



# **Response to Ofcom consultation on Channel 3 and 5 programming obliga- tions and changes to licensed area for Wales and West/Southwest England**

---

**May 2013**

## **CHANNEL 3 AND CHANNEL 5 PROGRAMMING OBLIGATIONS**

BECTU, the Broadcasting, Entertainment, Cinematograph, and Theatre Union, represents nearly 25,000 workers in the media and entertainment industry, including several thousand either directly employed by Channel 3 licence holders, or indirectly dependent on them as self-employed grades within the audio-visual production sector.

Events have moved on significantly since the debate on renewal of the Channel 3/5 licences began in 2011, when the Secretary of State wrote an open letter to Ofcom under S.229 of the Communications Act 2003. At the time, the digital switchover to DTT had not been completed, and some of the largest areas by population had still to move off analogue PSB signals.

ITV Plc, the largest operator in the commercial PSB family, had gone through a difficult period commercially, not least because of the economic downturn, but also due to the transfer of advertising spend from traditional media to the online environment, and the growth in market share of cable and satellite subscription TV operators.

Now that the digital switchover is completed, it is clear that some of the fears about the sustainability of commercial PSB in the UK have been abated. ITV Plc has increased profits to £520 million in 2012, a rise of 157% over three years. Last year the company retained more than £200 million in cash, from turnover of £2.1 billion, and on top of a regular dividend to shareholders was able to pay out a special dividend worth £156 million.

For now, at least, ITV does not appear to be a company on the verge of collapse, thanks to a mixture of extensive cost savings, many of which have reduced staffing levels, and the commercial development of non-Channel 3 activities.

The concerns of many observers that, on the Freeview platform, there would be no premium benefit to commercial PSB operators who once had exclusive access to analogue spectrum, and the prediction that their service licences would become worthless, seem to have been confounded.

ITV Plc has strengthened its business model, successfully exploited a brand that is more than six decades old, and has embarked on a welcome, and effective, programme of increasing its production of popular UK newly-made content. All this demarcates Channel 3 from the many digital TV operators who survive on acquired programmes, or teleshopping, to fill their schedules.

In the following section we respond to selected questions contained in the consultation:

***Q.1 Do you agree that the existing obligations on Channel 3 and Channel 5 licensees in respect of national and international news and current affairs, original productions, and Out of London productions should be maintained at their current levels? If not, what levels do you consider appropriate, and why?***

In the circumstances outlined above, it is hard to support an argument that the various PSB obligations imposed on Channel 3 and Channel 5 should be relaxed at this moment in the interests of “sustainability”. Channel 3 in particular has demonstrated that even in a genuine multi-channel environment, with no analogue exclusivity, licencees can operate profitably despite an obligation to provide specified levels of national and regional news and current affairs, original productions, and Out of London productions.

Should Channel 3’s commercial fortunes change in the future, there is ample scope, as has happened in the past, for Ofcom to review its PSB obligations and reconsider them as appropriate. This is a process which has taken place on more than one occasion during the life of the current Channel 3 licences, and although Ofcom will be expected to present a robust case for relaxation if this is mooted again, precedent demonstrates that change is possible.

There is a view, which we support, that ITV is ironically a beneficiary of its own constraints, in that the many PSB obligations it carries have led to a programme mix, level of original production, and regional identity which demarcates it from other commercial broadcasters, and has helped to maintain the loyalty of audiences in a multi-channel age.

***Q.2 Do you agree with ITV’s proposals for changes to its regional news arrangements in England, including an increase in the number of news regions in order to provide more localised services in many areas, coupled with a reduction in overall news minutage?***

BECTU is fully supportive of the restoration of news sub-regions, which will be able to focus on community issues, and bring local ITV journalism back to many towns and cities. However, we believe that the linked reduction in overall regional programming output is an unreasonable quid pro quo for increased localisation of news. ITV’s assertion that this trade-off is the only sustainable model for regional and local news should be tested economically in light of the company’s recent commercial turnaround.

