

23 January 2014

Alex Towers
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STUART MCINTOSH

Group Director, Competition

Dear Alex,

BBC Trust Significance Test – iPlayer catch-up window extension

In accordance with the Terms of Reference of 29 October 2013 and the Addition to the Memorandum of Understanding regarding Significance Tests¹, this letter sets out Ofcom's views on the potential impact on others ("others" being providers or potential providers of alternative products and services) of the BBC Executive's proposed changes to the BBC iPlayer ('the Proposals').

We provide our views in order to inform the Trust's decision on the significance of the Proposals. All aspects of the Proposals (including impact on users) are being considered by the Trust Unit and it is the Trust's decision as to whether the Proposals are considered significant for the purposes of Clause 25 of the BBC's Framework Agreement.

The Proposals include extending the TV and radio catch-up window from seven to 30 days and removing series stacking from TV. Specifically we understand the Proposals are:

- To extend the TV catch-up window to enable audiences to stream or download BBC programmes for 30 days after they have been first broadcast rather than seven days;
- To extend the radio catch-up window to enable audiences to stream or DRM download BBC programmes on the Internet for 30 days after they have been first broadcast rather than seven days; and
- To remove series stacking for TV (that is, the ability for audiences retrospectively to download or stream multiple episodes of TV programmes).

Ofcom's approach to this assessment

We have reviewed the Proposals, information held by Ofcom, and further information provided by the BBC at our request. Given the scope of the Significance Test process, we have not commissioned any additional market research, obtained any new information or data specifically for this work, or consulted with stakeholders – some of which may have particular views about the impacts of the Proposals.

In our analysis we have tried to understand the impact the Proposals may have on alternative providers of TV and radio programmes.

¹ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/mou_addition_dec2011.pdf

Overview

The BBC has told us that the net effect of the Proposals will be to increase the amount of BBC programming available on iPlayer by about four times for TV and two and a half times for radio. None of the extra content available beyond the 7-day point would be new, as it would all have been already available from 0-7 days; but a consumer looking at the iPlayer would find a larger amount of content available at any one point. We can observe however from data on PVR homes that viewing per day is much greater on earlier days in the window.

Given this increase in content we would expect some impact on others, unless the additional viewing / listening that results from the Proposals is either all incremental, or substitutes only for other BBC public services.

As noted in our letter to the BBC Trust on 10 December 2013 on the proposed links from BBC public services to BBC Store, BBC research shows that consumers are increasingly using the iPlayer as a way to discover content rather than going to the iPlayer to view or listen to a specific programme². We would expect that a growth in the amount of BBC programming hours available on the iPlayer as a result of these Proposals could further increase the proportion of consumers that use the iPlayer as a means of discovering content, which could in turn result in reduced viewing hours for other providers.

The BBC has provided us with market analysis carried out for it by Mediatique and Communications Chambers on TV and radio respectively. These two sets of analysis and the BBC's conclusions from them suggest that the likely impact on others is focused on TV services, because radio downloads make up a small amount of overall listening. Mediatique's analysis concludes that following the Proposals by 2018 there would be 9,992m hours viewed in the 1-30 day catch-up window, an increase of 375m hours versus the counterfactual. Mediatique forecast that by 2018 catch-up viewing via the iPlayer would account for 11% of BBC TV viewing. For radio, Communications Chambers forecast a monthly increase of about 14m additional hours after the live broadcast (equating to roughly 169m hours over the year). Catch-up hours for radio would then account for around 1% of total BBC listening.

We have reviewed the BBC's analysis and forecasts but within the time available we have not tested the projections and assumptions made. Where appropriate we have sought to supplement it with other data, such as BARB viewing figures for catch-up services.

Impacts on others of changes to TV services

We set out below the likely impact of the Proposals by service type as follows:

- Linear and PVR viewing
- Catch-up services

² 40% of users now access iPlayer without a specific programme in mind – an increase from 20% in 2009. In addition, a similar proportion of users confirm that iPlayer has introduced them to programmes that might not otherwise have seen (BBC Survey data).

- Archive VoD
- Pay VoD

A relevant consideration across all types of service is that there may be differences between genres of TV programming that mean that providers of certain genres of content would be more affected by the Proposals than others. For example, some genres like films and non-soap drama are more likely to continue to be consumed beyond seven days after broadcast³. Alternative providers of these types of content may be more affected by the proposals to lengthen the catch-up window than providers of other types of content which are more time sensitive – e.g. news or sports.

There is a finite amount of TV viewing and radio listening time available, which means that an increase in the amount of available content on the iPlayer may lead some consumers to move away from other services, even if only for a short period of time, to the iPlayer. While the content available through other providers may not be directly substitutable for BBC content, it is nonetheless possible that the Proposals could increase the overall proportion of the finite viewing/listening hours that consumers spend using the iPlayer.

Linear and PVR viewing

The BBC expects the only additional substitution away from linear TV services to the iPlayer to come from its own linear channels (viewed live or time-shifted). It seems reasonable to suggest that the impact on others would be smaller than the impact on its own channels, but it is perhaps less reasonable to say that there would be none. The closest substitute for additional catch-up BBC programmes is likely to be other BBC programmes, but there could be substitution across a range of other channels. One example might be UKTV, which relies heavily on BBC content, albeit from older windows.

