

# **REVIEW OF RADIO SPECTRUM MANAGEMENT**



## **RESPONSE OF CHANNEL 4**

**May 2002**

## INTRODUCTION

Channel 4 is extremely disappointed in Professor Cave's Review of Radio Spectrum Management. Channel 4 believes that his Review has come up with a set of proposals that if implemented in full would prove detrimental to the interests of those consumers and industries that it purports to serve. In spite of all the representations made by Channel 4 and others, Professor Cave has chosen to recommend policies that would contradict a number of stated government objectives.

Channel 4 outlined its objections to many of the Review's proposals in the submissions it made while the Review was in progress. In this response, the channel sets out its main objections to the Review's proposals, and then provides a critique of the Review as it affects broadcasting.

Channel 4 does not wish to argue against more efficient use of spectrum. Spectrum is a finite resource with increasing demands being made upon it. There are good arguments for looking at how better use can be made of it. As the Review itself states "The chief means of improving spectrum efficiency in the broadcasting sector will be to move from analogue transmission to digital"<sup>1</sup>. But many of the proposals within the Review are likely to put off rather than bring nearer the time when the switch to digital can be made.

## CHANNEL 4'S MAIN CONCERNS

Channel 4 believes there are many arguments why broadcasting would not benefit from the introduction of spectrum pricing as recommended by the Cave Review.

- Most terrestrial broadcasters have no freedom to vary the amount of spectrum they use. They are allocated spectrum centrally, and then obliged under the terms of their licences to provide a universal service to all households in the areas to which they broadcast. So they have no freedom to use less spectrum, as spectrum planning decisions are not in their hands; and anyway they could only reduce the amount of spectrum they use by flouting their licence conditions to provide a universal service and maintain appropriate picture quality and other technical standards.
- To make Channel 4 pay a charge for its spectrum would be to levy a tax on its viewers. In order to make an economy of this size, a large reduction in the Channel 4 programme budget would be inevitable. (The sum of £30 million to £40 million suggested informally by Professor Cave as the likely amount of such a charge is equivalent to 7 to 10% of the channel's annual programme spend). The Review proposes that government can "make available any funds it finds necessary to compensate public sector broadcasters for any charge for spectrum"<sup>2</sup>. But such a mechanism would mean that for the first time in its history Channel 4 would be in receipt of public money, which in the eyes of the EU could be seen as a state aid.

- The Cave proposals are inconsistent with the government's own strategy for achieving the switch from analogue to digital broadcasting as outlined in the Digital Action Plan. The DAP is based on the idea of collaborative efforts between government, broadcasters, manufacturers and retailers to achieve shared goals of digital roll-out that will prepare the way for eventual analogue switchoff. Spectrum pricing would introduce so much uncertainty into the process that it would delay the switch to digital and hence ensure that spectrum was used inefficiently for longer. In particular, introducing spectrum pricing for the DTT multiplexes from 2010 would represent a disincentive to invest further in those multiplexes from the time such a proposal was adopted.
- Broadcasting is different from many other uses of spectrum, as it is a 'few to very many' process, in which the receiving parties do not have a direct economic relationship with the transmitting party. In the world of analogue television, 1100 transmitters send a signal in a standardised format to tens of millions of receivers. Whilst the transmitter characteristics could be changed to reduce the required spectrum, the transmitted signal would then be incompatible with the receiver characteristics.
- The great store that the Review puts on the supposed incentivising nature of spectrum pricing<sup>3</sup> is not grounded in the real world. It is not possible for broadcasters to release analogue spectrum without seriously compromising either universal coverage or picture quality – and even if some spectrum was released by these means, it would have no commercial value unless an alternative operator could make use of it without causing interference to the TV signal. As far as digital broadcasting is concerned, the current spectrum planning consultation is looking at making the most efficient use of spectrum while causing least disruption to consumers and ensuring public policy goals such as universal coverage are met. The Review fails to make clear how spectrum pricing would further these goals.
- The Review asserts that spectrum pricing would lead to more efficient use of the broadcasting spectrum. But it consistently fails to demonstrate *either* in what ways the current system of spectrum planning leads to inefficiencies *or* how the introduction of spectrum pricing would result in increases in spectrum efficiency. In the context of broadcasting, Channel 4 believes the Review need to demonstrate rather than simply assert how pricing can lead to more efficient use of spectrum without disproportionate costs.
- The Review fails to recognise that decisions about spectrum use are effectively taken at national level rather than by individual broadcasters. Those sections of the Review concerned with defence put the onus on the Ministry of Defence to use more efficiently the spectrum it is allocated; it is not the responsibility of the individual services or specific regiments or the commanders of individual submarines. Channel 4 believes that if a price is to be put on use of the broadcast spectrum, then this should be paid by the Department for Culture, Media and Sport as the body responsible for allocating and planning spectrum for broadcast purposes.