The economic argument about the company’s current strength, and ability to maintain or even improve services has been made above. In respect of the detailed proposals for reduced regional news, we are unclear about the effect of one-third of the evening programmes content coming from “out of area”. The debate about Border TV’s dual-nation coverage area is a good example of the disenchantment viewers can express when confronted with material from a separate region in a programme that is ostensibly for their area.

There is a risk that out of area material will be met by low levels of viewer satisfaction, leading inexorably to an eventual discussion on whether local programmes should be limited to 20 minutes of genuinely local content. This would be a significant step backwards from the current requirements, notwithstanding the increased localisation being proposed by ITV.

We also doubt whether the existing levels of staffing and resources are sufficient to allow the production of two programmes each weekday, rather than one, in those centres where sub-regions will be re-introduced. Present levels of staffing were set by a reorganisation that followed the 2009 abolition of seven sub-regions, and are arguably low even for the duration of current

output. More output will need more people, and this should be factored in to any localisation plans.

***Q.3 Do you agree with UTV's proposal for non-news obligations should be reduced to 90 minutes a week? If not, what alternative would you propose and why?***

We note that UTV is already exceeding its Ofcom quota for local production of non-news content, and therefore cannot see any reason for a reduction.

***Q.4 Do you agree with the proposals by STV to maintain overall minutage for regional content in the northern and central licence areas of Scotland at 5 hours 30 minutes a week, as detailed in Annex 3? If not, what alternative would you propose, and why?***

***Q.5 Do you agree with the proposals by ITV to maintain the overall minutage for regional content in Wales at 5 hours 30 minutes a week, as detailed in Annex 3? If not, what alternative would you propose, and why?***

BECTU is opposed to any reduction in regional programme-making outside London, and therefore supports the proposal to continue with current levels in both nations. In an era where they both enjoy increased economic and cultural autonomy from England, it is important that local programme makers have access to transmission slots for programmes which express their national voices.

***Q.6 Do you agree with the proposals by ITV to reduce the overall minutage for regional content in the Channel Islands from 4 hours a week to 3 hours 20 minutes as detailed in Annex 3, while maintaining the present provision of a 30 minute early evening regional news programme? If not, what alternative would you propose, and why?***

The Channel Islands licence area is the only part of the UK where there are no plans for a local TV service, as currently being implemented in 19 towns and cities, to be followed by a further 28. Thus, any reduction in local programme-making by ITV will not be substituted by new content from other providers, and the proposed cut of 40 minutes per week represents an unwelcome diminution of service to the Channel Islands audience.

***Q.11 Do you agree that the Border licence should be amended to reduce the proportion of regional production required to a sustainable level? If not, what proposals would you like to make?***

Whether regional programming for the Border area is made in or out of the licence area, we believe that the audience should be entitled to the same volume of locally-inspired content as other parts of England. If, for reasons of critical mass and economic efficiency, this can only be met by production elsewhere, for example in the Tyne Tees area, there may be grounds for a re-wording of Border's regional commitment to allow physical programme making out of region, but we cannot support an overall reduction.

***Q.12 What views do you have on the proposal by STV and UTV to extend peak time to 11pm, which would extend the window in which they could schedule regional content that must be shown in peak time?***

Screening of regional content later than 10.30pm could only lead to a reduced audience in the

areas affected, and a lower profile for locally-produced programming. This will not serve the interests of audiences in these licence areas, and BECTU opposes this relaxation of programming obligations.

#### **CHANGES TO LICENSED AREA FOR WALES AND WEST/SOUTHWEST ENGLAND**

***Q.1 Do you agree with Ofcom's proposal to make changes to the geographical areas of the Wales and West of England licence, to separate the constituent regions resulting in a single licence for Wales, and a larger West and South-West of England licence ?***

Provided that the resultant Wales-only licence proves to be commercially sustainable, and the concerns of staff who may be TUPE-transferred to a new employer are addressed, this geographic reorganisation seems timely, and in the interests of viewers in both areas of the current Wales and West of England region.

T.L. 20130327