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Ofcom consultation response:

Licensing Local Television

How Ofcom would exercise its new powers and duties being proposed by Government

Submission from STV Group plc

dated 20 March 2012

1. **Introduction**

- 1.1 STV Group plc is the parent company of STV Central and STV North, (together “STV”), being the Channel 3 licence holders for central and north Scotland. This response is submitted on their behalf.
- 1.2 STV is already an active participant in local media. Across our Channel 3 licences, we operate the most localised broadcast and online television news service in the UK, with four discrete news bulletins produced and presented from studios in Aberdeen, Dundee, Glasgow and Edinburgh.
- 1.3 Our television news is complemented by a growing portfolio of digital offerings to facilitate online and mobile access to content. Most recently, we have launched a network of STV Local websites, each of which targets an individual community. The sites range in size from Buckie with approximately 10,000 people to Glasgow with over one million. These STV Local sites provide a wide range of content, from material created and produced by STV itself, but also curating contributions from many other sources.
- 1.4 Our aim is to provide a comprehensive perspective for each local area through text, pictures and video across news, weather, travel and other information, feature material such as listings and directories, as well as contributions from others.

Whilst we agree broadly with the proposed process of licence advertisement, application and award that Ofcom has laid out, we make the following specific points on need to:-

- (i) optimise the Licensee/Mux Co relationship;
- (ii) avoid adverse impact of shorter licence terms on smaller licensees of the future;
- (iii) introduce clarity on AIP pricing;
- (iv) clarify the relationship with the BBC;
- (v) secure EPG prominence; and
- (vi) clarify use of additional video-streams to be located alongside local services on the multiplex – particularly in Scotland.

2. **Licensee/MuxCo relationship and timing of applications**

- 2.1 Ofcom proposes that applications for the multiplex licence will be considered simultaneously with applications for the first tranche of L-DTPS services. We have reservations around this parallel process as we consider it will reduce opportunities for effective synergies to emerge through the process.

- 2.2 Running a parallel process will mean that L-DTPS applicants will not know the identity of the provider of transmission services at the point of application, and yet, as Ofcom itself notes, the relationship between MuxCo operator and local licensee is crucial. Firstly, the s244 Order requires MuxCo to “co-operate [...] to facilitate the provision of local TV services and [...] participate in or facilitate the formation of a legal entity which is intended to facilitate the provision of local TV services”, and secondly, the ultimate L-DTPS holders are even to be encouraged “to apply or negotiate for a local multiplex licence, should one become available”.
- 2.3 Ofcom also envisages some permitted adjustment or variation of advertised local licence areas and some potential for flex in the order and scope of future licensing rounds. However, initial bidders will not have the opportunity to engage with an identified MuxCo in order to inform and refine their technical assumptions as regards licence area, nor exercise any influence over the roll out of future licensing rounds which may have a specific impact on their operations.
- 2.4 With such emphasis on the need for co-operation around future licence operations, in our view it is not unreasonable for the identity of prospective partners to be clear prior to application.

3 Licence duration – non alignment

- 3.1 We understand the imperative of ensuring that MuxCo and all L-DTPS licences will be co-terminus due to inter-dependencies and therefore running for a maximum term of twelve years. However, since the licensing timetable commences with the largest area by population, this results in smaller licences, which will already be financially more challenging, having significantly shorter periods in which to achieve commercial payback. This factor should not be overlooked.

4 Spectrum Pricing

- 4.1 Licensees would benefit from more certainty on the likely impact of spectrum pricing and, in particular, the introduction of administered incentive pricing (AIP) from the end of 2014. Whilst it is reassuring to note Ofcom’s intention to investigate ways to “address or mitigate any effects”¹, the levying of AIP on holders of wireless telegraphy licences, likely to pass through to service providers, could have a detrimental effect on L-DTPS licensees’ ability to maintain service. Some guidance on likely quantum will be critical for business planning and application purposes.

¹ Para 4.125

5. Impact of other intended third party relationships

- 5.1 It will be important for L-DTPS applicants to know precise details of the terms and conditions that will apply to any BBC revenues in exchange for content supply.
- 5.2 Whilst the broad parameters are already in the public domain², it is not clear what constitutes “a story” for the purposes of qualifying towards the minimum levels that will have to be met in order to secure funding.
- 5.3 Nor is it clear how the BBC itself intends to use material supplied – which could have a detrimental effect on a new, local service’s *raison d’être*, ie what limitations it will impose in terms of exclusivity, or whether there would be any prospect of supplying content even on an ad hoc basis beyond the three year term laid out.
- 5.4 BBC proposals on this have yet to be formally published but the Corporation and the Trust have indicated that the BBC would want co-exclusivity with the Local TV operator, access to stories and “rushes”, the right to exploit material on all platforms and internationally, choice of stories and involvement in commissioning decisions around which stories are covered and how³.
- 5.5 BBC payments will constitute a significant component of Local TV services’ first year revenues, yet the conditions attached appear to be highly restrictive, including the need to involve the BBC in editorial decision making.
- 5.6 In order to establish itself as a viable alternative to existing sources, it will be vital for L-DTPS licensees to be able to exploit material first and on their own terms. At the very least, we suggest a period of exclusivity where material is used only on Local TV services prior to being passed to the BBC. Otherwise, viewers will be able to access the best local stories via their regional BBC evening news story every weekday with no incentive or need to watch the burgeoning Local TV service.

6. Need to secure EPG prominence

Greater clarity too is required around DMOL’s proposals to accommodate L-DTPS services within the DTT EPG. Some appropriate form of prominence that is commensurate with the PSB characteristics of new local services is to be expected, although it is not clear how this will be achieved in Scotland where the first page of the DTT EPG has already been adjusted to accommodate BBC Alba.

² Local TV: Making the vision happen, paras 93-96

³ Ofcom stakeholder event, Salford, 12 March 2012

Given the importance of EPG prominence in surfacing PSB services to viewers, and the importance of ensuring equivalence in service for viewers and for providers throughout the country, it is of great concern that L-DTPS services in Scotland will be disadvantaged compared to other parts of the UK if they end up occupying a position in the high thirties on page 4, rather than page 1.

7. Additional video-streams

- 7.1 Whilst the intended local licensing regime is based around the new L-DTPS licence, we believe greater certainty is required around the two other video-streams which will also be available on local multiplexes.
- 7.2 The lack of restrictions on these streams could result in other local services which would be free of any PSB-style commitments and whose presence could have the potential to undermine L-DTPS licences.
- 7.3 Ofcom acknowledges that in Scotland, the additional spectrum could be considered to form the basis of a digital network⁴. Were that to happen, it would result in a materially different competitive environment for Local TV services than is currently the case. This uncertainty is unhelpful in enabling L-DTPS applicants in Scotland to frame their bids.

Conclusion

STV welcomes initiatives to deliver Local TV, but emphasises the need for as much clarity as can be achieved for all stakeholders in the process, which we believe will contribute towards the future overall success of the project as applications are drawn up and partnerships formed.

⁴ Para 4.6