

Content Management on HD Freeview Platform - MPA submission

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Content Management on the HD Freeview Platform

To (Ofcom contact): David Harrison

Name of respondent: Ted Shapiro

Representing (self or organisation/s): Motion Picture Association

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input checked="checked" type="checkbox"/>	Name/contact	<input type="checkbox"/>	details/job	<input type="checkbox"/>	title
Whole response	<input type="checkbox"/>		<input type="checkbox"/>	Organisation	<input type="checkbox"/>	
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?				

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name Ted Shapiro Signed (if hard copy)

☐

Content Management on HD Freeview Platform - MPA submission

David Harrison
Strategy and Market Developments
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

2 April 2010

Dear David,

Subject: Ofcom consultation: Content Management on HD Freeview

The Motion Picture Association ("MPA"), which serves the interests of the six major international producers and distributors of audiovisual works¹, welcomes the opportunity to respond to certain of the issues raised in this consultation, and hereby makes this submission on behalf of its members, with respect to the BBC's request for an amendment to its licence for Multiplex B to support content management plans for HDTV services carried on the DTT platform.

The comments in this submission primarily address two questions put forth by Ofcom about (a) whether copy management would broaden the range of HD content available on DTT and help secure its long term viability as a platform, and (b) whether the BBC's proposed multiplex license amendment represents the most appropriate means for securing an effective content management system on HD DTT. This submission also includes brief responses to the other questions in the consultation.

In short, the MPA supports the BBC's proposal and believes the inclusion of a copy management system will likely attract a broader range of HD content on DTT. We also support enhancements to the BBC's proposal now and over time, and specifically the proposed enhancements discussed further below.

¹ Paramount Pictures Corporation, Sony Pictures Entertainment Inc, Twentieth Century Fox Film Corporation, Universal City Studios LLLP, Walt Disney Studios Motion Pictures and Warner Bros. Entertainment Inc. These studios in aggregate are the largest investors in the UK film industry, making such major films as Harry Potter, Sherlock Holmes and Alice in Wonderland in the UK as well as engaging in a wide variety of post-production work here. These activities generate thousands of jobs each year in the UK.

1. Will copy management broaden the range of HD content available on DTT?

The MPA studios invest a significant amount of time and money in creating compelling content. As noted in the consultation document, “video content, and in particular film content, is usually monetized for different distribution means (cinema, pay-per-view, DVD, VoD, pay TV, free to air TV etc) using different time-release windows”². These “release windows” may vary in different geographical regions for a number of reasons. It is important that each of the distribution channels adequately protects the content and ensures the viability of windows that follow in order for content producers to secure the return on investment required to finance the creation of new audio-visual works and thereby provide the widest possible choice and value for consumers. The important role that DTT can play in making PSB and indeed other content available to all should be encouraged.

Content management technologies play a key role in protecting the content from unauthorized redistribution, and have already been widely deployed in Pay TV and other digital platforms worldwide. Such technologies run the gamut from that proposed by the BBC for FTA HD content to highly secure conditional access systems used by Pay TV operators worldwide to secure premium content. These technologies accordingly use a wide array of methods to protect the content, ranging from proprietary encoding of specific service data to strong encryption of all the content and service data. It is a general truism that platforms that have more robust content management capabilities are generally able to offer a wider range of content to their consumers, including during earlier release windows; this truism applies to DTT platforms as well.

We would like to recognize and welcome the efforts that BBC is taking to ensure that the Freeview HD FTA DTT platform incorporates content management capabilities while addressing the concerns of consumers, Ofcom, and indeed other stakeholders including right holders. The focus here is about using technology to create new opportunities for consumers to enjoy a broad offering of compelling content. BBC is focused rightly on solutions that promote this goal.

² See paragraph 4.9 on page 13 of the Ofcom document “Content Management on the HD Freeview Platform”

We note that content management systems are used by other platforms in the UK which have successfully launched HD services (such as Sky and Virgin) and that the use of such content management systems has helped those platforms attract significant HD content³, without hindering consumer take-up of those services⁴. As such, we concur that content management capabilities are vital to increase the ability of the Freeview HD platform to be viewed as an attractive alternative to existing competitors, not to mention other digital platforms that are emerging in the UK that increase competition thereby benefiting consumers (though it should be noted some of these competitors will continue to have a greater level of content management functionality than will Freeview HD).

Content management technologies, which in one form or another have been used by the audio-visual sector for decades, provide the possibility to design new models, e.g., at different price points, on a subscription, ad-based, and/or time-limited basis, during an early window, etc. Balanced solutions are achievable and they can work in conjunction with a rich, user-friendly, legal offer. According to a survey⁵ released by European Audio-visual Observatory in October 2009, there are over 700 broadly defined VOD offerings in Europe, including 145 in the UK. While each of our member companies obviously makes individual decisions about content availability on various platforms and while the range of release windows from which content is likely to be made available on the Freeview HD platform may vary depending upon the relative strength of the Freeview HD platform, at the end of the day, experience clearly shows that balanced, effective and robust content management systems are more likely to attract high value content.

