

**BBC high definition television
channel:**

Public Value Test provisional conclusions

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BBC high definition television channel: Public Value Test provisional conclusions

1. Introduction

- 1.1. This document sets out a provisional decision by the BBC Trust to approve a proposal from the BBC Executive to launch a high definition television channel.
- 1.2. The Trust is applying a Public Value Test (PVT) to the BBC Executive's proposal and has reached provisional conclusions following consideration of two reviews of the proposal: a Public Value Assessment (PVA), conducted by the Trust, and a Market Impact Assessment (MIA), conducted by Ofcom.
- 1.3. A PVT was appropriate in this case because the proposed HD channel would be a new service requiring a service licence. Under the BBC's Charter and Agreement, where a new service licence is likely to be required, there is a presumption that a PVT will be applied.
- 1.4. The PVA and MIA were published on 18 September 2007. The PVA, together with the BBC Executive's application and a joint BBC Trust/Ofcom description of the service proposal are available on the BBC Trust's website (bbc.co.uk/bbctrust). The MIA is available on Ofcom's website (ofcom.org.uk).
- 1.5. Before concluding that the proposed service should be approved, either with or without conditions, the BBC Trust 'must be satisfied that any likely adverse impact on the market is justified by the likely public value' of the proposed service (Clause 26(6) of the Framework Agreement). We must also be satisfied that approval would be consistent with the BBC Trust's duties under Article 23 of the Charter and its other legal duties.
- 1.6. Having considered the PVA and MIA, we are proposing modifications to the BBC Executive's proposal. Taking these modifications into account, we are satisfied that the public value that would be created by a BBC HD channel is sufficient to outweigh any adverse market impact and are therefore approving the proposal.
- 1.7. Our provisional conclusions are open to consultation for a period of 28 days.

- 1.8. The PVT has been undertaken largely in accordance with the terms of the *Interim Rules for the Conduct of a Public Value Test* published by the BBC Governance Unit on 10 October 2006. Certain departures from the Interim Rules have been made, as noted in the report of the PVA. These arose from overriding obligations in the BBC Royal Charter and Framework Agreement, including the general duties in Article 23 of the Charter and Clause 28 of the Agreement, with which the BBC Trust must comply amongst its other legal duties when conducting a PVT.
- 1.9. This is the last PVT to be conducted under the Interim Rules. The Trust has now adopted its new Guidance on the Conduct of the PVT which is published on the BBC Trust website.

2. Background

- 2.1. High definition television is a significant enhancement to standard definition television – offering improved picture and sound quality. It is already offered as a pay-TV service on satellite (Sky offers a range of HD channels) and cable (Virgin Media offers some HD content on-demand). Both platforms have also been carrying the BBC's trial HD channel. The BBC Executive's application proposed that the HD channel be provided on satellite, cable and digital terrestrial television (DTT or Freeview¹). The channel, and/or content from it, may also be offered on in the future IPTV and over the open internet at bbc.co.uk.
- 2.2. Launch on Freeview will be affected by wider decisions about the future of broadcast spectrum and standards to be adopted in relation to HD. The BBC Executive's proposal assumed that additional spectrum capacity would need to be allocated to the platform in order to facilitate the provision of HD as a full nine-hour service. During the course of this PVT (and not specifically for it), Ofcom released analysis which suggests that a range of HD services, including the BBC's, could fit onto the DTT platform if the allocation of capacity on the multiplexes was reorganised and new technical standards implemented. This could help ensure that consumers have a choice of public service HD channels. We expect Ofcom to put a formal proposal to public consultation.

¹ Freeview refers to the bundle of free-to-view channels collectively marketed under the Freeview brand. DTT refers to the digital television platform as a whole which comprises six multiplexes broadcasting both free-to-view and pay-TV channels.

- 2.3. Despite these uncertainties in relation to spectrum, given the public value in the proposal identified in the PVA, we consider it appropriate to reach provisional conclusions now on whether or not to approve the proposal.
- 2.4. We have not sought to form a firm view in this PVT on the use of spectrum capacity. We have formed a view that the BBC is likely to be able to accommodate its proposed nine-hour HD service within its own capacity. We have focussed on the public value of the BBC creating a high definition channel – which could be provided as proposed by the BBC Executive, in the first instance, on cable and satellite and then later on DTT.
- 2.5. The BBC Executive's application assumes there will be no costs for additional spectrum capacity, should this be required. The PVT has accordingly proceeded on the assumption that a BBC HD channel could be provided on Freeview in the medium term (i.e. by 2012) without the need for the BBC to purchase additional capacity. This could happen through DTT reorganisation along the lines mooted by Ofcom, through the BBC accommodating the channel within its own capacity, or through the public service broadcasters (PSBs) being gifted spectrum capacity at least temporarily.
- 2.6. The normal time horizon for assessment that we apply in the PVT is five years. We have applied that timescale in this instance but we have also found it necessary to look beyond five years, to consider developments up to around 2017. Where we refer to short to medium term, we mean within the next five years; by long term, we refer to a period approximately 10 years hence.

Notes on technical terms

HDTV

High definition television transmits more picture information and better quality sound than traditional standard definition television. This enables picture quality to be sharper and more immersive and the sound can be surround sound.

720p and 1080i

Standard definition television pictures are made up of 576 horizontal lines refreshed at a rate of 25 times per second. The increased amount of picture information transmitted for HDTV means pictures are made up of more lines – i.e. there is a greater level of picture resolution. The accepted standards for HD picture resolution are currently 720p (720 progressive – 720 lines refreshed at 50 times per second) or 1080i (1080 interlaced – 1080 lines refreshed at 25 times per second). The BBC Executive's application proposes to use both these standards. 1080p is also becoming available (1080 lines refreshed at 50 times per second).

Multiplex

A multiplex is a fixed 8MHz block of UHF spectrum which carries a bundle of digital television channels. One digital multiplex occupies the same amount of spectrum as a single analogue television channel.