## DETAILED COMMENTARY

The Review has adopted a general and overarching view about how spectrum should be allocated in future. Channel 4 does not wish to argue whether or not spectrum pricing might prove a useful tool in other sectors. But the channel does take issue with the 'one-theory-fits-all' approach of the Review. The Review's repeated assertions that, for example, users of spectrum should "face continuing incentives towards more productive use of this resource" and that "these incentives should be financial and based on the opportunity cost of spectrum use"<sup>4</sup> posit a hypothetical world in which spectrum can easily be traded between users. The fact that the real world is not like this leads to a series of proposals designed to introduce or simulate spectrum pricing without questioning whether their actual costs and disbenefits outweigh the advantages claimed for them.

In his Foreword to the Review, Professor Cave says the "process of levying charges for spectrum does not entail any reduction in the level of provision of defence, emergency services, public service broadcasting or other public services within the economy"<sup>5</sup>. But the very nature of public service broadcasting, with its mixture of publicly and commercially funded players, the interleaved nature of its spectrum use and its requirements to meet the needs of the population as a whole, mean the deficiencies of spectrum pricing cannot be made up simply through a budgetary transfer.

The following paragraphs discuss the arguments that the Review applies to broadcasting.

### Issues considered by the review (Paragraphs 11.1 – 11.9)

The Review correctly states that "spectrum management for the broadcasting sector has traditionally been affected by – and sometime dictated by – other policy considerations.... [such as] a universal coverage requirement"<sup>6</sup> and that "the constraints placed on broadcasters limit their ability to release spectrum for other uses"<sup>7</sup>.

However, the "improvements in spectrum efficiency...possible within the existing constraints"<sup>8</sup> that the Review identifies all relate to the switchover to digital transmission. The Review fails to identify any scope for increased spectrum efficiency while using analogue transmission methods – even though it goes on to recommend charging broadcasters for the analogue use of the spectrum.

It is axiomatic that "the chief means of improving spectrum efficiency in the broadcasting sector will be to move from analogue transmission to digital"<sup>9</sup>. However, it is not recognised fully by the Review as a whole that part of the difficulty in achieving this is to persuade consumers to obtain digital equipment, not only for their main televisions but for second and subsequent sets and for VCRs. In discussing incentives for broadcasters, the Review fails to recognise both the importance of persuading consumers to switch to digital and the social and political costs of switching to digital without having first persuaded consumers to invest in digital receivers.

Similarly, the Review's suggestion that "other delivery mechanisms for supplying digital TV services"<sup>10</sup> can be used to further spectrum efficiency fails to recognise the likelihood of consumer resistance to this (a particular problem if attempted on a scale large enough to achieve major spectrum efficiency gains); the unique applicability of digital terrestrial television to providing a near universal service (especially to existing sets served by a set-top aerial); and the wider policy implications of relying to a large extent on satellite transmissions originating from outside the UK.

While the suggestion of using "terrestrial transmissions in less congested frequencies in the higher reaches of the radio spectrum"<sup>11</sup> is technically feasible, it is inconceivable that consumers would be prepared to purchase further converter boxes for the massive installed base of UHF TV receiving equipment.

