limited income and with extremely limited access to the DTT spectrum which is the preferred method of consumption of a significant percentage of its audience. Despite this, it has been able to deliver real social value to teachers, to parents and to the wider community. Limited resources but effective delivery make us, probably, not untypical of the social broadcasting sector. The conclusion that we could do more with more to meet social challenges of vital importance to the UK is irresistible.

The opportunity Ofcom has is to use the freed spectrum to deliver a range of policy goals, of which enhanced social value is a critical component. There are tools in the regulatory locker which could be deployed to that end, and we urge Ofcom to use them and deliver a DDR process which is not purely for the big battalions.