MPEG-2 and MPEG-4

Compression is used to encode a television channel for digital transmission. To reduce the volume of data that needs to be transmitted, and thereby fit more channels onto a multiplex, compression reduces the amount of information that needs to be sent from one second to the next. Information that is constant – e.g. a plain coloured background – can be reduced so that the capacity can be concentrated on changing information. The process by which this has been done hitherto is called MPEG-2. A new, more efficient process called MPEG-4 will be applied to HDTV services on satellite and DTT. Channels encoded in MPEG-2 and MPEG-4 can be transmitted on the same multiplex. But current Freeview set-top boxes are capable of decoding only MPEG-2 services, so consumers would be required to upgrade their receiving equipment in order to receive HD channels in MPEG-4 alongside standard MPEG-2 services.

DVB-T and DVB-T2

The technology by which a digital television signal is transmitted is referred to as modulation. The current standard is called DVB-T. A replacement, DVB-T2, is in development. This will allow more efficient use of spectrum capacity. DVB-T and DVB-T2 cannot be mixed on the same multiplex. Current Freeview set-top boxes are compatible only with DVB-T, so consumers would need to upgrade their receiving equipment in order to view channels transmitted using DVB-T2. DVB-T2 is expected to be available by late 2009.

16 QAM and 64 QAM

Digital multiplex transmission is subject to trade-offs between coverage, capacity and resilience to interference. This is referred to as the mode. At present, digital television is transmitted in the spectrum gaps between analogue television channels. So the BBC makes a cautious trade-off – at 16 QAM mode – between coverage, capacity and interference in order to ensure consumers receive a robust signal. As digital switchover proceeds, and interference from analogue channels ceases to be an issue, the BBC will convert its multiplexes to 64 QAM mode – enabling more channels to be carried in its capacity.

3. Summary of the Public Value Assessment

- 3.1. This section provides a summary of the PVA to aid the reader and is not a substitute for reference to the PVA report which deals with these matters in full. The Trust has considered the full PVA report and all its conclusions in reaching provisional PVT conclusions.
- 3.2. The PVA sets out the aspects of public value relevant to the proposals and identified at the outset by the BBC Trust. These were:
 - Quality and distinctiveness;
 - Impact;
 - Reach;

- Cost and value for money.
- 3.3. The PVA appropriately considers the promotion of the BBC's public purposes as a prerequisite; this is also considered more particularly as part of impact. We note that the PVA explores and evaluates these drivers of public value, appropriately noting any departures from the Interim Rules. The PVA concluded that high definition television was likely to become a significant broadcast standard in the medium to long term and that the provision of a BBC HD service would create public value. The service would significantly promote the BBC public purpose of 'helping to deliver to the public the benefit of emerging communications and services.' It would provide a strong stimulus to the broader development of universally available, free-to-view HDTV in the UK. It would also encourage the provision of HD on Freeview and help to focus the market around the MPEG-4 coding standard, which governs the compression of digital video signals, thereby facilitating more efficient use of spectrum capacity in the long term.
 - 3.4. The PVA assessed the proposals against the four drivers of public value: reach, quality, impact and value for money. In terms of impact, in addition to promoting the BBC's digital purpose, the service would appeal to a significant minority who have upgraded or would be prepared to upgrade to HD receiving equipment. It would also provide value for money: the channel would be expected to reach 22 per cent of TV households by 2012, which compares favourably with other digital channels, and would do so at reasonable cost. The proposition would help drive up quality, through the introduction of the improved HD standard, and it would be distinctive in being subscription-free and without advertising.
 - 3.5. The nine-hour service on Freeview would be expected to deliver higher public value than the four-hour service on Freeview or the nine-hour service on cable and satellite. However a good level of public value would be expected from all three. Provision of the channel on Freeview offers higher public value because it would have a higher impact on improving the channel's value proposition than on cable and satellite, which already offer HD and considerably more SD channels. The platform also delivers higher reach for the BBC and it is through consumption of BBC content that its public value is realised.
 - 3.6. The provision of an overnight, four-hour service on Freeview (prior to the availability of the full nine-hour service on the platform) would necessitate the withdrawal during the transmission hours of 02.00 to 06.00 of four BBC services. These are BBC Four, BBC Parliament, two BBCi video streams and the BBCi video news loops. Given the very low reach of these services during these hours, we concluded that the withdrawal of the services did not require the application of a separate PVT in accordance with section 25(1) of the Framework Agreement and determined it appropriate to consider the effect on public value of suspending the services within the HD PVA. We concluded that the public value foregone would be minimal and outweighed by the public value created.

3.7. In the event of the Trust approving the launch of the service, the PVA recommended conditions in the following areas:

Timing

- Launch should proceed on Sky and digital cable once a service licence becomes effective, and on Freesat from the launch of the platform.
- Launch should proceed on Freeview as soon as possible – once the possibilities raised by Ofcom’s analysis of the DTT platform are clearer and not before a further review of options by the Trust in early 2008. Parity with cable and satellite should be achieved at the earliest opportunity, in order to ensure universality. This could be effected by providing the nine-hour service within the BBC’s existing capacity, if compression standards allow, or using capacity allocated through a platform reorganisation should that prove viable.
- Since Ofcom’s analysis of possible platform reorganisation proposal envisages the use of the DVB-T2 transmission protocol, it calls into question the appropriateness of the early provision of a four-hour overnight service on DTT using the existing DVB-T protocol. This is because the move from DVB-T to DVB-T2 would require consumers to upgrade their equipment. So this should also be postponed pending the review of options in early 2008.

Content

- The nine-hour service should not aim simply to replicate the BBC One schedule in HD but should simulcast content from other BBC channels that best utilises the quality gains that the format provides.
- Changes to the provision of BBC Parliament on Freeview should be compliant with the channel’s service licence, and the commitments given by the BBC to Parliament.

Service review

- The service should be reviewed following completion in 2012 of digital switchover of terrestrial television.

4. Summary of the Market Impact Assessment

4.1. This section provides a summary of the MIA to aid the reader and is not a substitute for reference to the MIA report which deals with these matters in full. The Trust has

considered the full MIA report and all its conclusions in reaching provisional PVT conclusions.

