

## ANNEX B

## Summary of the responses received to the PVA consultation on the On-Demand Proposals

All of the respondents to the On Demand Proposal Public Value Assessment Consultation welcomed the opportunity to make representations on the BBC's on-demand proposals (the "Proposals"), and to take part in the first PVA.

The majority of the responses supported the introduction of the on-demand service, with only one of the six respondents not positive overall about the Proposals. The negative comments and objections focused mainly on the free nature of the service being provided, and its impact on the wider market. A number of the respondents expressed concern over the scope of the Proposals, how they would develop in the future, and the interaction between the BBC Public Services and its Commercial Services. All of these comments are expanded upon further below.

The names of the respondents have not been included in this summary, consistent with the consultation invitation.

### Responses received by the BBC Trust

Out of a total of six responses received to the consultation invitation, only two considered directly all three of the specific questions asked by the Governors/Trust in relation to the merits of the Proposal. The three questions put out to consultation were:

- Are the proposals an effective and/or appropriate way for the BBC to create public value?
- Do you believe these proposals fit with the BBC's role as a public service broadcaster?
- Are the proposals sufficiently distinctive from other offerings in the market?

#### *Are the proposals an effective and/or appropriate way for the BBC to create public value?*

The responses on this point were generally positive, with some going as far as to state that the Proposals would "undoubtedly" create public value.

The majority of those responding to the consultation expressed the view that the public value of the video-on-demand ("VOD") service was linked closely with the content that the service is able to deliver, but that additional public value is created by offering audiences convenient access to that content, at no additional charge.

A number of respondents mentioned that the Proposals would stimulate the on-demand market and increase audience understanding of the ways in which on-demand content can be consumed, and would ensure that the widest possible breadth of content was made available. It was also suggested that this increase in awareness would also increase consumption of commercial on-demand viewing, as well as stimulating investment in quality programming to complement the content currently available, particularly by those cable providers with access to the iPlayer platform.

It was noted in one response that the creation of public value for licence-fee payers is wider than simply the consumption of BBC services. The impact on choice offered across the overall broadcasting market to licence fee payers should also be taken into account. Former BBC Chair Michael Grade's speech to the Westminster Media Forum on this point was quoted in support.

A number of responses expressed concern that the Proposals would impact on the wider market for VOD services, with the potential to damage the overall interests of consumers. In support of this statement, it was argued that public value is also created through the activities of competing suppliers of commercial services, and that there is public value in "a healthy, diverse VOD market". In considering the proposal the Trust was requested to take care to ensure that increased exposure to BBC services does not damage this wider market.

Statistical analysis was provided to support the proposition that the free seven-day catch up window would affect consumer take-up of pay VOD services. This appears to reflect views that licence-fee payers may be unwilling to pay for commercial content when other content is available free during a seven-day window. It was also suggested that the Proposals may have an impact on ad-funded VOD services.

As far as the wider market is concerned, it was suggested that the Proposals could influence competitors' plans for VOD services, act as a disincentive to production companies, and damage their potential income streams from commercial services. This is despite those responses noting that on-demand rights are purchased by the BBC from third party production companies on commercial terms. One respondent suggested that the public value and indeed value for money of the Proposals could be increased by collaboration in the use of the iPlayer technology with these content providers.

The responses contained a number of suggestions to minimise the impact of the Proposals, some of which are outside the scope of the current VOD Proposal subjected to this PVA. They are worth mentioning as they provide a wider picture for the Trust to consider. It was suggested by certain respondents that the iPlayer window should be limited to a 48 hour period for catch up of previously broadcast content, rather than the proposed seven days, on the basis that audience research suggests that the vast majority of VOD viewing would take place within that time period. It was argued therefore that any service outside of this window was essentially commercial in nature, despite no fee being charged. Other submissions however expressed a contrary view, stating that the seven-day period was no more than is "sensible" for a catch-up period of this nature.

In addition, the series stacking option was criticised as being outside the scope of a catch-up service, although little explanation was provided for this statement. It was further noted that options not part of the PVA, such as extended storage of content, preview material, user-generated content, or repackaged material should be a commercial service remaining outside the scope of the public service iPlayer. With the exception of series stacking, none of these are part of the current Proposal. However, at least one respondent suggested that these additional services, as well as any extension to the catch-up window, would not be objectionable in the future once the on-demand market was more developed.

Concern was expressed over the need for safeguards in terms of cross-promotion and use of technology. This issue is to be addressed in greater detail in submissions made by the respondents as part of the Market Impact Assessment (MIA), and was not dealt with in detail in their PVA responses.

As far as the reach of the Proposals are concerned, one respondent went so far as to suggest that the Proposals would not lead to any new consumers of BBC content. This was based on the assumption that the main target audience for the Proposals is the younger social group of 25 to 34 yr olds, and it was suggested that as other channels (such as BBC Three) already target this group, value for "licence fee payers currently underserved by Corporation" was not being provided by the Proposals. Despite this assertion, it was noted that the Proposals are also targeted at allowing viewers to take control of their programme scheduling, which goal it would successfully achieve.

*Do you believe these proposals fit with the BBC's role as a public service broadcaster?*

Most of the responses that focused on this issue did so by reference to the BBC's Public Purposes.

The Proposals were considered to satisfy the need to promote education and learning through their ability to "[familiarise] consumers with new ways of accessing content". This was seen to also be of benefit to other suppliers of VOD services, in that this increased familiarity with the concept means that the consumer will seek out content from the wider market.

