



Response to the Ofcom Consultation on Channel 3 and Channel 5 Licences

Scottish Borders Chamber of Commerce

I. Preamble

Ofcom has called for responses to its Consultation Paper 'Methodology for Determining the Financial Terms for the Channel 3 and Channel 5 Licences', which was published on 21 February 2013 with a deadline for reply of 2 May 2013. This paper forms the response of the Scottish Borders Chamber of Commerce (SBCC) to that call.

For the sake of clarity, it should be noted that the Chamber will be placing this paper in the public domain and is happy for Ofcom to do the same if it deems it appropriate.

II. Response Methodology

The Consultation Paper asks respondents a series of specific questions (Annex 2, Q1 - Q12) which relate to all sections of the document. As the leading business organisation in the Scottish Borders, SBCC's interest in the consultation exercise really only relates to Section 4 ("Regional programming options for the Border licence"). We hold no view on other sections of the paper, except in as much as they may relate to Section 4. It would therefore be inappropriate for us to answer questions relating to other parts of the document.

For completeness and to comply with Ofcom's question-based approach, we provide answers to Q1 - Q12 below, but have chosen to provide our substantive response in a separate and detailed narrative which follows on in Sections III and IV. We hope and trust that this approach is satisfactory for Ofcom's needs.

Answers to Questions:

Q1. No opinion.

Q2. No opinion.

Q3. No opinion.

Q4. Only relevant to us in terms of alternatives we would propose which involve the Border TV area (see detailed narrative in Sections III and IV)

Q5. No opinion.

Q6. No opinion.

Q7. Yes. See detailed narrative in Sections III and IV.

Q8. Option 2. See detailed narrative in Section IV.

Q9. Yes. See detailed narrative in Section III.

Q10. See detailed narrative in Sections III and IV.

Q11. See detailed narrative in Section IV.

Q12. No opinion

III. Response - Detailed Narrative

The Scottish Borders Chamber of Commerce (SBCC) attempts to represent, protect and develop the business, social, cultural, historical and political interests of the Scottish Borders. This is an area rich in its own culture, traditions, business areas, economic identity, politics, sporting preferences and sense of history. It is proud of its individualism and enjoys warm relations with its neighbours on the other side of the English/Scottish border, while at the same time seeing itself as an integral, if distinct, part of Scotland.

This is an exciting and unique time for Scotland. The referendum on Scottish independence which will be held on 18 September 2014 will define the country's future, possibly for generations to come. It is essential that people living in the Borders are fully informed about all aspects of the debate, and so able to make a voting choice which is as fully informed as possible.

In Section 1.11 of the Ofcom document, the Secretary of State said that the "quality and plurality of news provision was of the utmost importance." It is our contention that that the people of the Borders, and of the wider South of Scotland TV area served by Borders Television, are not receiving a high as quality of service provision in respect of news, current affairs and some other areas of coverage as they might reasonably expect.

We believe that the current Border/Tyne Tees TV franchise to be muddled, culturally and politically incoherent and - given the current broad political consensus in Scotland that at the very least, more powers need to be awarded to the Scottish Parliament - anachronistic. It does not reflect the reality that Scotland and England are two friendly and intertwined and yet diverging and distinct nations.

The existing franchise area makes no sense in the 21st century. It does not deliver the focused news and current affairs, sporting or cultural provision which viewers expect. It offers little of value to advertisers (a viewer in, say, Jedburgh is hardly likely to shop at a car showroom or carpet warehouse in Cockermouth or Workington, no matter how enticing the offer) and when it comes to local output, serves two distinct audiences ineffectively. It must be as annoying for viewers in Cumbria to see stories about Scottish Borders Council as it is for those in those in, for example, Dumfriesshire to hear about local issues in Kendal. There is, quite simply, little common ground. Also we in the South of Scotland see adverts, particularly UK Government adverts that sometimes have no relevance to us in Scotland. And we understand that some Scottish Government sponsored adverts, particularly relating to health matters, are not shown here.

Also it is often the case that the news reports fail to explain - particularly when it involves health, education or legal matters that the item does not apply to the South of Scotland as these matters are devolved. Or when referring to a UK minister - again, using health as an example - , that he or she is not responsible for the Scottish health service. Similarly when referring to, say, the Department of Environment no explanation is given that its jurisdiction does not include Scotland.

