



Ofcom's Second Public Service Broadcasting Review

This submission is being made in response to Ofcom's Second Public Service Broadcasting Review ("Review") published on 25 September 2008. The Walt Disney Company Limited ("Disney") is responding to the Review in its capacity as a 25% shareholder in GMTV Limited ("GMTV").

In the Review, Ofcom gives a strong indication that, regardless of the PSB model ultimately adopted, the Channel 3 licences should be restructured in such a way as to eliminate the separate national breakfast licence currently held by GMTV (see paragraphs 1.25, 4.50 and 5.26). In particular, Ofcom makes the following statement in paragraph A1.88 regarding the national breakfast licence:

"We believe the logic that led to the creation of a separate breakfast-time licence no longer applies, and that any future Channel 3 PSB licences would probably best operate on a 24-hour basis. The three and a half hour per day GMTV licence, while viable, is a structural intervention in the advertising market that seems anachronistic in a multichannel, on-demand world. Our post-2014 view is that there should be no separate breakfast-time licence and the airtime should revert to the main regional channel 3 licences, if these are still in place. This will contribute to the economic viability of the regional licences."

Disney would like to draw Ofcom's attention to the fact that it has been a shareholder in GMTV since its formation in 1991 and has supported GMTV through a lengthy period when the company was loss-making. GMTV is now a profitable and viable business which is meeting its current level of PSB obligations and, crucially, is not seeking any reduction in its PSB obligations.

Disney does not accept that structural changes to the Channel 3 licensing regime are a necessary consequence of the projected PSB funding shortfall being addressed by the Review and is strongly opposed to any proposal which would result in the elimination of the breakfast licence. In particular, Disney would like to make the following points:

1. Ofcom will be aware that GMTV is regarded as a leading broadcaster of breakfast and children's content in the UK. GMTV's weekday ratings in its target Housewives with Children demographic consistently command around 25%-30% audience share and regularly outrank BBC Breakfast for that timeslot. Regional news and current affairs comprise an important part of GMTV's weekday output and are highly valued by both viewers and advertisers. In weekends, GMTV's children's programming is currently ranked number 1 in its timeslot. In 2007, this translated into annual net advertising revenues for GMTV of approximately £56million. GMTV also operates profitable businesses involving programme sponsorship, online activities and viewer competitions and employs approximately 300 individuals across all its businesses. In 2007, GMTV generated an operating profit of £14 million from total revenues of £68 million (excluding exceptional items). From Disney's point of view, GMTV is both performing its commercial remit and meeting its PSB obligations in an efficient and effective manner.

As noted above, Ofcom believes that integrating the breakfast licence into the Channel 3 licences will “contribute to the economic viability of the regional licences”, and goes on to state in paragraph A1.89 that:

“It is unlikely that the nature of the breakfast-time content – principally news, soft current affairs and children’s programmes – would be much changed in a 24 hour Channel 3 structure. The licensee (with ITV plc as a 75% shareholder) suggests that the current mix of programming is optimal for the day part.”

While Ofcom recognises that GMTV’s programming strategy would not be much changed in a 24 hour Channel 3 structure, Ofcom does not, however, provide any evidence to support the view that the regional Channel 3 licensees would deliver breakfast PSB programming in a more efficient or effective manner than GMTV. Even assuming that such programming could be delivered in a more efficient manner, such efficiencies would, taking into account the scale of GMTV’s annual revenues and profitability in relation to the other Channel 3 licensees, provide only a relatively trivial benefit to the economic viability of the regional licences.

In fact, we believe that the opposite could well be the case: ***[deleted: commercially sensitive information]*** integration of the breakfast licence into the Channel 3 licences could result in a reduction in net advertising revenue for the breakfast timeslot with a corresponding reduction in the resources available to the broadcaster to invest in programming. If this were to happen, then it is highly possible that output will change from the current mix of programming and that this will most likely be to the detriment of PSB (in particular, the provision of regional news and children’s programming), plurality and breakfast programme quality generally (e.g. a shift from live current affairs to commissioned magazine-style formats).

As a corollary, we believe that Ofcom’s proposal to eliminate the breakfast licence would be an extremely disruptive way to contribute to the viability of the regional licences and PSB as a whole. If the breakfast licence were to be somehow incorporated into the Channel 3 licences, GMTV would cease to be a going concern. The costs of winding up GMTV’s existing operations would be material and would likely involve a significant number of job losses. It is difficult to see how this could be justified, particularly where the net benefit (if any) to the Channel 3 licensees would, as noted above, be minimal.