In summary, we believe that the addition of content management capabilities to Freeview HD will likely attract a broader range of HD content on DTT, and further suggest that including certain enhancements as discussed below will likely serve to broaden that range of content even further, and as such, we support the BBC's request to require content management.

³ For example Sky carries 37 HD channels, including channels carrying high-value content such as live sports and first run movies.

⁴ As at December 31, 2009 Sky had more than 2 million HD subscribers and Virgin more than 800,000 HD subscribers (source: respective company's earnings report)

⁵ <http://www.obs.coe.int/about/oea/pr/vod2009.html>

2. Does the multiplex license amendment proposed by BBC represent the most appropriate means for securing an effective content management system on HD DTT?

BBC has identified multiple options to achieve its objective of ensuring an effective content management system on the DTT platform, and has evaluated them while considering factors such as the cost and time impact of the solution to the receiver market. We are very appreciative of the effort and thought process that went into the analysis and the subsequent proposal to Ofcom of the DTG D Book content management requirements on HD EPG data.

With the launch of the platform upon us now, we applaud the BBC's proposal for content management features as a good foundation on which to build a compelling FTA platform for HD content. In addition, we would like to suggest the following in order to further enhance the attractiveness of the Freeview HD platform as a competitive FTA HD service.

A. Protection for down-converted copies of content broadcast solely in HD

The current proposal provides no controls on copying or distributing over the Internet for down-converted (to SD) versions of content broadcast solely in HD. The lack of such controls could lead to the sharing of down-converted copies of the content broadcast solely in HD freely over the Internet, and will negatively impact the availability of unique HD content over FTA as well as future release windows.

As an enhancement to the Freeview HD platform, we propose the license amendment reflect consistent content management rules for copies of content broadcast solely in HD, whether later down converted or maintained in HD. That is, for the broadcast of content simultaneously on HD and SD channels, the Freeview HD platform content management rules would not apply to down-converted copies made from the HD broadcast; for the broadcast of content solely on an HD channel, down-converted copies made from the HD broadcast would be subject to the same content management rules as the HD copies themselves.

Content Management on HD Freeview Platform - MPA submission

We feel that this change would support the BBC goal of adding content management in order to increase the ability of the Freeview HD service to offer a wider range of content to consumers and compete with other services already deployed in the market. If this recommendation were incorporated in the amendment, content owners could choose to make higher value HD content available exclusively in HD format for broadcast with the comfort that such content, whether down-converted or not, would be protected using the proposed content management features. The availability of such choice would make the Freeview HD platform considerably more attractive to owners of higher value content that is not typically broadcast in SD, and would increase the likelihood of Freeview HD service gaining access to a wider range of content to offer its consumers.

This recommendation requires receivers to be able to distinguish between content broadcast solely in HD and content that is broadcast in both HD as well as SD. We recognize that some receivers are already available in the retail market, and that manufacturers of these receivers may not be able to implement support for this capability immediately. One means to address this issue would be to include the requirement to include content management obligations on down-converted copies of content that are solely broadcast in HD in the current amendment, while identifying a reasonable date by which all receiver manufactures would have to support this requirement. Receiver manufacturers would be able to manufacture receivers that do not support this requirement until the specified date, and would have an obligation to meet this requirement only for receivers manufactured after this date. We would be happy to work with Ofcom and the BBC to further discuss this recommendation and identify a reasonable date for inclusion in the license amendment if appropriate.

On the implementation front, we believe that this recommendation could easily be implemented by adding a new bit to the HD broadcast stream, which could be asserted if the content was not also being broadcast in SD. Receivers could read this bit and apply content management to both down-converted as well as HD broadcast copies if the bit were asserted, but apply content management only to HD broadcast copies if the bit were not asserted.

B. Operational considerations for effective content management

Content management schemes generally consider the following four facets when crafting a complete system of specifications, policies and operational programs for content management:

- Hook IP that effectively applies to both the transmitted content as well as data (service information such as EPG data) , and a licensing program to provide such IP to implementers
- Compliance and robustness rules for implementers of authorized receivers
- System renewability specifications and processes to address compromised products
- Enforcement programs against infringers of the hook IP

The current BBC proposal relies on a simple IP hook (Huffman coding of EPG data but not the audio and video broadcast stream itself) to create a licensing obligation on manufacturers of authorized receivers, and does not include remedies for situations where the marketplace for authorized receivers is compromised. For instance, the BBC proposal does not take any steps to address either compromised authorized receivers or unauthorized HD receivers that do not respond to content management.

To enhance the content management approach proposed by BBC and the range of content likely to be made available, we would like to suggest that the following recommendations be incorporated in the appropriate areas:

Renewability of compromised receivers

- In the event that an authorized receiver is compromised and users are able to patch the receiver to ignore content management signals, we recommend that the BBC have a process in place to work with the manufacturer of the authorized receiver to (a) ensure that new receivers manufactured after the discovery of the hack implement measures to mitigate the hack, and (b) renew the implementation of receivers already deployed in the market through a software update process.

