

BT's response to Ofcom's consultation on Ofcom's proposed requirements and guidance for distribution of BBC public services

13th February 2017

BT welcomes the proposals set out in Ofcom's consultation on proposed requirements and guidance for distribution of BBC public services that will form part of the BBC's Operating Framework.

We make the following comments:

Sections 1 Introduction and 2 Legal Framework

1. We particularly welcome the recognition that the nature of what a UK Public Service is, and therefore how audiences access content, is likely to evolve during this Charter period, and therefore that the 'public services' the guidance covers is not limited to the current list of UK Public Services.
2. We welcome the requirement that 'the BBC must do all that is reasonable practicable to ensure UK citizens and consumer are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways' and that 'it must not adversely impact fair and effective competition'. We look forward to responding to the BBC's own consultation on their distribution policy in due course.

Section 3 Potential Competition concerns and requirements for the BBC

3. We agree that media markets have undergone significant changes during the last Charter period and that this is likely to continue if not accelerate.
4. We are supportive of Ofcom's analysis of the objectives and of the BBC and commercial platforms, and the areas of potential divergence between the BBC and platform operators' interests.
5. As we have discussed in previous responses (particularly BT's response to the 2015 PSB review) BT highlights that there may be a current or retrospective element to this as well as negotiations around new or evolving services:
6. For example, problems arise when technical upgrades and newer versions of iPlayer are issued, in particular when older versions cease to be supported. While there are cost implications for the BBC in supporting numerous versions, at the same time, from both a viewer and technology provider perspective, each upgrade and withdrawal of the iPlayer is a smaller scale equivalent of analogue to digital switchover. While it is important to drive new innovation, and the shift to a world of multiple rolling upgrades is likely inevitable, some consumers do not adapt as quickly as others and their ability to continue to access PSB VOD content will become a growing issue.
7. Clearly, the BBC cannot simply leave viewers unserved, nor export the costs of continuing to serve them entirely and unpredictably to other parts of the value chain, whether commercial platform providers, technology companies (for example, if a smart TV is sold as enabled for TV catch up services but is not compatible with newer versions) or to viewers directly (if likewise their phone or tablet is not compatible with newer versions). To this end, we welcome the requirement at 3.23 that 'the BBC must take into account the market impact of its activities'.
8. BT propose Ofcom issue some guidance to BBC to develop a framework of obligations around the timeframe over which they will continue to support and supply content to older versions of their online offers or a minimum notice period for withdrawal of support for older versions. This would enable other parts of the value chain to be informed in advance and respond appropriately.

9. In general, the BBC should take a collaborative approach to technology development, drawing in the private sector at every opportunity. To support this, Ofcom issue some guidance to the BBC to develop and publish a technology development roadmap every two years looking a few years ahead so that technology makers are both able to engage with development and decision making, and to make their own plans accordingly.
10. We absolutely agree with Ofcom that 'the terms of supply are a key consideration in assessing the impact on competition of a distribution arrangement, and are inextricably linked to the BBC's offer of supply.' And likewise the expectation that 'the terms on which the BBC is prepared to supply its public services are likely to be the central question in any disagreement about distribution.'
11. We highlight that online distribution costs are different to negotiations with other platforms, (although they may sometime be folded into these discussions) in three ways: first that they impact other internet users, not just the pure media market. Second, that online networks may be carrying more BBC content than they provide through their own TV offer, if they have one, and third, that there are a number of different ways to distribute online and these differences are both technical (e.g. unicast vs multicast) and commercial (as distribution may be integrated into a TV platform or via a stand-alone online player).
12. BT have concerns that thus far the BBC have publicly stated they do not want to pay costs for online distribution of content¹. This an untenable position and Ofcom should require its withdrawal when the BBC develop their distribution policy. As originators of some of the most popular and high volume online content the BBC must be incentivised to behave responsibly when it comes to online content distribution for VOD as well as linear viewing, to the benefit of all network users. Instead, Ofcom should require the BBC to minimise distribution costs for all Internet Service Providers (ISPs).
13. The obvious approach is to ensure that the BBC is connected to the online distribution value chain. For example for video on demand (VOD), the BBC should pay their third party content delivery network (CDN) costs to efficiently place content onto networks. This is by no means the whole cost: the network bears the cost of delivery from the CDN to the viewer, the important point is that it incentivises cooperation and efficient behaviour from the BBC.

Section 4 Assessing complaints against the BBC

14. BT propose that, should Ofcom assess a complaint around online distribution, the volume of viewing and related content generated by the BBC is taken as relevant alongside the other points raised.

Summary

Below are the areas where BT would like to see changes to Ofcom's propose requirements and guidance for distribution of BBC public services:

- BT propose Ofcom issue some guidance to the BBC to develop a framework of obligations around the timeframe over which they will continue to support and supply content to older versions of their online offers or a minimum notice period for withdrawal of support for older versions.
- BT propose Ofcom issue some guidance to the BBC to develop and publish a technology development roadmap every two years looking a few years ahead so that technology makers are both able to engage with development and decision making, and to make their own plans accordingly

¹ http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/reports/pdf/bbc_report_psb_review_february2015.pdf
see para 6.9

- Ofcom should require the BBC to withdraw their policy of not wanting to pay online distribution costs when the BBC develop their distribution policy and instead require the BBC to minimise distribution costs for all ISPs.
- BT propose that, should Ofcom assess a complaint around online distribution, the volume of viewing and related content generated by the BBC is taken as relevant alongside the other points raised.

We look forward to seeing Ofcom's finalised requirements and guidance and responding to the BBC's own consultation on its distribution policy in due course.