#### Incentives to use spectrum efficiently (Paragraphs 11.10 – 11.19)

The Review's acknowledgement that "requirements from Government limit the room for manoeuvre for public service broadcasters, since they have to use enough spectrum to meet their public service obligations"<sup>12</sup> is followed by a statement that "there is scope for all broadcasters to economise on spectrum use". But the Review fails to spell out what substantial economies are achievable – except through the bald statement that "if spectrum users are not exposed to the opportunity cost of their use of spectrum, then inefficiencies in usage will result"<sup>13</sup>. In other words: we cannot tell you how you can become more efficient – but if you adopt our scheme, then inefficiencies will become apparent. A huge leap of faith is required, with no guarantee that any crock of gold will be found at the end of this particular rainbow.

Channel 4 acknowledges that there are ways in which greater use can be made of the broadcast spectrum. For example (as we argued in our initial submission to the Review), there could be greater use of data services that can co-exist in the same spectrum as digital television signals. Some spectrum can be made available for local television services – some Restricted Service Licences have already been issued, and further use of the interleaved spectrum to provide more such licences should be possible once planning for the main digital multiplexes is complete. But such uses of the broadcast spectrum are supplementary and incidental to the provision of the main broadcast services – and are only feasible in a digital world that is still taking shape.

The major fallacy in this section is the suggestion that individual broadcasters have the autonomy to decide how to use the spectrum that they have been allocated. No broadcaster other than the BBC is directly involved in spectrum planning – and as the whole interleaved structure is interdependent, no individual broadcaster can decide to dispose of spectrum for other uses as that would impact on others.

The Review also fails to recognise fully that incentives already exist to maximise the use of spectrum. The system of peer review involving the BBC, ITC, Radio Authority and Radiocommunications Agency is designed to ensure no broadcaster uses more spectrum than it needs. Broadcasters are already introducing “more spectrally efficient transmission systems”, such as statistical multiplexing, as it allows them to provide more services (such as interactivity) that will be of benefit to their viewers and may provide new revenue streams. Introducing spectrum pricing is not necessary to achieve this.

The Review asserts<sup>14</sup> that broadcasters can:

1. fit current services into less spectrum;
2. release spectrum by replanning its use;
3. share spectrum with non-broadcasting users;
4. assist in achieving digital switchover.

Each of these assertions needs to be considered carefully to see what is meant and whether it is achievable.

1. No new services can be fitted into the analogue spectrum. An analogue channel uses eight Mega Hertz (MHz). It would be theoretically possible to use only seven MHz for the transmitted signal, but this would be incompatible with the installed base of tens of millions of receivers.
2. Spectrum can certainly be released by replanning its use – but only as a consequence of digital switchover. It would be neither economic nor practical to plan for digital switchover and at the same time replan the analogue spectrum. One of the main purposes of the current spectrum planning exercise is to release spectrum by replanning its use; but this does not require spectrum pricing.
3. Spectrum can be shared between digital (not analogue) broadcasting and non-broadcast uses, such as data streaming. However, such subsidiary uses are only possible because of the nature of the digital signal. In other words, once a primary purpose is allocated for the use of spectrum, secondary uses may become possible. But their viability is a by-product of the primary purpose, not an end in itself.
4. Broadcasters can and do assist in achieving digital switchover. They are doing this by building the transmission networks that carry the digital terrestrial signal and by developing the content that makes digital television attractive. The main terrestrial broadcasters have already invested some £2 billion on developing the infrastructure and services for digital television. This investment is not acknowledged in the Review.

### Leasing (Paragraphs 11.20 – 22)

Channel 4 welcomes proposals to allow the delivery of third party data services within the bandwidth available to DTT broadcasting, as this would make possible the more efficient use of spectrum. But the channel would not expect to keep all the proceeds from leasing spectrum for such services; although the channel has paid for the transmission network, it has not paid for the spectrum, and therefore believes that some part of the proceeds should be returned to the regulator. It should be stressed that this sort of service is only feasible because it fits into the existing digital signal (in a way not dissimilar from teletext service on analogue) – its delivery is only possible because a near comprehensive television service is being provided in the gifted spectrum.