- 4.2. Ofcom looked at five categories of products and services that could be affected by launch of the BBC HD channel: TV platform services and network services; broadcast services; provision of content; hardware and software; and on-demand services. It found that the most significant market impact were in the first two categories.
- 4.3. Regarding TV platforms, the MIA said that a BBC HD channel could encourage consumer take-up of HD across the major TV platforms, including DTT, satellite and cable and also encourage take-up of the new PSB Freesat. For DTT, the provision of HD by the BBC (and consequently other PSBs) would help maintain the platform in the long term. But in the short term, the platform might be disadvantaged in the period when a nine-hour BBC service was available on other platforms but not on DTT. Internet protocol television (IPTV) platform operators, which face capacity constraints, may suffer if there is significant consumer demand for HD services which they may not be able to meet.
- 4.4. For broadcast services, there may be some negative impact on the viewing shares of commercial broadcasters through channel substitution and as a result of platform substitution. Ofcom said these would be unlikely to be significant since channel viewing is determined more by content than picture quality, and in the medium to long term commercial broadcasters would be offering HD propositions alongside the BBC's. Greater negative impact might arise if the BBC moved away from a mixed-genre proposition for the channel (to prioritise, for example, sport and movies). Another impact is that the other PSBs would be likely to accelerate their HD plans – which would happen at a slower rate in the absence of the BBC's lead and of a clear commercial model for free-to-air HD services.
- 4.5. Ofcom identified some small potential market impacts in other areas. Launch of a BBC HD channel could accelerate the transition to HD production, and spread the skills needed for content production in the HD environment. In due course, this is likely to help reduce the cost differential between HD and SD production, benefiting the industry as a whole. There could also be a positive impact on the take-up of HD equipment – such as set-top boxes and satellite dishes. Provision of HD content on the BBC iPlayer could lead to increased costs on internet service providers who may have to invest in extra capacity to carry the large data volumes.
- 4.6. The MIA did not propose any modifications to the service, but made some recommendations to the Trust should the proposal be approved:
 - The HD channel should be launched in such a way that it does not impede the delivery of a critical mass of HD services on the DTT platform.

- The BBC should engage with relevant industry stakeholders about the provision of the HD channel on IPTV platforms, with the objective of launching the service on IPTV as soon as technically feasible.
- The BBC Trust should take into account the costs that may be imposed on internet service providers (ISPs), as a result of the delivery of HD content via internet on-demand services
- Any move to shift from the 720p or 1080i picture resolution standards to 1080p should be considered carefully by the Trust in order to protect consumers.
- The mixed-genre service proposed by the BBC Executive should be clearly specified in the service licence.
- The Executive's activities in bidding for events rights should be monitored to ensure compliance with the service description.

5. The Trust's decision

- 5.1. We are satisfied that the proposal would create very little adverse market impact, and that any such adverse impact would be justified by the public value that the proposal would create. We are therefore minded provisionally to approve the proposal, subject to certain conditions to safeguard or enhance the public value and minimise any adverse market impact. These are explained in section 6. This is not a final decision and these provisional PVT conclusions are now open to consultation. In this section, we explain the aspects of the PVA and the MIA that we have considered particularly relevant in reaching this view.
- 5.2. We reached these provisional conclusions having considered the PVA and MIA in full, and the conclusions and underlying matters addressed in both. We specifically applied the requirements of Clause 26(6) in the Framework Agreement, having proper regard to the Trust's duties under the Charter, Framework Agreement and any other relevant and appropriate guidance applicable to public bodies.
- 5.3. We have gone on to consider our general duties under Article 23 of the Charter and our other legal duties. In our provisional view, particularly given the matters considered in the PVT, approval of these proposals would be consistent with these duties. Particularly, but without limitation, we note that we have:
 - represented the interests of licence fee payers in considering the value that would accrue to them (and any that might be forgone) from the proposals, if approved;

- secured the independence of the BBC through the proper application of the PVT process;
 - assessed, and will continue to assess, carefully and appropriately the views of licence fee payers through formal consultation;
 - exercised rigorous stewardship of public money through the value for money analysis we conducted in the PVA;
 - had regard to the competitive impact of the BBC's activities on the wider market through our consideration of Ofcom's MIA; and
 - ensured that the BBC observes high standards of openness and transparency through the publication of this and other documents arising from the PVT process.
- 5.4. The Trust has also received and considered privileged legal advice on the proposal's compliance with competition law (including state aid law). It concludes on the basis of this advice that the proposal is compliant. Acting in the public interest in considering these, and all other relevant matters, we provisionally conclude that the proposed service should be approved subject to the conditions set out below.
- 5.5. The Trust has noted the conclusion of the PVA that the proposal for a BBC HD channel would create public value. Having considered all the matters addressed in the PVA, we have taken into account the following key factors. The proposal will have a significant impact towards the aim of providing universal access to HDTV, free at the point of use.² It will thereby increase the viability of HD for other broadcasters and consumers alike. By introducing HD to Freeview, the proposal would help secure the future of that platform in the long-term. In cable and satellite households, the channel will help maintain the reach of the BBC. While the channel's reach would be largely substitutional, the level of reach would be high compared with other BBC digital channels and achieved at considerably less cost. The proposal promotes the BBC's digital purpose of delivering to the public the benefit of emerging communications technologies, and it will promote the other purposes over a longer time-frame. The proposal will create public value at a reasonable cost and in our view it offers value for money.
- 5.6. We have noted the conclusion of the MIA that the channel would have significant market building impacts and also that Ofcom does not consider the potential negative market impacts sufficient to warrant modifications to the proposal. Having considered all the matters addressed in the MIA, we have taken into account the following key factors. The channel would encourage increased take-up of HD across all the major

² The HD channel would be available on subscription services, but on this basis.

TV platforms – thereby supporting the relative position of Freeview, encouraging take-up of Freesat, and providing increased subscriptions to pay-satellite and cable. There is a modest risk of substitution from other commercial channels. This could increase if other PSBs lack capacity to provide HD on DTT and also if the BBC HD channel strays from its mixed-genre remit. It is important that the PVT process is concluded in such a way as to ensure the launch of the service on DTT does not create barriers to the delivery of a number of HD services on that platform. There are concerns about the capacity of ISPs and IPTV providers to offer HD. IPTV providers could be disadvantaged if capacity constraints were to persist.

- 5.7. We note that the proposed service would require a change to the BBC's multiplex licence. Any PVT approval to launch the HD service would therefore be subject to the BBC obtaining the necessary consent to such a licence variation from Ofcom.
- 5.8. Potential conditions are described in the following section. We are opening the proposals to public consultation for a period of 28 days, and seek views on these provisional conclusions.