Linear viewing could also include pay TV channels; while there might be a marginal effect on viewing of some programmes, we agree that the increased attractiveness of iPlayer as a result of this change is unlikely to result in changes to decisions on whether to purchase linear pay TV packages.

As we noted in our letter to the Trust on the proposed links from BBC public services to BBC Store, live television remains the main way of watching programmes and is forecast to remain so for the foreseeable future⁴. This makes it likely that any effects on live TV would be relatively small.

³ Ofcom analysis of BARB data. PVR Individuals aged 4+, Network (4+ regions), July 2013. 4% of non-soap drama is viewed between 8-28 days (7% in PVR homes), while for films 3% is viewed between 8-28 days (5% in PVR homes). Genre classifications are based on 'all genres' analysis in the PSB Annual report. <http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb2013/viewing.pdf>. In July 2013 BARB began to capture viewing up to 28 days from the original broadcast. While this is shorter than the 30 day window in these proposals, the low volume of requests per day at the end of the 30 day window leads us to treat the BARB 28 day data as a reasonable proxy in this case.

⁴ Ofcom, 2013 CMR, p.144. Figure 2.20. Enders Analysis forecast that in 2020, live TV viewing will still make up 80% of all TV viewing (*The rise of connected TV*, January 2013).

For time-shifted viewing, Mediatique forecast that 144m fewer hours would be consumed on PVRs. BARB data shows that across all channels in all homes, 11% of all total viewing happens between 0 and 7 days after broadcast and a further 2% between 8 and 28 days. In PVR homes, which have the functionality to record and consume content after the 7 day window, 15% is viewed between 0 and 7 days and 2% in the 8-28 day window⁵. Again, as with live TV substitution, there might be some shift from third-party channels to the BBC in this window, but this is likely to be small.

Catch-up services

The BBC suggests that the biggest impact on others would be on catch-up providers in the 8-30 day window. Mediatique forecasts 53m hours of viewing to move from non-BBC on-demand content to the iPlayer. There is always a degree of uncertainty around such forecasts, but even if this is understated by an order of magnitude, it would still be a small effect. 53m hours equates to 0.1% of forecast total third-party catch-up in 2018, according to the BBC's analysis.

Archive VoD

The BBC forecasts suggest that the second biggest impact of the Proposals will be on archive VoD. At half the viewing impact of that on catch-up services, or £2 million in revenue terms by 2018, this impact is also small⁶. However, the analysis excludes subscription VoD ('sVOD') services, which we go on to discuss below⁷.

Pay VoD services

These include both pay per view – whether download to own or download to rent – and subscription services. We agree with the BBC that the effect of the Proposals on pay per view services would likely be minimal, taking into account the quite different product characteristics of the services available on pay per view – for example films in early windows.

There may be more of a question over sVoD services, where the BBC forecasts no impact on numbers of subscribers. As we recognised in our letter on the Significance Test on the proposed links from BBC public services to BBC Store, sVoD and PSB catch-up may involve different business models and different purchasing decisions by consumers.

⁵ Source: BARB, Ofcom analysis. All Individuals aged 4+, PVR Individuals 4+, July 2013.

⁶ BBC forecasts show that while there would be a reduction in third party hours as a result of migration from the archive to the 30 day window, there would be no overall change in third party market share.

⁷ We requested confirmation from the BBC of the justification for excluding subscription VoD services from its analysis. It told us that the Mediatique analysis implicitly included the impact of the increased catch-up window on on-demand consumption via subscription VoD services but did not assume there would be any business impact – i.e. it assumed that viewing might be slightly affected, but subscriptions would not be. We understand that Mediatique considered that the content proposition on subscription VoD services was not rooted in catch-up services, but rather archive and premium content. It considered that there was an inherent difference between a consumer's attitudes towards paid for services and freely available content. While it noted the extended catch-up window might satisfy some latent demand, it was unlikely to impair the appeal of content available on subscription VoD services.

While sVoD services include some content which is likely to be very clearly distinguished from PSB catch-up services – e.g. premium films – they also include some content which is likely to be a closer substitute, such as archive content or drama series. As noted above, there is a finite amount of TV viewing time available. Some consumers may move away from their sVoD service and increase the amount of time they spend consuming content on the iPlayer, which is likely to have an effect on those services.

Depending on what content primarily drives consumers' purchasing decisions, there may therefore be an impact at the margins on whether consumers choose to subscribe to a VoD service such as Netflix or stick with free-to-air services including iPlayer.

DVDs

Mediatique analysis forecasts that the Proposals would result in a reduction of 1m BBC hours, and [] in BBC revenue, because there would be greater availability of BBC content for a longer period on the iPlayer, which would reduce demand for BBC DVDs. It forecast that there would be no impact on third parties as a result of the Proposals.