We note (Ofcom, 4.12) that in its Section 229 report to the Secretary of State, Ofcom said that "obligation levels for the devolved nations (including the Scottish Border region) must take account of the specific need for plurality in news and current affairs content which enables viewers to engage in democratic processes." We do not believe that the current system, with output from a production hub in Gateshead and with highly limited coverage of the Scottish Borders, offers the correct level of balance.

Paragraph 4.7 states that regional programming obligations under "Channel 3 licences for the devolved nations (other than Border) and the Channel Islands require the provision of more regional news and non-news programming than the Channel 3 licences in England...this reflects the fact that there are separate political and constitutional arrangements in those nations." The Scottish Borders is no less devolved and therefore, surely, no less entitled to this same level of provision. There is no reason why this region should have a specific and disadvantageous exemption.

We note also (4.10) that STV over-delivers on its obligation, in particular via *Scotland Tonight*, a four-nights-a-week late evening programme which typically provides 80 minutes of current affairs. Within Scotland, *Scotland Tonight* has gained a reputation as a highly quality, fast-to-respond current affairs programme, particularly when it comes to discussion and analysis of Scottish politics. In many ways, it is now seen as the gold standard of Scottish current affairs television. Unfortunately, owing to the current franchise

arrangements, this programme cannot be seen in the Borders. This creates the situation where MSPs and MPs representing the South of Scotland (currently including at least one UK and one Scottish government minister) can appear on a programme which cannot be seen by their own constituents. This is, by any measure, creating a democratic deficit.

We note the audience research commissioned by Ofcom (figure 5) and carried out in Galashiels, Penrith, Stranraer and Dumfries. The wording regarding the research methodology is somewhat ambiguous, and it is not clear if the answers from Penrith have been incorporated into or excluded from the feedback about Scottish coverage. If the former, then they will obviously skew the results away from a desire for more Scottish news. The fact is the people of the South of Scotland have never been properly consulted as to what they would like.

The paragraph about BBC Scotland coverage being seen as complementary to Channel 3 also fails to recognise the reality that the ethos of the two broadcasters is different. The BBC is fundamentally a UK institution, managed from London, paid for by a UK tax (the licence fee) and reflecting UK cultural values. By its very nature, it is part of the UK establishment as well as being a mirror of it. There is a belief held in some quarters in Scotland that - despite a legal requirement for editorial balance - BBC Scotland has a structural tendency to reflect UK thinking, and to tilt its news and current affairs coverage towards a unionist (referendum No) rather than an independence-minded (referendum Yes) perspective. STV by contrast is considered to be less culturally anchored in its own heritage and system of UK public governance and therefore able to be more flexible and impartial. Borders TV cannot currently be positioned within this matrix as it simply has not covered Scottish politics and referendum issues sufficiently for anyone make a judgment about how it is reflecting the constitutional debate.

An enhanced news and current affairs service provided by Channel 3 would give Borderers the opportunity to see Scottish coverage through a different prism to that offered by BBC Scotland. It would represent choice and not duplication.

IV. The Options

We have examined in detail the proposals contained in the report and feel that none of the options presented fully deals with the ITV broadcast deficit which exists in the Scottish Borders and in other parts of ITV Border's Scottish franchise area.

Firstly, we are concerned and in fact surprised and disappointed that Ofcom is not pursuing the option of auctioning a new all-Scotland licence (paragraph 4.19) in place of the existing licences. We do not accept that the disruption of doing this would be disproportionate. To claim that this is insuperable suggests a mindset which favours the commercial and licensing arrangements of the broadcasters and regulators over an interest in informing, educating and entertaining the viewers.

We accept (4.19b) that STV is providing an enhanced level of programming beyond its actual obligations but, like other ITV franchises and unlike the BBC, it is at its heart a commercial entity, charged with delivering for its shareholders. It presumably therefore thinks that broadcasting above its required quota via programmes such as *Scotland Tonight* is either directly or indirectly in its commercial interests. This suggests that news and current affairs broadcasting is financially viable and extending this programming into the South of Scotland would make it even more so as the marginal cost of transmitting to a bigger franchise area would be minimal.