6. Conditions of the service approval

- 6.1. In proposing approval of the service, we are broadly endorsing the specifications set out in the service description released at the start of this PVT. The Trust has considered and noted the recommendations in the PVA where conditions might be imposed to enhance or safeguard public value and the recommendations in the MIA addressing potential impacts to the market. We have taken account of those matters and points arising from our consideration of the PVA and MIA. In the event of final approval, we are proposing conditions – or, if not a formal condition, that the Trust sets out its view as appropriate – in the following areas:

- Launch on cable and satellite
- Launch on Freeview (nine-hour schedule)
- Launch on Freeview (four-hour overnight schedule)
- Launch on IPTV
- Provision of HD content on-demand over the internet
- Simulcasting parameters
- Genre mix and events rights

- Picture resolution
- Respecting commitments regarding BBC Parliament
- Service review

Launch on cable and satellite

6.2. Given that the BBC HD channel is operating in trial form at present, the opportunity exists for the early delivery of public value on the platforms where capacity allows. Both the PVA and the MIA point to positive impacts of providing the channel on cable and satellite. The Trust's decision on the launch of Freesat said that this PVT would be the appropriate forum for assessing the market impact of providing HD on Freesat. It is important to note, therefore, that the MIA concludes that the channel could promote take-up of Freesat while at the same time, the pay satellite and cable platforms could benefit from increased subscriptions to their HD services. Given the potential positive market impact, the public value identified in the PVA for the cable and satellite HD service, and taking into account that it is already being provided in trial form on these platforms, we are stipulating that the channel should be provided on a continuing basis on cable and Sky from the date of the service licence, and on Freesat from the launch of that service. We note that continued provision on cable and Sky would require an extension of the current trial from the end of the PVT until the service licence became effective.

Launch on Freeview (nine-hour schedule)

- 6.3. The considerations for launch on Freeview are more complex than for cable and satellite. The PVA sees significant public value in providing the channel on Freeview and recommends that the full nine-hour schedule be offered as soon as possible. The MIA says that this option is likely to lead to mainly positive impacts on Freeview – providing more marginal value to consumers than on other platforms, and by encouraging the acceleration of other PSBs' HD plans.
- 6.4. However, given capacity constraints, both the PVA and the MIA recognise difficulties in timing the launch of the BBC HD channel on Freeview. The MIA recommends that the Trust ensure that the BBC's launch should not create barriers to the provision on DTT of HD channels from other PSBs. The PVA says that, before any launch on Freeview, the Trust should review options in early 2008 when there should be more clarity on the viability and timescale of any reorganisation of the DTT platform aimed at accommodating a number of HD channels. There are also other issues, surrounding the transmission protocol and the availability of compression technology, which can be considered at that time. We set these out in sections 6.7 to 6.9.

- 6.5. In conducting the PVT, we have not found it necessary to form a firm view on the route to market on Freeview, although we have paid particular attention to the options identified in section 10 of the PVA. The public value in the proposal identified in the PVA means that a high definition channel should be provided on Freeview as soon as possible but not before the proposed review in early 2008. The proposed review in 2008 allows the options for timing and method of launch to be considered once the factors underlying the options are more clear. We consider this is also an appropriate way to take into account opportunity costs in the use of spectrum that arise from decisions about BBC activities.
- 6.6. We would expect to complete the Trust's review of DTT launch options in a relatively short time

Launch on Freeview (four-hour overnight schedule)

- 6.7. It would be possible for the BBC to launch this service almost immediately. However, the possibility of a major reorganisation of the DTT platform introduces the prospect that future HD services may be provided using the DVB-T2 transmission protocol on a dedicated HD multiplex. This would require consumers to have DVB-T2-capable set-top boxes and so calls into question the proposal to provide a four-hour overnight service on Freeview from next year using the existing DVB-T protocol. On this timescale, users would have to upgrade their set-top boxes in the short-term in order to gain MPEG-4 capability to receive the four-hour interim service. Then they would face a second upgrade to gain DVB-T2 capability in order to receive the full nine-hour service (as well as HD propositions from the other PSBs). Both the PVA and the MIA draw attention to the likely availability of the DVB-T2 transmission protocol for DTT by the end of 2009, which means the useful life of equipment bought to receive the four-hour interim service could be quite short. Both assessments identify the potential benefits of delaying the launch of the nine-hour service until this time, so that consumers' upgrade paths to MPEG-4 and DVB-T2 can be synchronised.
- 6.8. The value of postponing launch of the four-hour overnight service until this time is not as clear. The MIA comments that delay would mean there would be no BBC HD channel on Freeview for a period while there were HD services (including the BBC HD channel) on other platforms. This could increase the negative market impact associated with the differential HD Service between DTT and other platforms. We seek to minimise the period in which Freeview would be an HD-free zone. But to proceed with the overnight service using DVB-T technology, encouraging consumers to buy equipment that would rapidly become obsolete for the purposes of receiving HD services, risks causing widespread confusion and anger. The MIA also points out that the technology used to launch may also have an effect on conversion of the whole multiplex to the next standard. The potential public value of offering the overnight service with DVB-T increases if there is likely to be a lengthening in the time it will

take for DVB-T2 to become available – although it would still be relatively limited and may not outweigh the negative impact of fostering the uptake of obsolete technology.

- 6.9. So there would have to be a significant delay in implementing DVB-T2 before there would be value in offering the service with DVB-T. We are satisfied that the four-hour overnight service would make a useful contribution to the provision of HD on Freeview, pending capacity for the full nine-hour proposition. Even if platform reorganisation were to commence from 2009, it would apply only to the areas where digital switchover has occurred and so the four-hour service would still be relevant in the areas where digital switchover occurs between 2009 and 2012. On balance, we think it best to delay launch of the four-hour interim service until set-top boxes with dual DVB-T and DVB-T2 capability are available, if this will be as soon as 2009. But given the uncertainty, we are minded to require that launch plans for the four-hour interim service on Freeview also be subject to review in early 2008 when the factors for each of the options should be more clear. We would be particularly interested in opinions on this in our public consultation.
- 6.10. We considered, in response to a stakeholder suggestion, whether any overnight service offered on Freeview should also be provided on non-DTT platforms. The rationale would be to offer to cable and satellite viewers the limited preview value of the overnight service, over and above the full nine-hour schedule which would follow the next day. The MIA does not view the DTT overnight service as discriminatory, but an attempt to overcome the capacity constraints of the platform and sees no compelling evidence that it would cause negative market impact. We view the four-hour overnight service on Freeview as a transitory arrangement, and a second-best in relation to the full nine-hour service that would be available on cable and satellite. Since it would be withdrawn region-by-region when the nine-hour proposition was launched, the additional public value of offering it to cable and satellite viewers over and above the nine-hour service would be minimal. We see no compelling case to do so.

