

Channel 4 draft response to Ofcom consultation on proposed changes to BBC iPlayer – call for evidence



1. Executive Summary

- Channel 4 welcomes the opportunity to respond to the BBC's consultation on its proposals for the future of the BBC iPlayer. It is right that the BBC, through its public interest test, and Ofcom, through a subsequent competition assessment, fully consider the impact of these proposals on the wider market and in particular on the UK's Public Service Broadcasting ecology. Channel 4 responded to the BBC's consultation and is pleased to have the opportunity to respond directly to Ofcom.
- Channel 4 believes it is vitally important that the UK maintains a strong and vibrant PSB ecology. The BBC is a cornerstone of that PSB ecology and Channel 4 supports a strong BBC that can continue to deliver its public service purposes for UK audiences. However, the BBC does not operate in isolation, and should be mindful of the impact and limits its operations can put on the market and in particular the health of the wider PSB ecology. In this context, while Channel 4 understands the rationale for the BBC's proposals, we are concerned that in reality they are likely to have a disproportionate negative impact on the other public service broadcasters. This could impact on the ability of those PSBs both to reach audiences and generate revenues, therefore having the longer-term impact of potentially reducing PSB delivery from the other commercial PSBs and undermining the overall health and plurality of the PSB ecology.
- We believe that there are weaknesses in the methodologies used in the evidence submitted by the BBC. We believe that their analysis underplays key factors, such as the popularity of archive content and levels of consumer awareness about BBC content, as well as underestimating the likely percentage of iPlayer viewing to come from BVoD in the event of these proposals. We also believe their analysis underplays the relationship between viewing and revenues, as well as the size of All 4's existing VoD advertising revenues. We therefore believe the analysis significantly underestimates the impact of these proposals on the other PSB VOD services, particularly All 4.
- We have examined the BBC's proposals for their estimates of how the proposals will impact on PSBs' viewing, revenues, and investment, and have made estimates of our own.
- We look forward to Ofcom's own analysis of this impact and are responding to their Request for Information separately to this submission to inform that work.

2. BBC'S Public Interest Test process

- Channel 4 notes that the BBC have been critical of Ofcom's decision that the iPlayer changes should be subject to a regulatory assessment, and that this regulatory process is overly burdensome and inhibits innovation¹. Channel 4 believes that given the scale of the potential impact of these proposals and the intensity of the current competitive market, it is vital that these proposals are subject to regulatory scrutiny and welcomes Ofcom's commitment to doing this.

¹ <https://www.bbc.co.uk/mediacentre/speeches/2019/clementi-omc>

- Similarly, we share the concerns raised by other stakeholders in the BBC PIT process that the BBC provided very little detail on their proposals in the first stage of the PIT process, which meant that stakeholders found it hard to consider their impact.
- While we welcome the fact that the BBC have commissioned and published evidence on the market impact of their proposals (in the form of a report from Frontiers Economics), we believe there are significant weaknesses in their methodologies, which we have set out below, and therefore we do not agree with the BBC's stark conclusions in their Public Interest Test that this evidence shows that the changes "*will not crowd out competition*". Indeed, we believe there will be a significant impact, and that this is likely to disproportionately impact on the PSBs, whose budgets and revenues are significantly smaller than the SVODs. We therefore believe that the BBC in their Public Interest Test have underestimated the commercial impact on competitors of these proposals.

3. Sector developments

We broadly agree with Ofcom's analysis of the VOD market in terms of its key developments and forecasts. In particular, we agree that whilst viewing of live TV on a television remains important, consumption habits are changing, particularly amongst younger demographics.

- Channel 4 therefore agrees with the BBC that VoD will become of even greater importance to the broadcasters including both the BBC and Channel 4 than it has been in previous years. The continued success and growth of All 4 is therefore critical to our future, which is why accelerating our digital capability is a central priority for Channel 4. In line with the strategy announced in May 2018, we have appointed a new Chief Product Officer and are focused on bolstering All 4 both in terms of content and as a platform. This means improving the user experience of All 4, developing more creative and commercial partnerships to bolster the exclusive content available on the service and commissioning more deliberately with both linear TV and VoD in mind.
- While the BBC is therefore right to identify changing viewer habits as a challenge, it is one that all PSBs are facing, and indeed, it is likely to be one that will impact Channel 4 faster given our particular appeal to a younger demographic whose behaviour is evolving faster than other age groups.
- We would also note that whilst we agree that PSB VOD services will increasingly become important gateways for viewers to access our content, we do expect linear viewing to remain important for the foreseeable future. Channel 4 therefore believes it is imperative that Ofcom continue to support public service broadcasting by extending the D3 and D4 licence on DTT, ensuring that ITV and Channel 4 are given certainty over investment and the ability to plan long term investments in the platform for the future. We propose that multiplex licences are extended to 2034 to align with the expected renewal of PSB licences which are typically 10 years.

