

## **Channel 4 response to the Commission's new consultation on revised rules for state funding of public service broadcasting**

### **Introduction**

Channel 4 welcomes the opportunity to respond to the Commission's revised draft of the Communication on the application of state aid rules to public service broadcasting.

As the Commission is aware from previous submissions, Channel 4 plays a leading role in the provision of public service content in the UK. Channel 4 is a commercially-funded public service broadcaster (PSB). However, its status as a publicly-owned corporation ensures that its priority is the delivery of its public purposes. Its remit - enshrined in statute and its licence to broadcast - is to innovate, take risks and provide diversity. As part of a remit to provide a mixed programme offer, Channel 4 is required to commission high levels of good quality, original content from the independent production sector. The remit sets out specific obligations in news, current affairs and education, as well as a number of production quotas. As such, Channel 4 plays an important role in contributing to the cultural, democratic and social life of Britain. In 2008 Channel 4 set out an ambitious strategic blueprint for how it could evolve to become a 'public service network' offering publicly valuable content across a range of platforms and playing a key role in providing plurality to the BBC.

As the Commission will be aware, extensive debate is taking place in the UK about the future of public service broadcasting, including discussion about the future of Channel 4. Earlier this year Ofcom completed its second review of public service broadcasting, concluding that it is important that plurality is maintained beyond the BBC, that Channel 4 has a crucial role to play at the heart of a second public service institution and that it should have 'the scale necessary to sustain effective delivery of public purposes across digital media'<sup>1</sup>. Ofcom also recognised the scale of the funding challenges facing the current PSB system brought about by the structural impact of the transition to digital, and accelerated by the current economic crisis.

Since the Commission's last consultation in January 2009, the UK Government has published the interim Digital Britain report, setting out a number of priority areas for further examination. This included questions about the future sustainability of public service content provision. The Government's interim report recognised the importance of maintaining plurality and has been exploring options for a second public service institution that would build on the strengths of Channel 4. The Government also recognises the funding challenges facing public service content provision beyond the BBC and has been looking at a range of options to put a new funding system in place, addressing the issues facing Channel 4 as well as other content areas, such as regional and local media and children's provision. These options are currently still under detailed discussion, and range from partnerships with the BBC and other players, to the potential for wider distribution of licence fee funds. The Government is expected to make a number of policy decisions in the final report, which will be published in the coming weeks.

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<sup>1</sup> Ofcom's second public service broadcasting review, final statement: Putting Viewers First, January 2009

While welcoming the broad direction of travel of the Commission's revisions, Channel 4 still has some specific concerns with the revised text. Rather than re-rehearse all the arguments made in previous submissions, this response focuses on three main areas of concern.

### **Digital and cross-platform services**

Channel 4 welcomes the broad direction of the Commission's revisions to the text to recognise the increasing importance of digital and 'new' media services as ways in which PSBs can deliver their public service remits to achieve greatest public value. However, as the delivery of public service remits evolves, we do not believe that the Commission should draw a distinction between 'old' and 'new' media, but rather focus on technological neutrality. In order for the Communication to be future-facing and fit for purpose for the digital age, it should not treat old and new media differently. The way in which the draft is currently structured implies that such a distinction continues to be drawn. This is discussed further in the section on market impact assessment below.

To illustrate how this distinction is falling away, it is worth outlining some of the ways in which Channel 4 is increasingly offering content across a range of different platforms.

Channel 4 has operated a number of commercially-funded digital services for some years. Channel 4 was the first UK broadcaster to launch a full video on demand service, 4oD, offering viewers the opportunity to catch up on programmes originally broadcast on television. Channel 4 also provides extensive online programme support, providing greater richness and depth around many key elements of the public service remit.

In 2008, Channel 4 set out a bold and ambitious blueprint for the public service role the organisation should play in the digital age. In addition to maintaining Channel 4's existing public service contribution on television, Channel 4 outlined a number of new and innovative digital ambitions. Through these initiatives, Channel 4 aims to extend the reach and impact of its public service contribution, to maximise the public value potential of new platforms and services and to meet the changing demands of audiences as they increasingly seek to access and engage with content in new ways. Earlier this year, Channel 4 launched 4iP – a pilot fund to stimulate digital content creation and maximise the reach, ambition and impact of digital content.

This new digital project, undertaken as part of Channel 4's public service remit, pursues the same goals as the European Year of Creativity and Innovation, stimulating personal, social and economic development for all Europeans. As the Commission fully appreciates, innovation by its very nature is something which seeks new platforms and opportunities, and the public service remit of national broadcasters is an increasingly important vehicle for this economic and cultural stimulus.

Through 4iP, Channel 4 aims to develop publicly-valuable content and services on digital media. At the heart of 4iP is a commitment to partnership based on the development of innovative new tools and services. 4iP's first batch of commissions is already making an impact, demonstrated by the mobile application *Audioboo*, which is re-inventing audio journalism by enabling users to record audio and immediately upload to news articles and blogs. This application has been used to great effect,

including by The Guardian newspaper, to cover the recent G20 protests in London. While still in its early stages, Channel 4 anticipates that 4iP will be a major catalyst for the creation of digital public service media in the future.