As we noted in our letter to the BBC Trust on 10 December on the proposed links from BBC public services to BBC Store, it is widely recognised that the DVD market is in decline and consumer consumption patterns are changing⁸. We agree with the BBC that the impact of the Proposals on its own revenues for DVD sales is likely to be small, notably because an extension of the catch-up window from seven to 30 days is unlikely to fulfil the demand for physical programming content. For the same reason, we do not consider that these Proposals alone are likely materially to accelerate decline in the DVD market as a whole.

Impact on others of changes to radio services

As noted above, the overall effect of the Proposals in radio is much smaller than that in TV, simply because the proportion of listening which is done via catch-up is much smaller than the proportion of catch-up TV viewing.

As described above, the analysis presented by the BBC suggests that all additional listening from days eight to 30 will be incremental to current listening. However, the BBC goes on to consider whether any substitutional effects are likely.

Below we consider the following types of service in turn:

- Commercial radio – live radio services
- Commercial radio – on-demand radio services
- Recorded music sales
- Commercial spoken-word sales

In a similar way to TV, while we consider the likely impact by type of service, the impact may also vary by genre. In our letter to the BBC Trust on Radio DRM Downloads⁹, we highlighted

⁸ [].

⁹ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/drm/ofcom_letter.pdf

speech-based Radio 4 (and 4 Extra) services such as comedy and drama, and BBC music programmes, as being particularly likely to be downloaded. The BBC's data for 2013 shows that many of the most listened-to programmes on iPlayer catch-up were from Radio 4.

Commercial radio – live radio services

The BBC expects the impact of the Proposals on live commercial radio to be de minimis. This is particularly based on the relatively high proportion of commercial radio hours (48%) which come from listeners that do not listen to BBC services¹⁰, as well as the expectation that on-demand radio listening is largely additive rather than substitutional to live listening. The BBC also expects the biggest increase in content to come from Radio 4 and 4 Extra, which have fewer obvious direct substitutes from the commercial radio sector than, for example, Radio 1.

The expectation of a small impact seems broadly reasonable. One additional detail worth considering, however, is that the overlap between commercial radio listening and BBC listening is likely to vary between genres. For example, the proportion of Kiss FM or Capital FM listeners that listen to Radio 1, or the proportion of talkSport listeners that also listen to 5 live (ranging from 34-39%) is significantly higher than the proportion of Classic FM listeners that listen to Radio 3 (around 16%)¹¹. It is therefore likely that the impact is greater on some stations than others. However, as noted above, the biggest increase in catch-up listening is likely to come from Radio 4 and 4 Extra and spoken word content more generally, rather than the stations cited above. It does not therefore appear that, overall, there would be a substantial impact on commercial live radio services as a result of the Proposals.

Commercial radio – on-demand radio services

The BBC also expects an immaterial impact on on-demand commercial radio services. It highlights spoken word services as the main type of content whose availability would be extended by the Proposals. Again, this assessment of the likely impact seems reasonable, particularly given the lack of clear substitutes for Radio 4 from the commercial radio sector.

Recorded music sales

We agree with the BBC's view that the impact on recorded music sales is likely to be fairly limited. The BBC contrasts the "serendipitous" nature of music listening via radio services with the more planned purchase of recorded music.

Commercial spoken-word sales

We broadly agree with the BBC's suggestion that there is likely to be limited impact on commercial spoken-word service providers. It believes that the main impact of the Proposals on podcasts will be on its own services.

¹⁰ Source: RAJAR Q3 2013, Ofcom analysis.

¹¹ Ibid.

In the context of audiobooks, the BBC highlights the differences between programmes like 'Book at Bedtime' and commercial offerings – books read on the BBC are generally abridged; and consumers are able to keep commercial audiobooks permanently, which would not be the case under these Proposals. The BBC Executive also points to a possible positive effect on sales of commercial products following broadcast of the BBC's services, through the radio programme acting like a trailer for the complete audiobook; although it should be noted that this is anecdotal information.

Conclusion

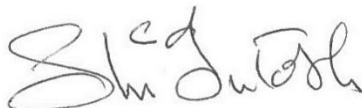
We should expect that the Proposals will have some impact on other providers of audiovisual services. The iPlayer is already a strong player in the on-demand arena, and a four-fold / two and a half times increase in the amount of TV and radio content respectively is likely to make it more appealing to consumers.

The impact would be likely to be focused on providers of TV services rather than listened-to services, given the greater importance of on-demand consumption in TV compared to radio. We broadly agree with the BBC's assessment of where the impact would be likely to be felt and how large it would be, although it may be a little too absolute in places, such as in its view on SVoD subscriptions.

Following our analysis within the time available for this assessment, and as set out above, our view is that the potential impacts on others of the BBC's Proposal to extend the catch-up window on iPlayer for television and radio programmes would be unlikely to be material.

We note that the BBC is considering wider strategic changes to BBC Online and iPlayer, including the proposal for BBC Store. While these potential changes are not within the scope of this assessment (and may be subject to separate assessments) the Trust may wish to consider whether there will be a cumulative impact on other operators resulting from the changes, when taken as a whole, which may not be captured when each change is considered on a stand-alone basis. Finally, the Trust may wish to consider these potential impacts, when making its overall decision on whether the Proposals are significant.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stuart McIntosh', written in a cursive style.

Stuart McIntosh