Launch on IPTV

- 6.11. There is a discrepancy in the evidence from the two assessments regarding provision of the HD channel on IPTV. The PVA did not seek to assess the public value of this, on the grounds that there was no clear route to market given the limited capacity of IPTV providers. The MIA noted that the lack of a route to market on IPTV meant that there could be a negative impact on IPTV operators, relative to the position of other operators. The MIA suggests that the Trust and the BBC Executive engage with industry stakeholders on the feasibility of launching on IPTV. This is something we would envisage happening in any case. The BBC Executive made clear in its application its desire to provide the channel on IPTV when technically feasible and subject to other considerations relevant at the time, particularly cost and value for money. We

share this desire and fully expect the Executive to maintain contact with relevant operators to this end – both to gauge technical feasibility and to ensure that the BBC does not unilaterally over-burden their capacity before they are ready to accommodate HD. At this stage, we consider it is not necessary to formalise this by including a requirement in the service licence that the BBC Executive deliver a version of the channel on IPTV subject to technical feasibility. This is also a matter on which people may wish to respond in the consultation.

Provision of HD content on-demand over the internet

- 6.12. The BBC Executive proposes providing HD content on-demand over the internet through bbc.co.uk. It has been clarified in discussions that, in the short term, only a small amount of HD content will be made available, and eventually in the long term, most or all of the HD channel may be made available in this way. We consider this would be appropriate because it provides an additional route to this service, is consistent with the public value identified in the PVA and is allowed by our PVT approval of the BBC's on-demand proposals³. On-demand provision is also recognised in the MIA as generally having a positive market impact, subject to the issue of ISP costs addressed below.
- 6.13. The provision of HD over the internet is currently at only a formative stage, because of capacity constraints and the large data volumes involved in downloading HD files. In the short term we would expect only a very limited amount of HD content to be offered on-demand and from our discussions with the BBC Executive, significant amounts of content will not be available on demand for several years. We would not expect the whole schedule, or even large parts of it, to be offered until there is judged to be sufficient audience demand, it is technically feasible and the BBC Executive has judged the cost and value for money implications to be appropriate. It is proposed that the service would be through the BBC iPlayer and could entail both simulcast streaming of the channel and also downloads and/or streams of HD programmes for catch-up viewing on-demand. Content offered on-demand could also be made available via third parties, under the Trust's syndication policy and the BBC's syndication guidelines. Programmes offered for catch-up would be subject to the same time-based restrictions on viewing as have already been approved for the BBC's on-demand offering. We propose addressing these matters as shown in the draft service licence in annex 2.

³ Annex 2, section 2 of the bbc.co.uk service licence allows simulcasting of the BBC's television and radio services over fixed and mobile internet protocol networks. It is also stated in the service licence that the service should include content from, and related to, many of the BBC's UK Public Services.

- 6.14. The MIA says the Trust should take into account the costs that may be imposed on ISPs, as a result of the delivery of HD content over the internet. In our PVT on the BBC's on-demand proposals, we took the view that ISPs would upgrade their network infrastructures in response to a variety of factors, and the BBC's impact would be relatively small. Since then, a number of ISPs have complained about the impact of the beta test of the BBC iPlayer – but not all are concerned and it is difficult to assess at this stage whether the concerns expressed are significant. The MIA notes that, in relation to HD, although the size of individual files would be large the overall volume would be relatively small since the number of programmes offered would be small. There would also be substitution from SD downloads, further reducing the impact. Exercising judgment, our view is that in most circumstances BBC activity on the internet is unlikely to distort competition between internet service providers who face capacity pressures arising from demand for a variety of different types of content – which includes games, user-generated media as well as on-demand content from traditional media all around the world. However, we recognise our responsibility to licence fee payers as consumers if there is potential for disadvantage to them.
- 6.15. As noted, we expect the BBC Executive to take these views into account and, in any event, this is a matter to which we will pay particular attention as this route to content develops. We invite consultation responses on the issues concerning provision of HD content on-demand over the internet.

Simulcasting parameters

- 6.16. The PVA identified that the BBC Executive's aspiration to simulcast BBC One prime-time programmes on the HD channel would not represent the most effective use of HD capacity if BBC One is broadcasting output that may not benefit particularly from the HD upgrade. The Executive has clarified its position on this saying it would not slavishly replicate the BBC One schedule. Even so, for clarity, we are specifying that – while much BBC One output will represent the best use of HD capacity – the channel should aim to schedule the programmes from across the BBC's portfolio of channels which would play most effectively to the benefits of HD. Prime-time scheduling should not be guided solely by the motivation to simulcast BBC One.

Genre mix and events rights

- 6.17. The MIA reflects stakeholder concern that the genre mix might stray from the original service proposition and become more of a head-on competitor for sports and movie HD channels. The MIA recommends that, in the event of final approval, the mixed-genre nature of the channel should be specified in the service licence. We agree and have made provision for this in the draft service licence at annex 2 of this document, on which we are seeking views as part of our public consultation on these provisional

PVT conclusions. The MIA further suggests that BBC spending on events rights be monitored to ensure that the BBC's spending on events does not get distorted by the existence of an HD channel. We acknowledge that this issue should be kept under scrutiny. We expect it to be covered by the service review (see below) and in our ongoing monitoring of the channel's performance.

Picture resolution

6.18. The BBC Executive's application states that the channel would use the recognised HD standards of 720p and 1080i for picture resolution. The MIA raises the possibility that the BBC might some day move to the emerging 1080p standard. If it were to do so in such a way that it no longer supported the existing 720p or 1080i standards, this would disadvantage viewers who have HD equipment which is not capable of handling 1080p resolution. It would be contrary to the BBC's principles to disadvantage a subsection of the audience in this way. As a matter of judgment, our view is that future consumer equipment would be capable of meeting established and emerging standards, so the risk would apply only to those consumers who have already invested or will invest in HD equipment which meets only current standards. We would expect the Executive to consider switching exclusively to the higher standard only when a tipping point had been established whereby the vast majority of HD consumers had already upgraded to it. Were it to propose switching to 1080p while a significant proportion of HD consumers still had access only to 720p or 1080i resolution, we would expect the proposal to be put to the Trust for consideration.