### Spectrum Pricing (Paragraphs 11.23 – 11.34)

Channel 4 believes that the value of the current broadcast spectrum is best expressed in terms of the quality and quantity of public service broadcasting that derives from its use. The only point of going through the costly business of abstractly valuing the broadcast spectrum is to put it to some other use – which is not envisaged as part of current government policy.

But even if the government did wish to have a value put on the spectrum, there is no logic that says such a valuation must lead on to spectrum pricing.

The Review does not take issue directly with the argument put forward by Channel 4 and others, that public service broadcasters' demand for spectrum is determined by universal coverage requirements over which it has no control. Instead it says that the ability to lease spectrum "may not, in itself, encourage broadcasters to examine comprehensively whether their spectrum could be used by others to provide services other than TV or radio"<sup>15</sup>. There are two fallacies here. Firstly, the argument that pricing ought to be introduced because leasing *may* not prove a sufficient lever is specious: it asks government to introduce a new system in the hope that it will have a beneficial effect rather than because there is any evidence that it will. Secondly, broadcasters are awarded a licence to broadcast. (In the case of the BBC and Channel 4, their whole *raison d'être* is to broadcast). It is simply not available to them to decide that mobile telephony or data streaming would be more profitable and to change the nature of their businesses. The huge sunk costs in the television and telephony businesses also mean that it is not possible to move easily from one sort of business to another. And even if one broadcaster did wish to change the nature of its business, the interleaved nature of the spectrum would make it almost impossible because of the interference caused to other broadcasters.

The suggestion<sup>16</sup> that broadcasters should be encouraged by spectrum pricing to consider replanning the use of spectrum is also a non-runner - because of the large sunk costs that both broadcasters and consumers have invested in transmitting and receiving equipment and the disruption that would ensue if such an exercise were to be undertaken. It is also not in the hands of individual broadcasters to decide to re-plan their use of spectrum, as it is a collaborative exercise.

The possibility of a complete re-planning of the spectrum map was considered in the recent spectrum planning consultation, and was rejected by all terrestrial broadcasting respondents. In its response Channel 4 said:

“Channel 4 does not believe it would be sensible to abandon the current basis for network configuration in favour of a ‘greenfield’ approach that may not deliver as great an improvement in spectrum efficiency as suggested in the paper. Such an approach would involve writing off hundreds of millions of pounds of investment that has already been made in DTT transmitters.

“But more importantly it would involve much greater disruption for consumers than is likely under current plans. Those consumers who so far have been reluctant to adopt digital television will need to be persuaded of its merits over the years ahead. This is going to prove considerably more difficult if a large number of roof-top aerials are going to need to be redirected or replaced”.<sup>17</sup>

The suggestion<sup>18</sup> that broadcasters would invest in more spectrally efficient technology as a result of spectrum pricing has been dealt with above: sufficient incentives exist already to provide as many services as possible. Channel 4 has difficulty at present fitting into the digital multiplex it shares with ITV all the various services and standards that it either wants or is required to provide – including three separate digital channels, interactivity, good picture quality, and the subtitling, signing, and audio-description services that it is obliged to provide in increasing quantities in the years ahead. Any new technology that enables the channel to squeeze more services into less bandwidth will be embraced enthusiastically.

The Review says “pricing and leasing together would fully encourage broadcasters to move to alternative ways of transmitting their services which use less spectrum or to less congested parts of the spectrum”<sup>19</sup>. But given their obligations to provide a national terrestrial service, public service broadcasters’ only alternative to analogue transmission is digital transmission. The broadcasters have been transmitting on both systems for three and a half years – and will need to continue doing so until enough consumers have acquired receiving equipment and the government is prepared to proceed to analogue switch-off. Charging broadcasters for spectrum can only slow this process, as it would leave them with less money to invest in digital infrastructure or the digital content that will attract consumers to make the switch. It would tend to lead to a less extensive DTT system, which would make it politically impossible to implement analogue switchover. Channel 4 believes these matters are best left to the spectrum planning process and the Digital Action Plan.

