



RESPONSE

Public Service Content

Ofcom Discussion Document, 24 January 2007

PPL¹ and VPL² broadly accepts the analysis in Ofcom's discussion document Public Service Content but has some reservations about the approach suggested.

The overall value of public service content was demonstrated in the BBC Charter Review. What emerged from that Review was the desirability of an independent BBC, with the capacity to operate within a global market, but with checks and balances to maintain an equilibrium with the private sector. The BBC's role as a major player within the creative industries was confirmed.

The tentative proposals for a Public Service Publisher included within Ofcom's discussion document contain many of the aims and aspirations of the BBC Charter but with one crucial difference. The approach to rights management demonstrates a lack of respect for the creator and would undermine the value of the UK's core creative assets in the public space. There is no justification for the PSP to be given favourable status in its acquisition of content.

A. CONSULTATION TOPICS

The appropriate nature of intervention in the digital media age, and the balance between TV and non-TV forms of public service content distribution.

The potential role of the PSP and its creative remit.

The scale of funding required.

1. Ofcom's discussion paper predicts significant changes to provision of public service content over the next several years. Most observers agree that the value of analogue spectrum to broadcasters is diminishing and that the commercial broadcasters' ability to fund public service content will, as a result, be reduced. PPL has no reason to disagree with this prognosis.

¹ PPL is the UK licensing society for 40,000 performers and 3,000 record companies. See Appendix A for more details.

² VPL is the UK licensing society for 1,000 music video producers. See Appendix A for more details.

2. During the debate on the BBC Charter, PPL supported the notion of a strong, independent public service broadcaster, with controls for market impact. The BBC needed to have sufficient capacity to fulfil its creative remit and to compete on a global scale.
3. It is certainly desirable to have plurality of provision of public service broadcast. That is the case currently but, as noted above, that alternative provision is likely to diminish over time. Ofcom is to be commended for highlighting this trend and for putting up proposals for one or possibly two alternative sources of public service content. However, any such proposal will have to be balanced against the cost of the additional service (and how it is to be funded) and its market impact. It is unrealistic to think that such an alternative provider would not require significant public funding if it is to commission content of sufficient quality and quantity to deliver its aspirations.

The operating model – in particular, the approach to rights management

4. The discussion paper proposes an 'open licence' approach to rights management. This approach, while well-meaning and well-intentioned, misses the point. It devalues the very content which it purports to promote as public service.
5. The paper makes an analogy with open source software, a model in which there is no realised value in the software itself. Any value is created in the additional services that are constructed around the software. The equivalent model for music would be that the recordings would have no value and that artists should instead earn a living from selling T-shirts or other ancillary products and services.
6. Public service content is valuable, whether it is produced by a major production company or an ordinary 'user'. Furthermore, good public service content has a high value, as demonstrated by the wealth of material in the BBC Archive. That value is only possible because of the ownership granted by copyright.
7. The rights management systems that have been developed in the creative industries are designed to realise that value for both users and rightholders, by making material widely available and returning royalty revenue to the creators.
8. In the digital age, these rights management systems become more important for the creative sector. The days of transactional arrangements, based on one or two transmissions, are largely gone. Instead, value is created by a multiplicity of uses, over a period of time. A recording, for example, might be distributed as a download, a realtone, on subscription services, via on-demand services, on digital jukeboxes, on radio and on CD. All of these uses have a value realised through licensing agreements. Any Public Service Publisher would need similar licence agreements to maintain the value of what it commissioned, both for itself and for the contributors of that material.

PPL
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Briefing note on PPL and VPL

PPL Facts and Figures

- Licenses on behalf of 3,000 record companies and 40,000 performers.
- Licenses 200 TV channels and 300 radio stations broadcasting recorded music, as well as over 200,000 pubs, nightclubs, restaurants, shops and other places playing recorded music in public.
- Has negotiated bilateral agreements with 28 other collecting societies to collect overseas airplay royalties.
- Collected £86.5m in airplay royalties for performers and record companies in 2005.
- Distributes revenue using a comprehensive track-based system – analysing over 17m uses of recorded music reported by TV and radio stations, background music suppliers and venues playing recorded music in public. All track plays are matched to PPL's repertoire database CatCo, containing information on 9m tracks.
- Distributes to all the performers – featured artists, session musicians and backing vocalists – as well as the record companies that create the sound recordings that are played.
- Is the largest performer/producer licensing society in the world.

PPL Recent Achievements

- In 2005, achieved a 5.4% growth in net revenue for the rightholders.
- In the last five years, has increased net revenue by nearly 40%, generating an additional £20m payable to record companies and performers, and almost halved the cost/revenue ratio.
- In 2005, PPL's CatCo was selected as the database underpinning the official combined download and singles chart.
- Signed the IFPI Simulcast Agreement in 2002 and the Webcast Agreement in 2003 paving the way for multi-territorial licences.

PPL and Performers

- In 2006, merged with AURA and PAMRA and restructured to bring performers into PPL, for the first time in its 73 year history. Created four Performer Directors, five Performer Guardians and established the Performer Board to oversee performer interests.

VPL Facts and Figures

- Represents 1,000 music video producers.
- Licenses 60 TV channels broadcasting music videos, including 25 specialist music channels.
- Licenses around 2,000 pubs, nightclubs and other places playing music videos in public.
- Collected £12.8m in airplay royalties for music video producers in 2005.
- Analyses usage information from TV stations and background music services for distribution to rightholders.
- Offers a sourcing service, Music Mall, for back catalogue video clips and other footage.
- Is the largest music video collecting society in the world.

VPL Recent Achievements

- Recently concluded a licence with MTV on behalf of independent companies throughout Europe.
- In 2003, integrated management operations with PPL resulting in cost efficiencies to rightholders.
- Concluded licence arrangements for new video on demand services, such as Home Choice, NTL and Telewest, and the new store forward and narrowcast services.
- Announced a video digitisation project to provide online delivery of music videos to users.

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