BBC Parliament

6.19. The PVA concludes the public value created by the provision of a four-hour overnight service on Freeview would outweigh the public value foregone in the services that would be withdrawn to provide capacity for this (BBC Parliament, BBC Four and three BBCi video streams). We accept this conclusion, while emphasising that we view it as a temporary arrangement in the interest of providing a limited HD service on Freeview until there is capacity to offer the full channel proposition. However, we consider it necessary to safeguard the guarantees given by the BBC to Parliament regarding the provision of BBC Parliament – that the House of Commons will always be carried live, and House of Lords proceedings will be covered in their entirety albeit not live. These are important public interest commitments. The BBC Executive, in its application, made clear its intention to honour these commitments. On the few occasions when the House of Commons sits all night, provision of BBC Parliament on Freeview should take precedence over the HD channel if capacity to broadcast both services is not available. These provisions will be reflected in the licence for the BBC HD channel.

Permission to withdraw the relevant services from Freeview between 02.00 and 06.00 will be reflected in amendments to their licences.

Service review

6.20. The PVA suggests a service review should be held following the completion in 2012 of digital switchover. This is an appropriate timescale, given the uncertainties in technological development and spectrum capacity. Since the normal timescale for service review is five years, the first review will happen no later than 2013. If necessary, we can hold the review sooner if circumstances suggest this would be appropriate. In addition, the Trust has processes for monitoring and reporting on the outcome of the PVT process, particularly through its PVT committee.

7. Service licence

- 7.1. Since the BBC HD channel would be a new service, it would require a service licence. We have provided a draft of this in annex 2. It reflects the specifications outlined in the service description issued at the start of this PVT, together with the conditions outlined in section 6 above.
- 7.2. We are publicly consulting on the draft service licence with these provisional PVT conclusions. If after consultation the Trust decides to adopt a final decision that materially varies from these provisional conclusions then we would consider whether any further consultation on the service licence is also required.
- 7.3. Our approach to review of performance is addressed in the draft service licence.
- 7.4. Annex 2 also lists the service licences to be amended to withdraw four BBC services during the transmission hours of 02.00 to 06.00.

8. Next steps

- 8.1. The timetable for this PVT has anticipated from the outset that the BBC Trust would consult on its provisional conclusions for 28 days. Having now completed the PVA and MIA stages of the PVT, we have considered whether 28 days is a sufficient period for consultation. We considered in particular the following:

- The service description produced by the Trust and Ofcom has been publicly available since 21 May. At the start of this PVT we also published the BBC Executive's application and as much of the supporting documents as allowed by commercial sensitivity. This allowed for proper consultation at that stage. This should also have given respondents the opportunity to become familiar with the matters considered in the provisional conclusions.
 - The PVA and MIA have been published a week in advance of these provisional conclusions.
 - Both the PVA and MIA set out the issues relevant to the PVT and the provisional conclusions set out our views.
- 8.2. It is important that the PVT process proceed expeditiously as required by the Framework Agreement. We consider that unless there are particular circumstances, 28 days for consultation on our provisional conclusions will generally be appropriate and, after careful consideration, we have concluded that it is for this PVT.
- 8.3. Our provisional conclusions are open to consultation until 17.00 on 23 October 2007. Annex 3 contains the questions we would ask you to consider. In the sections above, we have also noted some specific areas where we invite responses.
- 8.4. Following the end of the consultation, we will consider representations received. We presently intend to publish our final conclusions no later than 21 November 2007.

Annex I: Information about the Public Value Test process

The BBC's new Royal Charter and Agreement came into effect on 1 January 2007. The Charter makes clear that the BBC should be able to alter its UK public services – for example to respond to changes in technology, culture, market conditions and public expectations. However, any significant service-related proposals for change from the BBC Executive, including proposed new services, must be subject to full and proper scrutiny. The means by which this scrutiny takes place prior to approval is the Public Value Test (PVT).

If the BBC Executive proposes to launch a new UK public service or make significant changes to an existing UK public service, the BBC Trust will consider the proposal and decide whether to launch a PVT. The BBC's UK public services include all the BBC television and radio channels broadcast in the UK and the BBC's online services. They do not include the BBC's overseas services nor its commercial services, such as the publication of magazines or sale of videos by the BBC subsidiary BBC Worldwide.

Where a PVT is undertaken the new service or change must not happen until that process is complete. The PVT has several elements. A Public Value Assessment (PVA) is prepared by the BBC Trust to ascertain the likely public value of the proposed change. In making this assessment, the BBC Trust acts in accordance with the requirements of a Framework Agreement concluded between the BBC and the Secretary of State for Culture, Media and Sport (Framework Agreement). It also must comply with all its other legal duties including the general duties in Article 23 of the Charter, set out above.

At the same time, the communications regulator Ofcom prepares a Market Impact Assessment (MIA) examining the extent of any likely adverse impact on markets relevant to the proposed change.

The BBC Trust then considers these two assessments and reaches provisional conclusions on the proposed change. This document sets out our provisional conclusions on HDTV. In order to conclude that the proposed change should be made, granting approval either with or without conditions, the BBC Trust must be satisfied that any likely adverse impact on the market is justified by the likely public value of the proposed change. It also must be satisfied that approval would be consistent with the BBC Trust's duties under Article 23 of the Charter and its other legal duties.

The BBC Trust's provisional conclusions will be the subject of public consultation. The BBC Trust will review and take account as appropriate of all representations received before making its final decision on whether or not to approve the proposed change. Where a new service licence will be issued, the PVT will be subject to a procedural review by the Secretary of State.

BBC HD

Part I: Key characteristics of the service

1. Remit

The remit of BBC HD⁴ is to offer a mixed genre schedule of programming in High Definition format, most of which has been made in the UK for the BBC's other television channels.

2. Scope of this Licence

BBC HD should provide a service of up to nine hours each day. It may occasionally extend its hours of broadcast to allow for coverage of significant live sport or other events.

