

Submitted by David Henry

Why Ofcom should launch a full review of the **BBC Scotland TV Channel** and refuse to issue a broadcast license until concerns are addressed?

Media Plurality:

Ofcom has a statutory duty to ‘**Protect fair and effective competition**’ when regulating the BBC public service channels and to consider any proposed changes to any BBC Public Service. The BBC has a significant market share of broadcast news in Scotland and the barrier to entering the broadcast media landscape in Scotland is commercially significant and therefore the BBC plans to launch a further TV Channel with additional News and Current Affairs must be viewed as a state aided intervention in a commercial market and a threat to media plurality. Certain locations in Scotland including the town of Peebles only receive a limited number of PSB channels with no Commercial DTT Muxes available, therefore in these areas the BBC is the dominant broadcaster. As a result the BBC has an overwhelming market share in these poorly served areas. The BBC has failed to carry out sufficient market research and has failed to refer to the under served DTT areas at all.

STV Group PLC had announced a strategic review of its fledgling loss making STV2 Scottish channel (one option would be closure) and has referenced the announcement by way of referencing the BBC’s announcement to launch a BBC Scotland Channel as a contributing factor.¹ A closure would not be in the public interest and would reduce media plurality. On the 16th of May 2018 STV Group PLC announced it was to close the fledgling channel with the loss of 59 jobs mainly affecting STV 2 and the provision of Broadcast News on the main STV commercial channel.

Ofcom has a further Statutory Duty to conduct both a Market Review and Public Interest Test when media plurality may be affected and/or be expected to result in insufficient plurality in the number of persons with control of media enterprises in the UK or part of the UK. The evidence is clear the BBC is dominant and will damage competition.

Ofcom has already found that the **BBC has a 42% market share** in providing News across all relevant platforms. Ofcom found while reviewing the Fox, 21st Century & Sky merger that 10% was too high, which led to Ofcom recommending to the Secretary of State a referral to the Competition & Markets Authority for a full review.² The BBC has a significantly larger share than the Murdoch Family Trust would have had, so the media plurality issue is serious and relevant.

Broadcasting News:

The network **BBC News** at 6pm is watched by **25 per cent of Scots** who have their televisions on at the time. (Source Overnight TV) **BBC Reporting Scotland** enjoys a **32 per cent audience share**, while the STV News at 6pm, which features Scottish news, has a 26 per cent share. So the **BBC One Scotland** channel currently represents **52% of Scottish TV news viewing**. This market share will only increase if a BBC

¹ <http://www.stvplc.tv/investors/reports-and-results>

² https://www.ofcom.org.uk/__data/assets/pdf_file/0012/103620/public-interest-test-report.pdf

Scotland Channel was to launch and broadcast additional news programmes. This is a danger to media plurality.

Ofcom has a statutory duty with an overarching aim of Ofcom's duties in respect of the BBC is the protection of fair and effective competition in relation to the BBC's activities, whose unique funding arrangements and privileged status represent a significant intervention into broadcasting and related markets by the British State.

Barriers to entry:

Broadcast bandwidth for the delivery of a standard definition Digital TV Channel requires the purchase of bandwidth on 2 popular digital TV delivery platforms (An HD TV channel requires more bandwidth). Digital Satellite (Sky &/or freesat) reaches 33% of Scottish homes and would cost approximately £200k per year for bandwidth and a further £85k for a Sky Channel Number and EPG (Electronic Programme Guide) services. Bandwidth on the Freeview DTT platform would cost an estimated £3.5-£4 million per year to reach a further 37% of Scottish homes and a further small charge of £10k for that EPG. The BBC has been gifted Freeview DTT bandwidth and so has a competitive advantage to any new entrant wishing to enter the marketplace. Cable TV operator Virgin Media has just 3% of Digital TV homes in Scotland and bandwidth is not available without a commercial carriage agreement.³

As the economic barrier is not insignificant, Ofcom must protect fair and effective competition in the marketplace by refusing to issue a broadcast license to the BBC for the planned BBC Scotland TV Channel or until competition concerns can be offset by undertakings to address the concerns.

Public Interest Test & Media Plurality:

The public interest would be best served by requiring the BBC to significantly alter its plans for the BBC Scotland Channel by one or more of the following options:

- 1. A minimum of 50% of all broadcast programmes to be produced by Scottish independent programme producers. (London based production companies to be excluded to prevent lift and shift)**
- 2. News and Current Affair programmes to be subcontracted to a new Scottish independent production company. (No BBC Editorial Influence a true alternative media voice)**
- 3. BBC enters a joint venture with an independent commercial channel to create a new Public Service Broadcaster which adds BBC programmes with new independent produced programmes with a mixed funding model (Channel 4 type business model), the BBC provides transmission and its gifted bandwidth and the new independent commercial channel which would sell advertising and sponsorship to increase the channels budget and improve the value offered to the public. This model has proved to be a successful solution in Ireland where RTE combines a State aid TV License with commercial revenue.⁴ This is the preferred option.**

Ofcom should recognise that the BBC has a unique funding source and has been gifted broadcasting bandwidth, which is a serious threat to both the commercial market

³ https://www.ofcom.org.uk/__data/assets/pdf_file/0015/105144/scotland-tv-audio-visual.pdf

⁴ <https://static.rasset.ie/documents/about/rte-annual-report-2016.pdf>

entrants and represents a serious threat to media plurality. Following the news that the STV Group PLC has announced to close the STV 2 channel which referenced the plans for the BBC Scotland Channel, it's clear the BBC has failed to carry out it's PIT duty. Significant anti competitive issues have now been demonstrated. Ofcom must act to halt the issuing of any broadcast license for the BBC Scotland Channel as planned currently by the BBC, until the above concerns have been addressed with either undertakings or changes to resolve media plurality concerns especially concerning the provision of News and Current Affairs. Option 3 above is the preferred option that would deliver higher Public Value and a new media voice in the Scottish media landscape.

Ofcom is directed to launch a full Competition Market Review with the aim of increasing Media Plurality. Both the BBC and Ofcom have failed to address the BBC market share issue. If Ofcom was to proceed in granting a Broadcast License then an appeal to the Competition Appeals Tribunal can be expected.

The following have signed in support of stopping the current planned BBC Scotland Channel until a full review has been undertaken by Ofcom and the media plurality issue has been resolved.

Attached to this submission is a list of names with postcodes of some 722 members of the public that fully support this submission.

Regards
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