- In addition, we also recommend that the compliance and robustness rules in the Freeview license should include obligations on the manufacturers of authorized receivers to take reasonable steps to prevent such attacks
- A renewal process could also be considered to address situations where the Huffman tables are compromised and publicly available on the Internet, whereby the BBC would be able to generate a new lookup table and operationally deploy it in a manner that ensures that authorized deployed and new receivers can continue to receive content while unauthorized receivers do not receive the updated codes.

Remedies against unauthorized receivers

The current proposal does not provide any mechanism to address the situation where unauthorized receivers (which will not carry the Freeview HD trademark) will still be allowed to copy and redistribute (including over the Internet) both SD as well as HD versions of any content broadcast on Freeview HD without any consequences; the only limitation on such receivers being that they will be unable to decode the EPG stream.

Accordingly, we think it is very important that only authorized receivers (with content management) be able to receive, process and copy content broadcast by Freeview on Multiplex B. It is important to both manufacturers of authorized receivers as well as content owners that authorized receivers receive the benefits of compliance with content management and are not disadvantaged vis-a-vis unauthorized receivers that do not implement content management. More specifically,

- We recommend that the BBC have a process in place to take action against manufacturers of unlicensed receivers that infringe on the hook IP (that is, they use the Huffman lookup table to decode the EPG).
- We also recommend that the BBC agree to consider future updates to the license to ensure that they have the ability to take action against unauthorized receivers that provide complete solutions to consumers without infringing on the hook IP, in the event that such receivers become widely available in the UK.

C. Conditions under which “Managed Copy” state can be asserted

We note that DTLA, the licensing regime for the DTCP output protection scheme that is proposed for use in Freeview HD receivers, has published the encoding rules document agreed to for use in connection with UK HD DTT broadcasts on the DTLA website at [http://www.dtcp.com/data/Notice of DTCP Encoding Rules for UK HD DTT 2009-12.pdf](http://www.dtcp.com/data/Notice%20of%20DTCP%20Encoding%20Rules%20for%20UK%20HD%20DTT%202009-12.pdf). With respect to the different content management states asserted by content owners, we request that any license amendment issued by Ofcom include a normative reference to the latest applicable version of the DTLA encoding rules for UK HD DTT document, as available on the DTLA website.

In summary, we believe that there are multiple methods (such as HD content encryption⁶ and the current BBC proposal) for securing a content management system on HD DTT, and the more robust the system can be made, the more compelling the platform will be in its ability to attract higher-value content. At present, the multiplex license amendment proposed by BBC, along with the suggested enhancements discussed above, represents a viable approach given the short time frame before launch of the Freeview HD platform. We also believe that the robustness of the Freeview HD platform should be enhanced over time to further increase its attractiveness.

⁶ See Option 4 on page 20 of the Ofcom document “Content Management on the HD Freeview Platform”

3. Responses to other questions in the Ofcom consultation

We have also included brief responses to some of the other questions raised in the Ofcom consultation below:

- Do you agree with the proposed change to Condition 6 in the Multiplex B Licence?

Yes

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

Yes

- 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?

Yes, we believe that the BBC proposal (independently or with the addition of the enhancements suggested above) provides adequate safeguards to citizens and consumers legitimate uses of HD content, and that no additional guarantees are required at this point in time.

- 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. In addition we would like to point out that adding content encryption to the broadcast stream as outlined in Option 4 also has only a negligible impact on the cost of HD DTT receivers and their interoperability with other HD consumer equipment.

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

Content Management on HD Freeview Platform - MPA submission

We believe that the licensing requirement has a positive effect on the marketplace and would go a long way in ensuring a level playing field for manufacturers of authorized receivers and that this level playing field will be easier to maintain over time if the BBC follows our further recommendation to take remedies against manufacturers of unauthorized receivers.

- 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?

While this is a question intended for the other broadcasters, we feel that the encoding rules for HD FTA DTT content in UK as published by DTLA provide an acceptable starting point for the Freeview HD service, with the caveat that the ability to assert the "Copy 1 Generation" state only for content that meets certain criteria as defined in the encoding rules may limit the range of content made available on the HD FTA DTT platform.

- 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?

We respectfully request Ofcom and the BBC to consider the issues identified above in our submission as they proceed with this consultation. We believe that addressing these issues would further enhance an effective content management solution for FTA content, and that the Freeview HD platform will likely benefit greatly in the form of access to a wider range of quality content should such measures be adopted.

In conclusion, the MPA and its member studios thank you for the opportunity to provide our input to this important consultation. We think that the addition to content management to Freeview HD FTA DTT service is an important step that benefits all the participants in this ecosystem, namely (a) consumers, by increasing choices for operators and the range of content, (b) content owners, by increasing the confidence that their rights will be protected by the platform, and (c) Freeview, by enhancing the viability of the platform against its competitors. We look forward to continued conversations with Ofcom and the BBC on this topic.

Content Management on HD Freeview Platform - MPA submission

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'T. Shapiro', with a stylized flourish at the end.

Ted Shapiro

Senior Vice President, General Counsel and Deputy Managing Director, EMEA
Motion Picture Association
avenue des Arts, 46
1000 Brussels, Belgium