

What do you want Ofcom to keep confidential?:

Keep name confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Additional comments:

Question 1: Do you agree that copy management would broaden the range of HD content available on DTT and help secure its long term viability as a platform? :

No.

I do not agree that it is necessary to control access to HD broadcasts. It is my considered view that such broadcasts can remain economically viable and sustainable without the use of content management technologies.

Question 2: Do you agree that the BBC's proposed multiplex licence amendment represents the most appropriate means for securing an effective content management system on HD DTT? :

No.

This question presupposes that it is appropriate to implement a content management system for the provision of HD content through freeview. I do not agree with this conclusion.

Question 3: Do you agree with the proposed change to Condition 6 in the Multiplex B Licence? :

No.

Both EPG data and DTT as a whole should remain unencumbered by content management systems, digital rights management mechanisms or other technologies designed to restrict the use of free to view content.

Because the BBC's content is created using the licence payers' money, the licence payer should be free to process this content by whatever means and using whatever equipment or software he chooses.

Question 4: Do you agree that Multiplexes C and D should be granted a similar amendment to their Licences as Multiplex B?. :

No.

My response to question three applies equally to this question.

Question 5: Do you agree that the BBC's proposed approach for implementing content management would safeguard citizens and consumers legitimate use of HD content, and if not, what additional guarantees would be appropriate? :

No.

Once again, this question implies that it is necessary to lock down HD content to keep out the 'baddies'. This assumption is flawed in three respects.

1. Only the EPG data is protected. A sufficiently motivated individual could create a non-compliant receiver which would be able to make copies of the broadcast content if they were prepared to accept the loss of EPG information.
2. Any copy protection system included in 'compliant' receivers will not be effective; no mainstream copy protection system has ever prevented copyright infringement. AACS, the copy protection system used in Blu-ray, was circumvented almost as soon as it appeared on the market in 2006. This is a pattern which has been repeated since the 1980s: Macrovision, CSS, ARccOS, Copy Control, Cactus Data Management and so forth have all been introduced and promptly circumvented by 'the scene'.
3. Even if the BBC are smarter than the big music labels like Sony BMG, have greater expertise than the combined might of Hollywood and thereby somehow manage to develop a system which is effective, who is being protected; what revenue is lost? The licence payer is already entitled to see the content. Viewers outside the UK who do not pay a licence fee might be able to obtain content illegally, but this has been shown time and time again to drive media sales up. For examples of this, one need only examine the iTunes Music Store or O'Reilly's eBook store; both started with restrictive DRM and went on to enjoy a surge in sales when they abandoned this practice. In any case, if BBC Worldwide is going to generate any revenue from this content, they must release it on DVD or Blu-ray. As discussed above, copy protection for these formats have been comprehensively shredded, so the content will become available through illegitimate means upon release.

Question 6: Do you agree that the BBC's proposed choice of content management technologies will have only a negligible impact on the cost of HD DTT receivers and their interoperability with other HD consumer equipment? . :

Yes.

Any hardware development or software licencing costs necessary to handle content management systems are likely to be a small part of the overall development cost for high-volume manufacturers.

Question 7: Do stakeholders agree that the BBC's proposed Huffman Code licensing arrangements would have a negligible effect on the market for HD DTT receivers? :

Yes, this is likely to have very little commercial impact.

Question 8: Do the BBC's proposed content management states and their permitted use for different categories of HD content meet the requirements of other HD broadcasters on DTT? . :

I offer no comment.

Question 9: Are there any issues that you consider Ofcom should take into account in assessing the BBC's proposal, that have not been addressed by this consultation?:

Ofcom appears to have misunderstood the way in which open source software licencing works.

In section 5.28, Ofcom states:

"The licensing terms for Open Source software typically require that this software is made freely available to others to use, which may be incompatible with and the licensing terms of the BBC's Huffman Code look-up tables. This issue appears to have been addressed by HD Freesat receivers that use Linux Open Source software and implement similar content management technologies that would be required by the BBC's Huffman Code look-up table licence."

This misses the point. A digital receiver may well be using code, such as the Linux kernel, which is licenced under the GPL, but this does not mean that the code dealing with content management is open. If the proposed amendments were enacted, any manufacturer or who wished to produce a complaint device would be prevented from opening the entire source code for their product.

The proposed amendments would be a real blow to many hobbyists and enthusiasts who use free open source products such as MythTV to record and watch television. Such individuals are some of the most enthusiastic and loyal followers of the BBC's content. As well as being fundamentally wrong to suppress the freedom of the licence payer to process HD content as they choose, it would be extremely short sighted of the BBC to marginalise its fan base.