Disney therefore does not believe that an attempt to transfer value in the manner proposed by Ofcom with regard to the breakfast licence will be an efficient or effective means of supporting PSB in the UK.

2. Disney believes that Ofcom’s proposal to integrate the breakfast licence into other Channel 3 licences is fundamentally inequitable as it involves an arbitrary transfer of economic value from GMTV ***[deleted: commercially sensitive information]***.

Disney is a global media company which has been doing business in the UK for over 75 years. We are a major investor and contributor to the media and broader economy in the UK, and expect to continue to be so. Disney employs over 1,600 employees in the UK and operates a number of businesses (including media networks, consumer products and studio entertainment) with a turnover in the UK of approximately ***[deleted: commercially sensitive***

information]. Disney is utterly committed to quality and has a strong remit to train and make use of the best creative talent in the UK. To illustrate, in the period from 2006-2008, Disney has invested over **[deleted: commercially sensitive information]** in film production in the UK **[deleted: commercially sensitive information]**. Additionally, Disney has invested approximately **[deleted: commercially sensitive information]** in UK children's TV production (including, "Bunny Town", "Jungle Junction" and "As The Bell Rings") through the course of 2008.

If Ofcom were to establish the regulatory precedent that a key asset of a successful business can be eliminated in order to support a third party's business model, this could only have an adverse impact on Disney's view, not to mention the views of other foreign investors in regulated industries, of the UK as a stable and fair place in which to do business.

3. Disney disagrees with Ofcom's description of the national breakfast licence as "*a structural intervention in the advertising market that seems anachronistic in a multichannel, on-demand world*".

Disney understands that one of the reasons behind the creation of the national breakfast licence was to build a market for morning programming and advertising, on the basis that developing an advertising market around morning programming was not considered viable on a regional basis. This market has been successfully developed by GMTV and operates on a commercially viable, stand-alone, basis. However, if the national breakfast licence were to be incorporated into ITV plc's regional licences, **[deleted: commercially sensitive information]** advertisers would have one less purchasing point for airtime. Accordingly, Disney believes that a breakfast licence is not an anachronism and still performs a valid and important function in the UK TV advertising market.

Further, while Ofcom describes the national breakfast licence as a "*structural intervention*", we believe, bearing in mind the purpose and scope of the Review, that it should only be eliminated if it was shown to be impeding the provision of PSB in any way. Ofcom haven't provided any evidence that this is happening, and in fact, there are strong arguments to the contrary - not least the fact that GMTV is happy to continue playing its role in the provision of PSB.

Ofcom's position on the breakfast licence therefore appears to be a largely philosophical objection to a regulatory structure that may appear somewhat incongruous in today's television landscape. However, Disney takes the view that eliminating the national breakfast licence for this reason alone would not be consistent with the scope or purpose of the Review and would result in the loss of a viable and independent player in the UK TV advertising market.

4. Disney currently supplies children's content to GMTV, and intends to do so going forward. GMTV's children's content rates well and is an economically viable part of GMTV's schedule. We believe it highly possible that if the breakfast licence were to be integrated into the Channel 3 licences then the amount of children's free-to-air content broadcast following 2014 would be reduced. This could be a result of either a reduction in programme investment caused by weaker advertising sales for the breakfast timeslot (see paragraph 1 above) **[deleted: commercially sensitive information]**. If this were to occur, then it would clearly have a detrimental effect on investment in

children's programming and production in the UK (which has already been adversely impacted by HFSS regulation) and PSB in general.

In conclusion, Disney does not believe that Ofcom's proposal with regard to the breakfast licence is an appropriate solution to any the PSB issues being addressed in the Review, as it seems purely designed to deliver what would be at best a marginal PSB benefit [~~deleted: commercially sensitive information~~] at the expense of a privately held, independent and economically viable broadcaster which is fulfilling important PSB obligations. In addition, such a proposal appears to be outside the scope and purpose of the Review, would not deliver any material benefits to PSB (and may in fact have an adverse impact on PSB and plurality) and would establish an extremely damaging precedent for media regulation and business investment in the UK.

Disney therefore supports maintaining the status quo with regard to maintaining a separate national breakfast licence post-2014.

We would welcome the opportunity to discuss these points and any others as part of the Ofcom's consultation process.

The Walt Disney Company Limited
4 December 2008