We believe that an all-Scotland option, with STV presumably one of the lead bidders, would create a homogenous and cohesive single Scottish Channel 3 broadcasting entity which would not disenfranchise TV viewers in the Borders and the wider South of Scotland from fully engaging in the Scottish political or cultural process, as is the case at present.

As far as news coverage is concerned, we see no reason why such a franchise could not provide at least the same levels of output from the South of Scotland as exist at present as an opt-out within its broader Scottish broadcasting. An opt-out slot for the region could be inserted into the equivalent of programmes like *Scotland Today*. A similar format (albeit with relatively short opt-outs) is currently used by BBC Radio Scotland and generally works well.

We cannot stress strongly enough that the current franchise system simply does not work. Viewers in the Scottish Borders are being forcibly disengaged from the Scottish political process and from discussions in wider Scottish civil society at a critical moment in their country's history. Yet they are paying as much in licence fees as anyone else north or south of the border (the licence is of course paid to receive all programmes, not just BBC ones). There should be no taxation without representation, and Borderers and other viewers in the South of Scotland are manifestly under-represented at present.

It is also critically important to note that information flow is a two way process. An all-Scotland Channel 3 licence would allow the Borders and elsewhere in the South of Scotland not just to hear and absorb what is happening in other parts of Scotland but to be heard too. It would provide an outlet for our businesses, institutions, interest groups and individuals to speak to and influence all of Scottish politics, business and civil society.

The organisations and individuals which advocacy groups in the Border TV area need to influence are not in Carlisle, Penrith, Kendal, Gateshead or Newcastle. They are in Glasgow, Edinburgh, Aberdeen and other Scottish regions. As Scotland becomes an ever more distinctive and confident nation - something which will inevitably happen whatever the result of next year's referendum - then the need to nurture and grow those channels of influence becomes ever stronger. A single all-Scotland ITV broadcaster seems to us to be the best vehicle for meeting these needs.

The current disenfranchisement of viewers in the Borders in particular goes beyond a lack of engagement opportunity with politics and civil society. There are other areas where coverage of events is poor or non-existent. For instance, rugby is an extremely popular sport in this part of the world, with the Sevens tournaments in particular drawing big crowds and stirring huge local interest. Yet they virtually never feature on television.

This is particularly galling for us in the Borders as a large number of Borders rugby players play for Scotland's two professional sides, Glasgow and Edinburgh, and indeed hold coaching positions. Yet we in the South of Scotland do not receive "STV Rugby". This programme mainly shows highlights of the games involving Scotland's professional rugby sides.

Then there are our "Common Ridings" which appear to be almost unknown in the rest of Scotland. Horse riding is extremely popular in the Borders and as are our local summer festivals. The lack of coverage of our festivals means that our local tourism industry is losing out.

Entertainment programmes currently broadcast by STV sometimes feature Borders participants: once again, they are not shown here.

For example the Young Scot awards highlights programme was shown on STV in Sunday 22 April. Even though these awards apply just as much to us as the rest of Scotland, and included at least one winner from the Borders, we did not get to see this programme.

We also note that Ofcom is consulting on splitting the licence for Wales and the West of England to create a standalone licence for Wales (figure 4) and that Northern Ireland has long had its own homogenous ITV franchise. This makes it even more incongruous and inappropriate that a similar outcome should not be considered for Scotland.

In short, the option of an all Scotland licence seems to us to be the best alternative. We would like this to be reconsidered and will work hard in the public arena to campaign for that outcome.

Of the options which are currently on the table, we prefer Option 2 to Option 1. The provision in Option 1 of a weekly half hour current affairs programme only partly devoted to Scottish matters and running for 40 weeks a year is frankly transparent tokenism. This amounts to just 13.33 hours of coverage of Scottish affairs a year. To try and convince people in the South of Scotland that this amounts to meaningful coverage of their own nation's affairs is so absurd as to be insulting. Similarly, the appointment of a similar single reporter to serve as a Political Editor smacks of an attempt to throw beads to the natives.

