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Dr

**Forename:**

James

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**Representing:**

Organisation

**Organisation (if applicable):**

Linux Foundation

**Email:**

**What do you want Ofcom to keep confidential?:**

Keep nothing confidential

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

Keep nothing Confidential

**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:**

The Linux Foundation's Statement:

<https://www.linuxfoundation.org/content/official-statement-objecting-bbcofcom-proposal>

## Official Statement from The Linux Foundation

To: OFCOM

The Linux Foundation, on behalf of its members, would like to register its serious objections to the current BBC/OFCOM proposal, which would impose content management controls on new free-to-air high definition channels. The plan, which involves restrictively licensing the Huffman codes used in the electronic programme guide, would have a negative effect on open source applications and would distort the markets which have built up around those applications.

The treatment of Open Source in the BBC document is incorrect and ignores the severe market distortions that this content management scheme would produce in open platforms. The use of Open Source within the market segments that would be affected by the BBC proposal can be divided into two business models: Proprietary but built on Open Source and fully open platforms. The HD Freesat system the BBC used to characterise Open Source falls into the Proprietary but open category; no analysis at all was attempted of the fully open category. The failure to look at fully open platforms leads to an important segment of the market being ignored.

Currently, there is no DTG-approved content management system available for fully open systems, so the BBC proposal would effectively destroy the ability of those systems to display TV-based content. By way of illustration, the fully open category includes the Moblin netbook operating system, which is a significant player in the netbook space and the Android phone system, which has several million users and broad handset industry support. The fully open platform category is significant in terms of both the number of users and its being the fastest growing market segment.

Deliberately excluding fully open platforms from free-to-air content and thus disadvantaging those platforms with respect to their competitive peers in both fully proprietary platforms and Proprietary but built on Open Source platforms is a distortion which, The Linux Foundation believes, is severe enough to rise to the level of being Sherman anti-trust addressable within the US, and a matter for the European Commission Directorate General for Competition within the EU.

Our recommendation for preventing this distortion is that the BBC proposal be modified to recognise that DTG-approved Content Management systems are not currently available for fully open platforms, and to permit licensing the EPG Huffman code to providers of fully open systems on the same fair, reasonable and non-discriminatory basis as other players with the additional exception that, as long as their platforms remain fully open, they are not required to implement content management until it becomes available for fully open systems. We feel this will address the competitive problem and additionally provide the needed impetus to DTG to work on the problem of content management for open systems.

The Linux Foundation's members have a huge vested interest in nurturing all the volunteer work that goes into Open Source because, ultimately, that work is what they make use of in their products, whether proprietary but based on Open Source, or fully open. This work is also the wellspring of the innovation from which the competitive advantages of these platforms derive. In the broadcast space, the MythTV system, which is a fully open set top box implementation for fully open platforms, which is built entirely by volunteers, represents

a significant community to The Linux Foundation members both from a code contribution and a consulting/recruitment point of view. The BBC proposal, with its emphasis only on licensing the Huffman coding of the EPG to corporations, is endangering the volunteer based innovations upon which our members critically rely because it will prevent the active volunteers from constructing fully functional home built open systems to receive BBC transmissions in the future and thus damage or even disrupt the growth of this volunteer community.

Our recommendation for enabling this volunteer community to keep contributing their essential innovations is that the current BBC proposal be modified to permit the licensing of the Huffman code table on a fair, reasonable and non-discriminatory basis to all individuals or volunteers who request it to enable them to keep building the innovative TV systems upon which we rely.

The Linux Foundation is a nonprofit consortium dedicated to fostering the growth of Linux. Founded in 2007, The Linux Foundation sponsors the work of Linux creator Linus Torvalds and is supported by leading Linux and open source companies and developers from around the world. Platinum members include Fujitsu, Hitachi, IBM, Intel, NEC and Oracle.

**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

**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? :**

Don't agree to copy management, so question is out of scope

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

No

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

No

**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? :**

Definitely not

**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?**

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No

**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? :**

No

**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? . :**

Insufficient information to answer

**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?:**

Yes, see statement above