

Commercial Broadcasters Association

Introduction

1. The Commercial Broadcasters Association (COBA) is the industry body for multichannel broadcasters in the digital, cable and satellite television sector, and their on-demand services. COBA members operate a wide variety of channels, including news, factual, children's, music, arts, entertainment, sports and comedy. Their content is available on free-to-air and pay-TV platforms, as well as on-demand.
2. COBA members are critical to the global success of the UK broadcasting sector and its "mixed ecology" of public and private investors. As arguably the fastest growing part of the UK television industry, they are increasing their investment in jobs, content and infrastructure:
 - Scale: In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is rapidly approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the UK as a leading global television hub.¹
 - Employment: As part of this growth, the multichannel sector has doubled direct employment over the last decade.²
 - UK production: In addition, the sector has increased investment in UK television content to a record £725m per annum, up nearly 50% on 2009 levels.³
3. For further information please contact Adam Minns, COBA's Executive Director, at adam@coba.org.uk or 0203 327 4101.

Response to consultation

1. We agree with Ofcom that ESTV's proposal to reduce its programming obligations represents a significant change. In particular, reducing London Live's daily news and current affairs requirement of 5.5 hours to 3.5 hours would amount to a drop of more than 35%. The proposal to reduce these hours to just one a day at weekends would be equal to a reduction of more than 80%.

¹ Ofcom International Broadcasting Market Report 2013

² Skillset, Television Sector – Labour Market Intelligence Profile

³ COBA 2014 Census, Oliver & Ohlbaum Associates for COBA

2. This latest request follows a substantial reduction in London Live's programming requirements in 2014, when Ofcom permitted the channel to reduce its local content repeats from 10 hours per day to six, and from an hour and a half to zero in peak. Taken together, this would represent one of the most dramatic dilutions of programming obligations in such a short space of time that we are aware of. This also marks a dangerous precedent, given that other local television channels may follow suit.
3. Furthermore, Ofcom has previously observed that frequent revisions of programming obligations are not in the public interest. On renewing the licences for Channel 3 and Channel 5 in 2012, Ofcom stated:

“[W]e note that for the last few years, Ofcom's relationships with the Channel 3 and Channel 5 licensees have been characterised by an ongoing dialogue about alignment in the costs and benefits of PSB status, with licensees seeking to establish equilibrium through reductions in the obligations imposed on them. An ongoing process like this is not in the public interest. In the event of renewal, the benefits of stability enjoyed by the existing licensees must also serve the interests of citizens and consumers across the UK.”⁴
4. In terms of this specific case, ESTV's comparison with news and current affairs requirements for network PSBs is largely irrelevant in this context. The issue is whether the compact with London Live – the balance of duties and benefits – remains appropriate. We cannot see how London Live's significant benefits – its guaranteed EPG position and its privileged access to spectrum – have eroded over the period it has been broadcasting. We note that ESTV does not argue that they have declined in its request.
5. ESTV maintains that, if its request is granted, it will be able to invest more in other types of local content. However, without including additional requirements in London Live's licence is it difficult to give credence to this suggestion. We respectfully remind Ofcom that it reached a similar conclusion when ITV raised the prospect of increased drama investment when calling for a revision of the platform payments regime recently.
6. London Live actually enjoys a relatively strong commercial position on paper. Its corporate parent, ESTV, has the powerful cross promotional resources of the leading London newspaper – to take advantage of this, the channel shifted focus to an older audience, more in line with the Evening Standard's readership.⁵ Furthermore, its potential market is growing strongly. According to ONS data,

⁴ Licensing of Channel 3 and Channel 5, Report to Secretary of State under Section 229 of the Communications Act, Ofcom, 2012, Section 1.25

⁵ <http://www.campaignlive.co.uk/article/london-live-move-closer-evening-standard/1307558#>

London is the fastest growing region in England, and is predicted to have 9.7 million inhabitants by 2024, a rise of nearly 14% on 2014.⁶

7. These strengths are of course in addition to its guaranteed advantages from public support, including a premium position on the electronic programme guide across all main platforms. It must be stressed that this is a significant competitive advantage. In comparison, COBA members compete for audiences on a variety of platforms, including free-to-air, without any such guaranteed access to viewers.
8. In doing so, they have increased their investment in jobs, infrastructure and UK original content, again without public support. However, it is worth highlighting that, between 2001 and 2013, the market share of the multichannel sector (excluding PSB's related portfolio channels) fell from 38% to 29%.⁷ As a consequence, COBA members' ability to invest should not be taken for granted, and their competitiveness would potentially be impacted by a dilution of London Live's public service obligations.
9. More fundamentally, London Live's latest request to reduce its obligations raises questions over the viability of its business model, or at the very least over London's Live editorial strategy. After two and half years of broadcasting, and the various advantages and potential strengths that we have outlined, London Live should be looking to develop its core offering by commissioning and scheduling a greater amount of appealing first-run content with a distinct London identity, not scaling back.

⁶ <http://www.independent.co.uk/news/uk/home-news/population-of-london-predicted-to-near-10-million-in-a-decade-as-england-continues-to-grow-a7048531.html>

⁷ The Costs and Benefits of the C3 Licences, Communications Chambers for COBA, December 2014, figure 7, page 16