4. Ofcom's approach to reviewing public value

- Ofcom has outlined a number of factors they will consider when reviewing the BBC's public value assessment. Broadly Channel 4 agrees with Ofcom's approach, including whether the BBC's research is objective and credible.
- Channel 4 is concerned however that the MTM audience research that the BBC used to inform their public value assessment asked is only a partial question – as it outlined the rationale and benefits of the changes rather than also asking consumers to consider the impacts of the proposed changes – for example on other content providers, or if it meant that the BBC had a lower programming budget due to having to pay for additional rights. We therefore welcome Ofcom's assertion that it will consider the impact on other sources of public value such as whether increased BBC iPlayer viewing is at the expense of other PSBs – as this was not considered by the BBC in their assessment of public value.

5. Assessing market impact of BBC's proposals

- As we stated in our submission to the BBC Public Interest Test, while Channel 4 understands the rationale for the BBC's proposals, we are concerned that in reality they are likely to have a disproportionate negative impact on the other public service broadcasters. This could impact on the ability of those PSBs both to reach audiences and generate revenues, therefore having the longer-term impact of undermining the overall health and plurality of the PSB ecology.
- We have examined the BBC's proposals and their submissions for their estimates of how the proposals will impact on PSBs' viewing, revenues, and investment, and have made estimates of our own. Although our estimates are necessarily high-level given we lack access to iPlayer data, we believe we are well placed to estimate the impact of these proposals given the data we possess around viewing to All 4's Archive, and we believe the BBC have underestimated the impact.

Calculation of the uplift in iPlayer viewing

- The BBC commissioned Communications Chambers to model the impact of their proposals. Communication Chambers forecast that there will be a 30% uplift in iPlayer viewing as a result of their proposals. We believe that this is an underestimate, as we believe this analysis downplays the popularity of archive content.

More specifically, we believe that the following assumptions in the Communications Chambers modelling contributes to this underestimate:

- (i) The forecasts are all based upon viewing data from the trial of extended windows on iPlayer. Therefore, if these trials experienced lower levels of viewing per series than we would expect from a fully launched expanded iPlayer proposition, then the forecasts would be an underestimate. This is very likely to be the case, for several reasons:
 - Consumer Awareness: It would take time for viewers to become aware of the expanded iPlayer proposition and so during the trial consumers knowledge of the extended availability of content would be significantly lower, and therefore so would the usage.

- UI + Product changes: A fully launched expanded iPlayer proposition would likely be accompanied by UI/Product changes which would enable access to this content more seamlessly
 - Marketing: There would likely be significant marketing and promotion around an expanded iPlayer proposition, greater than there was during a trial. We note that the BBC have already started to increase their marketing activity to promote their existing box-set offering, and therefore it is reasonable to assume this would increase in the event that Ofcom approved their proposals.
- Furthermore, we believe there are likely to be habitual behavioural changes after these changes which will increase their impact. Whilst they have scaled up by 4% to account for the 14% of new users who would use iPlayer to browse new content, this is likely to be a significant underestimate. Users will not be able to accurately forecast their behaviour, and the impact of iPlayer becoming a more powerful destination will ensure that a wider array of people come back more often, and watch more when they are there, as a result of force of habit and iPlayer moving further up their hierarchy of choice.
 - Additionally, we think that the 30% estimate of cannibalisation of existing content is too high. When we have added content to All 4 in the past (e.g. with Walter Presents), we have not been able to find any evidence that it has cannibalised existing viewing.
 - C4 is well placed to assess the impact of these proposals on iPlayer's viewing, given the wealth of unique data we have on archive viewing to All 4
 - We welcome Ofcom's commitment to modelling the impact of the BBC's proposals themselves, and we are providing confidential data to Ofcom as requested in their Request for Information dated 26 April 2019.

Calculation of the impact on All 4 viewing

- In addition to the Communications Chambers work noted above, the BBC also commissioned work from Frontiers Economics specifically looking at the competitive impact of their proposals. Both of these research pieces provide forecasts on the impact of the proposals on viewing - Communication Chambers forecast that there will be a 3.4% reduction in BVoD viewing as a result of these changes by 2024, and Frontier Economics use those figures to forecast that there will be a 3.8% reduction in All 4 viewing by 2024.
- Communication Chambers assume that 7% of the incremental iPlayer usage will come from BVoD 2 with 15% SVoD3, and the remaining 78% from Other (which we presume is predominantly linear TV). We note that these numbers were arrived at "to be consistent with the [2018 BBC & 2019 MTM] survey diversion percentages", which we do not necessarily consider to be a reliable indicator of actual consumer behaviour in this example, and in any case represent a snapshot of current attitudes which will

² Based on Ofcom's definition of free VOD services from the major broadcasters including BBC iPlaer, ITV Hub, All 4, My5

³ Based on Ofcom's definition of paid-for subscription VOD services such as Netflix, Amazon Prime Video and NOW TV

change over time as linear viewing declines and VoD viewing continues to grow.