Broadcasting relies on long term investments in both transmitter systems and consumers’ receiving equipment, with long term contracts between broadcasters and transmission networks. If spectrum pricing were introduced, it would need to be set at a sufficiently high level to influence behaviour; otherwise it would just be an additional annual cost that has an adverse impact on the funds available for programming. In its chapter on Defence, the Review reports that “there is no evidence yet that the introduction of spectrum pricing has started to influence MOD’s strategic decisions about spectrum allocation”<sup>15</sup> – to which the Review’s response is that the prices ought to be doubled<sup>16</sup>. Presumably if that fails to have the required effect, the prices should be doubled again.

The Review says it is “likely” that past investment decisions and obligations to provide services will be relaxed or changed in the future<sup>20</sup>. However, it provides no evidence as to why this should be the case.

The Review’s arguments for spectrum pricing are thus hopelessly flawed, as they suggest that alternative ways of using spectrum are possible without ever specifying what they are or how pricing would help achieve them. The Review keeps calling in aid the argument that its proposals would help achieve digital switchover, without specifying how they would do this in practice. Its proposal that “some abatement of pricing could be applied to digital broadcasting spectrum up to the point of switchover”<sup>21</sup> seems to suggest the introduction of spectrum pricing for analogue transmission that is then abated for each household that converts to digital. Such a scheme already exists for ITV licences (the so called ‘digital dividend’). But over the last four years Channel 4 and the BBC have developed digital infrastructure and content at least as effectively as ITV, without the benefit of such an incentive.

#### BBC and Channel 4 (Paragraphs 11.35 & 11.36)

Channel 4 is appalled at the prospect of being charged for its spectrum use from when its new licence comes into effect on 1 January 2003. The channel is already committing expenditure on programmes for next year, and will commit further funds over the coming months. As the government has said that it intends to present a formal response to the Cave report in the summer, and any change in Channel 4’s licence would involve a formal consultation by the ITC, it could be the end of this year before a final decision to introduce spectrum pricing was taken. To then add significant costs to its 2003 budget would cause mayhem with Channel 4’s finances. Apart from all the other demerits of spectrum pricing, it cannot make sense to introduce such a radical system so quickly without proper forward planning.

The proposal that “greater freedom over how to achieve the Government’s requirements for the coverage of TV reception should be delegated to the broadcasters themselves”<sup>17</sup> suggests that broadcasters should have greater responsibility for spectrum planning. But the interleaved nature of the broadcast spectrum means that such planning would need to be carried out collaboratively between broadcasters. It is not clear how potential conflicts between broadcasters should be resolved, nor what the role of the regulator(s) should be. These issues would need to be spelt out in some detail before such a system could be introduced. But assuming that Parliament’s requirements for universal coverage remain unchanged, Channel 4 does not see that this proposal would make any change in practice to how spectrum is planned.

Channel 3 and Channel 5 (Paragraphs 11.37 & 11.38)

At the moment, ITV and Channel 5 pay for the right to use spectrum (and other privileges) for the benefit of their shareholders with a mixture of cash payments and public service programming. If the proposed spectrum charge were less than the current level of payments, then this would have no clear effect. If it were higher, then these broadcasters could justifiably claim that they ought to deliver less in public service, which would be detrimental to the overall quality of public service broadcasting.

DTT multiplexes (Paragraphs 11.39 & 11.40)

The Review rightly says that the licences for the digital multiplexes were set at zero cost for their first 12 year terms in order to stimulate the development of DTT and that this has encouraged investment in the platform. It is now clear that digital take-up has not been as fast as it might have been, and the collapse of ITV Digital has seriously dented confidence in the DTT platform. The development of DTT requires continued stimulation for its development in the years ahead.