The Proposals also met with a positive response in relation to the "building a digital Britain" purpose. The iPlayer was seen by multiple respondents to offer consumers an added incentive to make the switch to digital, and may also have a "substantial impact on broadband take-up". It was considered important therefore that both the internet and cable VOD services were approved. However, respondents were keen to ensure that any promotional activity is carried out in a balanced manner, with both the internet and cable options to access the iPlayer receiving equal prominence.

One respondent however considered that the Proposals would act against this purpose, on the basis that the free window would "dampen choice and plurality". The suggestion was that "licence fee payers are accustomed to paying an additional amount over and above the licence fee" for additional services, and would accept a reasonable premium for on-demand content.

As far as the remaining four Public Purposes are concerned, the responses did not consider that the service would contribute to any of them to a significant degree.

*Are the proposals sufficiently distinctive from other offerings in the market?*

The respondents expressed views that the Proposals either were, or would be likely to be, distinctive. However, the reasoning for this varied widely.

On the one hand, it was considered that the fact that the content was both free to view and without advertisements ensured that it would be distinctive from other offerings in the market. It was also suggested that the BBC offering would be "strong" and would "stand out".

However, at least one respondent attributed this distinctiveness to the impact that the Proposals would have on the market by forcing other providers of VOD services to adapt their plans in order to limit direct competition from the BBC's offering. It was suggested that in at least one case, a plan for a pay-per-view model has been altered to now include premium subscription and ad-funded models, and additional short-form content commissioned.

It was argued that the BBC did "not have a monopoly on public service content", that on-demand services were not unique in the current market, and that similarly innovative services from other providers were also in the pipeline, although direct comparisons were not drawn. One respondent expressed a desire for the BBC to be "mindful of the disproportionate impact the service could have on the market", but remained supportive of the Proposal overall.

## Further Points Raised

General points on the Proposals were also made by each of the respondents, some of which were not directed at the specific questions raised by the PVA, but more at the wider impact of the Proposals on public value, and contained a number of suggestions for improving the amount of public value and/or limiting any perceived damaging impact on the market.

One of the responses to the consultation focused on the potential benefits of the Proposals on the ability of the consumer to receive factual content, in view of the scheduling issues that surround such programmes given the importance of ratings. The ability to view such programmes at a more convenient time was suggested to be important not only to provide flexibility to the current audience of such content, but also to promote the wider discussion of important factual issues through increasing the availability of these programmes to a larger audience, stimulating learning and the promotion of discussion of such topics amongst citizens. It was considered vital that this discussion, including that publicised discussion by television critics, could take place at a time when the programmes were still available for others to download. On this basis the response strongly supported the Proposals in their entirety.

One respondent suggested that only commercial interests were likely to oppose the Proposals. The opportunity for consumers to utilise the VOD service in order to ensure that they are able to catch up on programmes that were not otherwise conveniently available to them, by taking advantage of developments in modern technology, was warmly welcomed.

Concern was expressed as to the position and development of the iPlayer in the market, particularly as the BBC possesses a considerable library of content made freely available, is a "highly valued brand", and is "a 'trusted guide' in the digital age". Given the fact that the market is new, it was suggested that there is a possibility that the actions of the BBC could distort its evolution, in particular should any cross-promotional and/or commercial on-demand activities be introduced.

The availability of content through a free window was suggested by one response to be damaging to the market, and would "potentially limit the development of innovative new services", which it was argued risked undermining the availability of such services and content to the public.

At least one respondent focused on the partnership with Microsoft as the type of relationship with potential to affect the impact of the iPlayer in the market to the extent that the BBC could end up controlling "the default interface for accessing content online". However, another saw no problem with the BBC allowing other platforms to offer the iPlayer service in order to deliver the maximum benefit to the public, so long as every platform is required to offer the same volume of content and level of functionality.

*Proposals*

As a consequence of this general concern, calls were made in the representations for adherence by the Trust to the principles of openness and clarity, not only in relation to this PVA but also in the development of future services and ventures, including:

- collaboration with other content providers to raise awareness of other VOD services; and
- behaving in an open and transparent manner when dealing with third parties on the distribution and syndication of BBC public service content. One response suggested that as part of this goal, the Trust should ensure that no exclusive deals with providers or distributors are entered into.

It was suggested in the consultation that this could be achieved by the BBC engaging in a transparent debate involving each of the stakeholders in the on-demand market, and through strictly limiting the terms of the service licence. Some respondents were keen to ensure that any expansion of the service would require an alteration to the licence and be deemed to satisfy the "significant change" threshold contained in the Charter and Framework Agreement. For example, extension of the iPlayer to new platforms or providers, the introduction of exclusive or preview content, widespread use of series stacking, or changes to the length of the window, were all considered by some to merit a new PVT. In addition, any editorial discretion given by the service licence to the BBC should be as specifically defined as possible.

Finally, a number of respondents raised concerns over the possibility for the involvement of BBC Worldwide or any BBC commercial service in the public service iPlayer. In particular, it was argued that no cross-promotion, subsidy or privileged access should be given to BBC commercial subsidiaries. This was stated by multiple respondents to include the development of and subsequently links to a BBC commercial iPlayer from the current public service iPlayer, which it was argued must remain entirely separate. Similar concerns were raised as regards BBC commercial access to research or technology developed using licence fee funds.

However, respondents objecting to this issue in the main noted that they were outside the scope of the current PVA, having been expressly excluded by the terms of reference.