BBC HD should be transmitted free to air for general reception in the UK as a live broadcast on digital television platforms and it may be simulcast on fixed and mobile internet protocol networks subject to technical feasibility and value for money considerations.

On digital terrestrial television, the channel may be provided initially as a four hour overnight service. The channel should be provided as a nine hour service on digital terrestrial as soon as possible.⁵

BBC HD may also offer its broadcast content on fixed and mobile internet protocol networks, when technically feasible and subject to value for money considerations.⁶ BBC

⁴ BBC HD refers to the BBC HD channel.

⁵ The service should not launch on digital terrestrial before a Trust review of service provision options, timing and implementation has concluded.

⁶ Provision via BBC iPlayer is provided for by the bbc.co.uk Service Licence. Content may also be syndicated to other third party providers in accordance with the Trust's Syndication Policy for BBC on-demand content and the BBC's syndication guidelines.

HD broadcast content may be offered on the internet for seven days after it has been broadcast and give users 30 days after downloading the content to access it for the first time. Provision of this content on the internet may allow users retrospectively to download multiple episodes of first-run series (known as 'series stacking')⁷ for first access within 30 days of download. The aggregate volume of such "series stacked" content must represent no more than 15% of all television content offered on demand. Provision of this content on the internet may allow users to repeatedly consume downloaded content for up to seven days after first access.

3. Service budget

BBC HD TV has an annual service budget of £4.0 million for each of the years 2007/08 through to 2009/2010. It is anticipated that the required budget will decrease in later years and from 2010 the budget will fall to £2.5m.

The figures above may be adjusted annually for Retail Price Inflation at the discretion of the BBC Trust. Any planned or actual change in annual expenditure on the service of more than 10 per cent in real value requires approval from the BBC Trust and may entail variation of this Service Licence.

4. Overview of aims and objectives

BBC HD programmes should exhibit some or all of the following characteristics: high quality, original, challenging, innovative and engaging, and it should nurture UK talent.

BBC HD's schedule should be a mix of genre, reflecting the type of content which is available in HD and which benefits from transmission in HD. (Some HD programmes may contain SD material.) The schedule should be drawn from across the BBC's other television channels. It should not significantly replicate the schedule of any one channel although it may simulcast programming being shown on other channels.

While the channel should show mainly UK-produced programmes, it may also acquire some output from overseas. First-run showings of sport and acquired feature films should be a

⁷ The Trust's guidelines for which programmes may be included in series stacking are those where the series has a distinct run, with a beginning and an end and a clear 'narrative arc' or those with exceptionally high impact. These should cover a broad range of programmes, in terms of genre and appeal.

minor component of the channel, except on occasions of major sporting events, and these rights should not be purchased solely for the HD TV service. The channel may show archive repeats or narrative repeats, although as the availability of HD content grows, these should reduce as a proportion of the schedule.

For any programming commissioned by the channel, BBC HD should contribute to BBC television's statutory commitments relating to programming made outside the M25.

Part II: Contribution to public value

5. Contribution to the promotion of the BBC's public purposes⁸

5.1 Overview

As BBC HD commissions only a very small proportion of its own output, its responsibility for contributing to the promotion of most of the BBC's public purposes relates in large part to ensuring that the relevance and appeal of the BBC's television programmes is maintained as consumer expectations for HD content grow.

Ultimately, BBC HD should help maintain reach to the programmes it shows and, in this respect, it should contribute to the BBC's overall ability to deliver its public purposes.

While the service may be transmitted on digital terrestrial television in place of BBC Four, BBC Parliament and some video streams on BBCi between 02.00hrs and 06.00hrs, it should not take precedent over BBC Parliament's output if the Houses of Parliament are sitting at this time.

5.2 Emerging communications

BBC HD should make a very important contribution to this purpose by helping to accelerate the take-up of HD-TV by consumers by making a substantial volume of HD format programming available free to air. In so doing it should aim to encourage HD adoption by other free to air broadcasters and, ultimately, promote a more efficient use of spectrum by encouraging UK consumers to adopt equipment using MPEG 4 technology.

⁸ When Purpose Remits have been adopted by the BBC Trust in 2007, this Service Licence will set out how this service will contribute to the promotion of relevant priorities set out in Purpose Remits.

The service should use 720p or 1080i picture resolution standards.

Conditions

BBC HD should ensure that:

- first run showings of sport and acquired feature films constitute less than 20% of output, except on occasions of major sporting events.

6. Annexes to this Licence

6.1 Annex I – Performance assessment

The performance of BBC HD will be assessed by the Trust using the framework described in Annex I. BBC HD's compliance with any Conditions, as described in section 5, will also be measured on an annual basis and reported in the Annual Report and Accounts.

The BBC Trust will expect BBC HD to comply with the commitments described in sections 4 and 5 of the Service Licence. The BBC Trust will monitor compliance with these commitments retrospectively as part of its periodic service reviews and/or on an exceptional basis if there is evidence or allegation of non-compliance.

6.2. Annex II - Statutory commitments

Details of statutory quotas and other obligations to be fulfilled by BBC HD, in conjunction with other BBC services, are set out in Annex II.

7. Operation of this Service Licence by the BBC Trust

For details of how the BBC Trust operates this Service Licence, please see the Service Licence Operating Framework. This is available from www.bbc.co.uk/bbctrust or upon request from the BBC Trust.

Annex I: Performance measurement framework

Introduction

The BBC Trust has the function of assessing the performance of the Executive Board in delivering the BBC's services and activities and holding the Executive Board to account for its performance.⁹ It will use the framework described below as the basis for its assessment of BBC HD.

The framework is based around the four drivers of public value: Reach, Quality, Impact and Value for money and it includes measurement of the five content characteristics, as described in the BBC Agreement¹⁰: high quality, challenging, original, innovative and engaging.

The Trust can amend this framework without this constituting formal variation to this Service Licence.

Performance measurement framework

Reach: BBC HD should contribute towards the maintenance of combined BBC weekly reach¹¹ at over 90% by aiming to grow its own *weekly reach*.

Quality: audience *approval* of BBC HD and perceptions of it as *high quality* and *innovative*. Also, the proportion of *originated programmes* across all hours¹².