Channel 4 believes that such stimulation must include setting the fees for the second 12 year terms of the multiplexes at zero and announcing that third renewable terms will be available thereafter. By providing a degree of certainty about the future, such a move would give broadcasters the confidence they need to continue to invest in the platform. Without knowing the charges for the second 12 year terms, broadcasters cannot assess fully the economics of further DTT investment. And as digital switchover looks increasingly likely only to take place during the second licence period, a third licence term is necessary in order for commercially-funded operators to recoup the costs of their outlay on the transmitter networks.

Introducing spectrum charging would be more likely to choke off investment by increasing the already large costs of future investment in DTT.

Encouraging digital TV switchover (Paragraphs 11.42 – 11.44)

The Review fails to explain what actions it envisages broadcasters taking that may encourage digital take-up over and above the substantial activities they are already engaged in. The way to encourage viewers to switch to digital is to invest in attractive new content and to make digital services available through a nationwide transmitter network; both of these are being done already by Channel 4 and the BBC, without the supposed stimulation of being charged for the analogue spectrum.

The Review's proposal that the government uses its powers to award selective grants to promote spectrum efficiency is far more sensible. Helping to develop technologies that can both transmit and receive digital signal more efficiently can only benefit the move to digital.

Spectrum pricing and public service broadcasting (Paragraphs 11.45 & 11.46)

Channel 4 believes it pays for the free spectrum that it uses many times over in the public service broadcasting that it delivers. For example, in 2001 the channel broadcast 1231 hours of education programmes, 566 hours of news and current affairs programming, 290 hours of arts and music programmes and 210 hours of multicultural programmes. The channel has never attempted to put a value on the public service that it delivers, as it believes that its entire approach across all genres is motivated by its underlying public service rationale.

Channel 4 is opposed to being paid out of public funds for the public service that it delivers – the whole point of the channel is that it is a public body wholly funded by commercial revenues, a unique and uniquely successful public/private partnership. If the channel was to be paid a sum of money not intended to be equivalent to the value of its public service but to the sum it would be expected to be pay for its spectrum, then this would be a rather meaningless accounting exercise.

So Channel 4 believes the Review's proposals for spectrum pricing coupled with the suggestion that government "should make available any funds it finds necessary to compensate public service broadcasters for any charge for spectrum, with the compensation mechanism designed to be consistent with other objectives such as independence of broadcasters from Government"<sup>18</sup> is wrong in principle. But the channel also believes it would prove unworkable: there is no mechanism that could provide Channel 4 with the money to pay a spectrum charge and be consistent with the channel's independence from government.

For Channel 4 to be in receipt of public funds to pay for its spectrum could mean that it would be in receipt of state aid under EU law. It might therefore not be able to compete straightforwardly against other commercially funded channels for advertising and other revenues. For this reason, Channel 4 believes that a spectrum charge would put it in an impossible position: either it would have to pay the charge - with the consequent loss of benefit to its viewers – or if it received public funds with which to pay the charge, its position in the commercial market place could be undermined.

Licensing (Paragraphs 11.47 & 11.48)

The spectrum used by broadcasters has been planned to deliver the signal to the coverage levels required by government. Transferring WT Act licences to individual broadcasters would not alter this reality. Channel 4 has a close working relationship with ntl, and does not see at present any overarching reason why it rather than ntl should hold the WT Act licence.

Limits on usage (Paragraphs 11.49 – 53)

As argued above in relation to leasing, Channel 4 believes that it is allocated spectrum in order to provide a comprehensive television service. In so far as that spectrum can be used for other, complementary purposes as well, the channel believes these should be allowed. In this context, the channel has no objection to the current limits on data usage being raised. However, Channel 4 would be opposed to all such limits being abolished, so that other multiplex owners could use the spectrum they were allocated for broadcasting purposes for some wholly other use.

Allowing such a free-for-all would diminish the common purpose that exists and has existed between all DTT multiplexes operators by virtue of the fact that they are in the same business; could lead to interference problems because of the interleaved nature of the spectrum; and would potentially undermine the viability of the DTT platform by reducing the range of services provided on it. As Douglas Alexander told the House of Commons earlier this month, the government has a “principal role to play...in ensuring that the digital terrestrial platform has sufficient spectrum available to it to enable to compete effectively”<sup>19</sup>.