Option 2 is better, but still flawed. The 90 minutes of weekly programming suggested is certainly an improvement on Option 1, but this is described as "non news regional programming including current affairs" rather than as being dedicated to current affairs. This allows far too broad an interpretation. It could create the temptation to fill the slot with cheap-to-make programmes and in theory allow everything from folk singing to Tweed fishing to be shifted into this strand. While there is clearly a role for these sorts of programmes, they should not be allowed to push out news and current affairs. At the very least, the commitment should be to produce a nightly current affairs programme along the lines of *Scotland Tonight*, which broadcasts for a total of 120 minutes per

week. We see no reason why this should not succeed in the Scottish Borders. The simplest solution - and one which would be satisfactory to us - would be to re-broadcast *Scotland Tonight*. We accept that Ofcom cannot instruct this as it is a commercial matter for the broadcasters, but it can influence decisions and we would hope and expect it to do so. In any case, as the programme would appear to be commercially viable now, we see no reason why it could not continue to be commercially viable - and perhaps even more so - if extended to the South of Scotland.

It would also make sense for ITV Border to come to an arrangement with STV for a re-broadcast of its Scottish news output, with specific opt-outs for the South of Scotland. This could mirror the BBC Radio Scotland format, which provides separate news opts for Selkirk (Borders) and Dumfries (Dumfries and Galloway). STV already has sub-regional broadcast arrangements which it manages effectively and there is no reason why this principle cannot be extended.

We agree with Ofcom that the physical location of production centres is less important than local newsgathering (4.29). Where the programmes are physically put together is generally invisible to viewers and therefore irrelevant to them: it is the editorial content that matters.

We also accept that our suggestions over news and current affairs coverage in particular would require ongoing co-ordination between production centres in Glasgow and Gateshead and also the splitting of transmitters, which has some consequences in terms of cost and resource. However, these issues are not insuperable and would not have huge commercial consequences. The UK's distinctive ethos of factoring public service responsibility into all broadcasting (and not just the BBC) means that the interests of the viewers should always come first.

We would also like to see a commitment by the broadcaster to produce and broadcast non-news strands such as sport, entertainment and local history programmes. These must not, however, be allowed to be set against a specific news and current affairs weekly allocation by displacing programmes dedicated to this genre (see above).

In summary, although we much prefer Option 2 to Option 1. It is our opinion that neither of these options meets the needs of the Scottish Borders and the wider South of Scotland, and we would re-iterate that we believe an all-Scotland licence offers the best option and this should be reconsidered.

To conclude, we have two more points to make. The first is that Ofcom's consultation relates to the new licensing period after the current Channel 3 and Channel 5 licences expire on 31 December 2014. This is after the date of the referendum on Scottish independence on 18 September 2014. To a large extent, Scotland is already self-governing and the shape of the country is bound to change and generate ongoing robust and energetic debate whatever the result of the referendum. Despite this, it is unfortunate - if unavoidable - that the current franchise timetable means that licence changes will not happen until the vote is over.

Given the huge importance of the current constitutional debate in Scotland, we would urge Ofcom to make representations to the relevant Channel 3 broadcasters to allow TV viewers in the Borders and wider South of Scotland to view and participate in the debate leading up to the referendum more fully than they have been able to so far. This is their referendum as much as anyone else in Scotland's. Given goodwill on all sides, there is no reason why, for instance, Channel 3 news coverage cannot more fully reflect the current Scottish constitutional landscape leading up to the vote in September 2014. Re-broadcasting *Scotland Tonight* would be an excellent start, and we would urge both Border TV and STV to open serious discussions to allow this to happen as quickly as possible

One final point. This consultation response has been robust in its comments about the way in which the SBCC believes the current Channel 3 licensing system acts against the best interests of TV viewers in this part of the world. This should not be taken as a criticism of the quality of Border TV's output. Our argument is with the appropriateness of the transmission area and not with the programmes themselves, which are generally of excellent quality.

Similarly, we would like to put on record that we have no complaints whatsoever about the professionalism, dedication and integrity of Border TV editorial and production staff, whether they be based in the Borders, Gatehead or anywhere else. In all our dealings with them, we have always found them to be courteous, honest and talented. Whatever happens, we wish them well, and they will have our support.

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We would of course be happy to discuss any of the issues raised in this paper further if it were felt to be helpful. We hope you find it useful.

Scottish Borders Chamber of Commerce - April 2013