In education, Channel 4 has adopted a cross-platform approach—extending from television to include social networks, mobile and games—to enhance the impact of its content. This has led to some notable successes, including the *Bow Street Runner* game, which supported the *City of Vice* television series to make 18th century history more accessible to younger audiences. The International Emmy award-winning campaign series *Battlefront* demonstrated how digital media can be used to encourage participation among young people, as it followed the efforts of 20 teenagers campaigning on issues such as knife crime and eating disorders.

### **Market impact assessment**

As described above, Channel 4 believes that in the future, digital content has the potential to be as important to the fulfilment of public service delivery as linear television services. The description contained in the new text helpfully outlines points of principle about public service broadcasters' remits increasingly encompassing new media/non-linear services.

As discussed above, Channel 4 is concerned that the Commission's text seeks to draw a distinction between 'old' and 'new' media. Technological neutrality should be the guiding principle of any revisions to the Communication. The way in which the document is structured implies that a stricter test should be applied to new media services, by placing the requirements for market impact assessments with the section about 'diversification of public broadcasting activities'. However, the principle behind any market impact assessment relates to the 'newness' of the service, rather than to whether it is delivered on 'new media'. The market impact assessment should apply equally to proposals to make significant changes to existing services, to launch new linear services and to launch new services that go beyond broadcasting in its traditional sense. Therefore, Channel 4 would recommend that the sections of the text regarding the broad principles about the potential scope of remit and the assessments of proposed new or altered service should be separated.

Channel 4 also believes that the Commission's text places too heavy an emphasis on the market impact aspects of proposals for new or significant alteration to existing services. Public service broadcasting is not like other services of general economic interest – as the Amsterdam Protocol recognises, it relates to the democratic, social and cultural needs of each society. Channel 4 believes that the current text is too focused on the potential 'negative' impact of the service that goes beyond the requirements of the Treaty. In any assessment, there must be a balanced equation that considers the democratic, social and cultural value of the proposed service alongside any market impact.

Channel 4 notes that the Commission's earlier draft contained a more explicit reference (old paragraph 89) to the need to make a balanced judgement that takes into account the positive effects alongside possible negative effects:

“...the Commission will take into account the fact that, to the extent that public funding is necessary to carry out the public service obligation, the system as a whole has the positive effect to ensure [the] universal reliable

and balanced offer in a context of increasing fragmentation of audiences and diversification of media services...the analysis of the effects...must be based on the characteristics of each national system.”

Channel 4 believes that the revised text should reincorporate text along these lines to provide greater clarity about the need to balance both public value and market impact.

Channel 4 welcomes the Commission’s view that Member States should be able to choose the most appropriate mechanism for assessment and to determine what constitutes a ‘significant’ new service. However, Channel 4 believes that the Commission’s approach remains overly prescriptive and attempts to apply a ‘one size fits all’ model across all Member States. Such an approach would not recognise the distinctive characteristics of the various public service models and institutions across the EU, and would be contrary to the principle of subsidiarity.

The Commission is right to acknowledge that the assessment arrangements should be designed in such a way that is proportionate to the market and the market position of the broadcaster in question. Not only do the characteristics of public service broadcasting systems vary by Member State, but also by the status and characteristics of different public service broadcasters within a Member State (e.g. the BBC and Channel 4 are different in terms of structure, culture and scale). Channel 4 believes that the blanket requirement for assessments to be open to third party comment and to be conducted by a body separate from management may not always be appropriate. A preferable approach would be to require the assessment to be made on an objective basis, taking into account the views of third parties as appropriate on a case by case basis (depending on, inter alia, the nature of the broadcaster, the scale of the proposal etc).

## **Reserves**

Channel 4 welcomes the Commission’s recognition that public service broadcasters may need to maintain reserves within reasonable limits given there will inevitably be fluctuations in the cost of delivering the public service remit. Under Channel 4’s commercial funding model, cash reserves are maintained: Channel 4 has substantial working capital requirements in order to manage cash peaks and troughs. For example, within the month, Channel 4 has to maintain cash levels of around £75 million (c.€85 million), as payments to independent production companies are spread throughout each month, and in addition needs an appropriate buffer against sudden downturns in advertising revenue.

Notwithstanding the decisions yet to be made about the future funding of public service broadcasting in the UK, we would anticipate that in any scenario, Channel 4 would remain predominantly commercially-funded. As such, commercial revenues would continue to support Channel 4’s overall public service contribution.

Channel 4’s assumption is that the reserves limit would apply only to those elements of the public service remit that are *publicly funded*. However, the Commission may wish to consider whether this is made sufficiently clear in the text and whether further clarity might be provided on this point.

## **Future contact**

Channel 4 hopes these comments will be a helpful contribution to the Commission's deliberations, and would be happy to discuss any of the issues raised in this response in more detail.

**Ends**