Spectrum Planning (Paragraphs 11.54 – 11.56)

Channel 4 does not believe that the UK should advocate “maximum flexibility over use of the VHF and UHF spectrum”<sup>20</sup>, as this could lead potentially to a reduction in the spectrum available to DTT and hence to a reduction in the viability of this technology. As argued above, Channel 4 does not accept that it is possible to fulfil current analogue coverage requirements while using significantly less spectrum. The limits of spectrum use are being explored in the spectrum planning exercise and through such initiatives as the DTT higher power trials.

One of the difficulties with consumers is that they do not necessarily have the most up-to-date equipment; many households still rely on televisions that have worked successfully for decades, but are rather out-of-date. Part of the challenge of digital switchover is to persuade consumers to upgrade or convert their existing equipment. Assuming that people have more modern equipment will actually make this process more difficult.

Interleaved spectrum (Para 11.57)

Channel 4 agrees that some interleaved spectrum will be available for other uses once switchover is completed. However, the channel believes that demand for such services as locally-based television stations should be assessed rather than the spectrum simply be auctioned.

Broadcasting spectrum after switchover (Paragraphs 11.58 – 11.62)

Channel 4 believes that it is up to the government to decide how large a digital terrestrial platform it wishes to see. In its response to the spectrum planning consultation, Channel 4 expressed its concern that “sufficient spectrum be available in future to allow both widespread coverage at a reasonable cost – and for there to be enough ‘elbow room’ for digital television to grow in the future”<sup>21</sup>. The government needs to take a strategic view about the importance it attaches to DTT – not try to minimise the spectrum available to it in the hope that other possible users of that spectrum may be forthcoming.

The role of Government (Paragraphs 11.63 – 11.68)

Channel 4 agrees that responsibility for detailed planning of the broadcast spectrum should be devolved to OFCOM once it is established. However, this planning needs to take place in the context of clear strategic principles laid down by Parliament and interpreted where necessary by government. The sort of leadership and co-ordination required to implement the Digital Action Plan, for example, can only be provided by government.

The free-market nirvana longed for by the Review is not attainable. The Review envisages a long-term future in which the “precise mix and type of audio-visual content, datacasting and telecoms services which was offered using spectrum would thus be decided by consumer preferences rather than the Government”<sup>22</sup>. But many of the services that may use spectrum are business-to-business services, while much television is free-to-view; ordinary consumers cannot choose between them as they do not co-exist in the same market. There is also the question of equity between different groups of consumers: why should relatively poor consumers be deprived of the extra choice that DTT can bring, because much more wealthy consumers can afford to pay more for sophisticated, bandwidth hungry telephony-based services? It is extremely hard to see government and Parliament ducking out of such questions as long as the population at large sees access to television as a universal right.

And for the Review to argue that “the benefits of public service broadcasting would be preserved”<sup>23</sup> is to blithely hope that all the real difficulties to which its proposals would give rise can be wished away.

Conclusions (Paragraphs 11.69 – 71)

Channel 4 agrees that the switch from analogue to digital broadcasting would offer “the biggest potential efficiency gain in spectrum use in the next decade”<sup>24</sup>. But the channel is wholly unpersuaded that the introduction of spectrum pricing would further that end. Indeed, it is far from clear how the recent history of DTT, including the collapse of ITV Digital, would have been less unhappy had there been spectrum pricing.

The Review fails to demonstrate in practical terms how broadcasters could actually give up analogue spectrum while maintaining their obligations. And calling a payment a 'charge' rather than a 'tax' does not reduce the size of the sum involved, nor make the loss that would be suffered by viewers as a consequence of its introduction any smaller.