- We think that growth in iPlayer viewing will be more significantly at the expense of other VoD viewing, for the following reasons:
- Need states: VoD and linear viewing often fulfil different 'need states', and therefore in many cases are not interchangeable. For example, viewers will generally not freely substitute between 'background' linear TV for 'intentional' VoD viewing. This is particularly salient given much of the additional iPlayer viewing comes from box sets, to which VoD is more substitutable than linear. Whilst BBC's proposals to change iPlayer may well slightly hasten the shift from linear to VoD viewing, we note that this phenomenon is already happening at pace and believe much of the substitution will be from other VoD services.
- Content type: SVoD content is distinct to BVoD content particularly in terms of being less UK-focussed⁴, making it less substitutable than BVoD viewing
- Free: SVoD content requires a subscription, and non-subscribers will only substitute their viewing from BVoD
- Furthermore, we believe All 4 is more likely to be substituted than other BVoD services for two key reasons. Firstly, the iPlayer proposals are explicitly designed to appeal more to younger viewers and their choice of content to extend or bring back will likely reflect this. As a youth-skewing services All 4 will be disproportionately affected. Secondly, the fact that we are the only BVoD provider already positioning ourselves as a browsing destination, with extended content availability in our archive content offer means that we will be more heavily affected than other services which only offer catch-up. The fact that the BBC is advertising-free is likely to further exacerbate the impact on All 4. Simply put, BBC are likely to be actively targeting the All 4 viewers who currently come to All 4 to browse for their next box set.
- Additionally, we believe that the assumption that 30% of iPlayer users will not watch either BVoD or SVoD in 2024 is unlikely, as the scale of the shift from linear to VoD is likely to drive improved reach for both free and paid VoD services over the period.
- Whereas our calculations of the impact of the proposals on iPlayer viewing are based on a strong foundation of years of All 4 archive viewing data, it is difficult to accurately forecast the extent to which this additional iPlayer viewing will impact on All 4 viewing. Channel 4 have conducted high-level calculations, based on the assumption that the incremental iPlayer viewing comes from All4 in proportion to our share of the professional VoD market excluding iPlayer. Whilst simplistic, this balances the fact that there will be some viewing which hastens the shift from linear viewing to VoD, against the fact that the new iPlayer proposition will be a greater substitute of All4 than ITV Hub (older, no box sets) and Netflix (no locally based content).

Calculation of the impact on All 4 revenues

- The Frontiers Economics report commissioned by the BBC supports the view that increased viewing to iPlayer will have a detrimental impact on the revenues to the

⁴ Ofcom's consultation states that BVoD services typically have more UK content (80%+), SVoD services have a majority international content (with 10-20% local UK content).

other PSBs. However, in line with the above, we believe that this report underestimates the likely impact on All 4. Frontier Economics forecast that a 3.8% reduction in All 4 viewing would lead to a 2.5% reduction in All 4 revenues by 2024. They do so by using Ofcom's assumption that a 1% decrease in viewing leads to a 0.67% decrease in advertising revenues, due to the fact that a decrease in the volume of advertising is offset by an increase in price. In their assessment, this leads to a £4.5m impact on All 4 revenues in 2024, rising from £1.1m in 2019. For linear they assume a 1:1 relationship between viewing and revenues.

- All 4 plays an increasingly important role for Channel 4, both in terms of the revenues it brings in, which can then be reinvested back in to the delivery of our remit, and in terms of the role it plays in maximising the reach and availability of our content. This means that there are likely to be financial consequences for Channel 4, given its need to generate revenue from the competitive market place (as opposed to the BBC which has a guaranteed income via the licence fee). Therefore, the principle consequence of any material negative impact on Channel 4's All 4 share of viewing could be a reduction in Channel 4's ability to maximise delivery of our public service remit.
- Channel 4 already invests the majority of its revenues directly into content (in 2018 68% of our overall revenues were invested in content), whilst also committing to other large-scale costs key to our public service delivery, such as our 4 All the UK plan. Compared to global companies such as Netflix and Amazon, Channel 4 has little scope to absorb even relatively small reductions in revenue without this having an impact on remit delivery. Channel 4 is concerned that the BBC's proposals could result in the commercial PSBs facing an even more challenging competitive environment, particularly given the broader contextual challenges posed by the Digital Giants that the BBC have identified.

Other impacts beyond impact on competing VOD providers

- We note the concerns of producers that the BBC's proposals could undermine secondary revenues. The BBC have also not made clear how they intend to fund these proposals – whether the BBC believes that these rights should be obtained as part of the primary licence fee. Any material change to the present regulatory regime which underpins the commercial basis upon which archive VoD rights are obtained by PSBs through Terms of Trade would need to be readily available to all PSBs in order to avoid any imbalance between them.

Mitigating market impacts

- In our response to the BBC's Public Interest Test consultation, Channel 4 pressed for the BBC to fully consider alternative options that may potentially have a reduced impact (for example shorter windows or not 'series-stacking' all series). We are therefore disappointed to see that the BBC's Public Interest Test concluded that consideration of mitigating factors were not necessary. We would urge the BBC to explore alternative options.