Impact: audience perceptions of BBC HD as *engaging* and *challenging*.

Value for money: BBC HD's *cost per viewer hour*.

⁹ Charter, article 24 (c)

¹⁰ Agreement, clause 14

¹¹ For all BBC services

¹² Including repeats

Other service licences

The Trust proposed to vary the following service licences if it approves the HD proposal:

- BBC Four
- BBC Parliament
- BBCi

The service licence for BBC Parliament will reflect the provisions of paragraph 6.19 of the PVT provisional conclusions above.

Annex 3: Public consultation on our provisional conclusions

Introduction

Our provisional conclusions on the BBC's proposed HD channel are now open to public consultation for four weeks.

We want your views on whether we have made the right decision. We are considering attaching conditions in a number of respects and are specifically seeking your thoughts on these.

Below we set out a series of questions that you may find helpful in framing your response.

You may submit your response in the following ways:

- At the BBC Trust's website, www.bbc.co.uk/bbctrust/.
- By email to hdconsultation@bbc.co.uk
- By post to:

HDTV Consultation
BBC Trust
35 Marylebone High Street
London W1U 4AA

Please complete the confidentiality statement, below, when you make your response.

Audio and braille translations of this document are available upon request by calling BBC Information on 0800 068 0116.

Submissions should reach us no later than 5pm on 23 October 2007.

Consultation questions

1. Do you agree with the BBC Trust's decision to approve the new BBC high definition television channel, subject to conditions outlined in the Trust's report of its provisional conclusions?
2. The Trust considers that HD will become a significant broadcasting standard. Do you agree that it is a priority for the BBC to be investing in this area, rather than other possible areas for licence fee investment?

3. How important is it that a BBC HD channel is available on all of the main television platforms – Freeview, digital satellite and cable?
4. At present, it is not possible to provide the BBC HD channel through IPTV services, such as Tiscali or BT Vision, because of capacity constraints. Is it important to you that the channel is provided through such operators in the future?
5. Until the full, nine-hour service can be offered on Freeview, do you think it would be valuable to offer a four-hour, overnight service on Freeview – broadcasting, between 02.00 and 06.00, programmes from the following day's nine-hour schedule?
6. Given that viewers with cable and satellite would have access to the full, nine-hour service from the outset, the Trust concluded that it would not be a good use of licence fee money to provide the interim, four-hour, overnight service on cable and satellite. Do you agree?
7. A number of technological developments relating to the provision of HD on Freeview are expected in the next two to three years. If the four-hour, overnight service on Freeview were offered from next year, the set-top boxes viewers would need to buy to receive this service may not be able to receive potential future HD services on Freeview. Would you prefer the BBC to launch the four-hour interim service next year anyway, even if that meant having to buy two set-top boxes within a very short period of time?
8. The Trust concluded that the impact on broadband capacity of the BBC providing HD content over the internet would be small given that demand for broadband capacity is being fuelled by a number of factors – such as gaming, user-generated media and on-demand content from traditional media around the world. Do you agree?
9. Do you agree with the Trust's decision that the channel should not automatically simulcast BBC One prime-time content, but should broadcast programmes that most benefit from the HD upgrade?
10. An interim four-hour overnight service on Freeview would necessitate the withdrawal from Freeview of four BBC services between 02.00 and 06.00. These are BBC Four, BBC Parliament, two BBCi video streams and the BBCi news loops. Do you agree with the Trust's conclusion that the loss of these services from Freeview would be outweighed by the benefit of offering the four-hour, overnight HD service?
11. Do the conditions proposed in the draft BBC service licence for the HD channel seem appropriate?
12. Are there any other issues you would like the BBC Trust to consider in relation to the proposal?

How the BBC Trust will use your response

Responses to this consultation will be published on the BBC Trust website (bbc.co.uk/bbctrust/) after the consultation has closed. Feedback to this consultation will be used by the Trust to consider its final decision in the Public Value Test of the HD channel.

Names and/or addresses of individual respondents will not be published on the BBC Trust website. The Trust will publish details of organisational responses. Please copy or sign the declaration below to signal that you are prepared for some or all of your response to be made public. Otherwise the assumption is that some or all of your response may be made public. If you would prefer that all or part of your response be treated as confidential, please make this clear in your submission.

Confidentiality statement

PLEASE PRINT AND SIGN THIS DECLARATION IF YOU ARE SENDING A HARD COPY OF YOUR RESPONSE. IF YOU ARE SENDING AN ELECTRONIC RESPONSE, PLEASE COPY THIS STATEMENT INTO THE RESPONSE AND

If you would prefer that all or part of your response be treated as confidential, please complete the confidentiality section below.

What do you want the BBC Trust to keep confidential?

Nothing	
Whole response	
Part of it	
Which part? (Please indicate)	

Name
Position/job title (if applicable)
Organisation (if applicable)
Address

Telephone
Email address

The BBC Trust will retain and use your name, address, email address and the organisation you work for (if applicable) for the purposes of administering the online public consultations held on this website. You will have the option of deciding whether you want your response and name displayed on this website (all other personal information will be withheld from display). Your personal details will not be passed to any third parties for marketing purposes.

The BBC complies with the Data Protection Act 1998. For more information on BBC's Privacy Policy please refer to <http://www.bbc.co.uk/privacy/>.

The BBC is listed as a public body in Part VI of Schedule 1 to the Freedom of Information Act 2000; this means that, subject to certain restrictions, the BBC may be required to disclose information it holds to individuals and organisations making a valid request to be supplied with that information under the Act.

If you have requested that all or part of your response should be kept confidential, the BBC will take reasonable steps to maintain confidentiality of that information if a request for its disclosure is received under the Act. Please note, however, that in the event the BBC is able to withhold information under the Act, this decision may be overturned by the Information Commissioner, the Information Tribunal or the courts.

Please note that we may still refer to the contents of responses in general terms, without disclosing specific information that is confidential. We will exercise due regard to the confidentiality of information supplied.

DECLARATION

I confirm that the information I have submitted is a formal consultation response. It can be published in full on the BBC Trust's website, unless otherwise specified, and I authorise the BBC Trust to make use of the information in this response to meet its legal requirements. If I have sent my response by email, the BBC can disregard any standard e-mail text about not disclosing email contents and attachments.

Name

Signed (if hard copy)

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