## **OTHER CONCERNS**

Channel 4 is concerned about the extent to which OFCOM should be charged with a duty to maximise economic exploitation of spectrum to the detriment of other objectives. The Review notes "There is a tension within discussions about the goals of spectrum management between achieving a technically efficient or economically efficient outcome"<sup>25</sup>, then advocates the primacy of the economic imperative and recommends that OFCOM should have a duty to maximise efficient allocation of the spectrum. Channel 4 is concerned that such a responsibility could mean that other, social and technical, considerations would be overlooked in the drive towards economic efficiency; so that for example picture quality or universal access or minimising consumer disruption are sacrificed in order to squeeze maximum economic return from spectrum allocation.

Channel 4 would also be concerned if OFCOM were able to exercise a large degree of autonomy over spectrum management at the same time as spectrum pricing was introduced. This could lead to the sort of detrimental consequences of which this submission warns, without the opportunity for ministers to intervene and influence the outcome.

Channel 4 is sceptical about how much can be learned from the spectrum management regimes in the USA, Australia and New Zealand.<sup>26</sup> All of these countries are either large land masses (USA and Australia) or are very remote (in TV signal propagation terms) from other administrations (Australia and New Zealand). Europe has many near neighbours concerned with the aspirations and interests of their own broadcasters. The careful international co-ordination between the UK and other European countries has delivered the success of the current analogue network, and enabled the DTT service to be introduced alongside it.

## **CONCLUSION**

The Review says "Where broadcasters do not pay for spectrum, the opportunity cost of their usage is borne by the Government (and therefore ultimately by UK citizens)"<sup>27</sup>. But almost all those same citizens are consumers of television. Citizens may well consider that they prefer to keep the television service they have, rather than have it interfered with in the name of greater economic efficiency, the benefits of which are far from apparent.

Channel 4 believes that the Cave report posits a scheme for transforming spectrum management without demonstrating what benefits would ensue or why its disadvantages should be borne. The Review's proposals for broadcasting do not serve the interests of viewers, of broadcasters or of current government policy, and therefore should be rejected

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## References

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<sup>1</sup> Review of Radio Spectrum Management, Para 11.5

<sup>2</sup> *ibid* Para 11.45

<sup>3</sup> see especially *ibid* Paragraphs 11.27-34

<sup>4</sup> *ibid* Para 3.14

<sup>5</sup> *ibid* Page v

<sup>6</sup> *ibid* Para 11.2

<sup>7</sup> *ibid* Para 11.4

<sup>8</sup> *ibid* Para 11.4

<sup>9</sup> *ibid* Para 11.5

<sup>10</sup> *ibid* Para 11.6

<sup>11</sup> *ibid* Para 11.7

<sup>12</sup> *ibid* Para 11.13

<sup>13</sup> *ibid* Para 11.11

<sup>14</sup> *ibid* Para 11.18

<sup>15</sup> *ibid* Para 11.28

<sup>16</sup> *ibid* Para 11.29

<sup>17</sup> Digital Television: The Principles for Spectrum Planning - Response of Channel 4 to the Consultation Paper, Page 6

<sup>18</sup> Review of Radio Spectrum Management, Para 11.30

<sup>19</sup> *ibid* Para 11.31

<sup>15</sup> *ibid* Para 10.18

<sup>16</sup> *ibid* Para 10.35

<sup>20</sup> *ibid* Para 11.32

<sup>21</sup> *ibid* Para 11.34

<sup>17</sup> *ibid* Para 11.36

<sup>18</sup> *ibid* Para 11.45

<sup>19</sup> Hansard, 2 May 2002 : Column: 922W

<sup>20</sup> Review of Radio Spectrum Management Para 11.55

<sup>21</sup> Digital Television: The Principles for Spectrum Planning - Response of Channel 4 to the Consultation Paper, Page 1

<sup>22</sup> Review of Radio Spectrum Management Para 11.67

<sup>23</sup> *ibid* 11.68

<sup>24</sup> *ibid* Para 11.69

<sup>25</sup> *ibid* Para 6.20

<sup>26</sup> *ibid* Para 6.10

<sup>27</sup> *ibid* Para 11.11