REVISED BBC3: COMMENTS OF NTL GROUP LTD

Introduction

1. Commenting in July 2001 on the earlier proposals for BBC Three (subsequently rejected by the Government), we said:

> 'It seems to us that the key question for the Government to consider is whether the proposed services will genuinely strengthen public service broadcasting and inter alia persuade significant numbers of customers that digital TV offers real benefits over analogue, without unduly harming the competitive delivery of services (which is, of course, also contributing to the migration to digital).'

This remains our view. The question is whether the revised proposals go any further towards satisfying these tests.

2. We would also remind the DCMS that our position here is as a customer, not a business rival. A strong BBC producing quality programming for a UK audience is in our interests. But an over-mighty BBC, disrupting the overall balance of the UK broadcasting mixed economy, is certainly *not* in our interests, nor we believe in the interests of viewers.

Where should the BBC focus its resources?

3. The BBC now has the luxury of a financial settlement which looks particularly generous in a time of hardship for rival programme providers. The quid pro quo for that settlement, it seems to us, is that the BBC should allocate its resources where it can achieve the greatest 'comparative advantage' over its commercial rivals. The BBC focusing on the activities which it is uniquely placed to deliver would benefit ntl, which cannot find alternative sources of such programming, as it would help us to persuade customers to migrate to (a) take cable in the first place, and (b) migrate to digital services. In this sense, our commercial interest is closely linked to the public interest in seeing the conditions achieved for digital switch-over.

4. We noted in July that it was perverse, at a time when the clear shortfall in the 'reach' of digital TV was amongst older people, that the majority of the BBC's efforts were intended to be

in devising two new children's channels, and a 'youth oriented' BBC Three. It is interesting that the BBC has now recast its proposals to address the 25-34 age group specifically, albeit with some expectation of a halo effect in the age groups above and below.

5. Why the 25-34 age group? The BBC's own evidence shows that this age range has the highest rate of take up of digital TV services. In contrast, digital take up progressively falls off amongst each of the subsequent age deciles. The BBC argues that there is a significant rump of viewers within this age band who will be 'converted' by BBC Three. However, their own figures show that the much larger number of 'unconverted' households expressing little or no interest in digital TV are those over 35. This accords with research from other independent sources, such as the Consumers' Association, that the real challenge in achieving near universal take up of digital services will be amongst older viewers.

6. Whether, as suggested by the BBC research, a large number of the 'not interesteds' amongst the 25-34s would become interested in digital TV as a result of BBC Three would in the end be an empirical question. What is clear though, is that there is a proportionately smaller market of 'no interesteds' on which the BBC can focus in this age range than in other age ranges.

7. From a commercial perspective, we would prefer the BBC to rebalance its activities so that more time and money was spent on less fashionable, but equally important, groups of viewers, in particular the older age ranges and those who strongly and positively identify the BBC as their preferred source of quality programming. It may or may not be the case that the BBC can lure young people from upscale demographics away from their first run 'Friends' and 'Sex in the City' on Sky One or E4. But what is absolutely certain is that the commercial sector has neither the means or the motive to convert older customers and digital 'refuseniks', whom we believe the BBC *could* reach, and address, very successfully.

Ensuring a future for PSB and underwriting BBC ambitions are not the same thing

8. Reading the copious documentation now produced by the BBC in support of its new proposals, it is possible to infer that the BBC's real concern is the falling off in viewing and 'support' for the BBC amongst younger age groups. It talks about 'reconnecting' young people with public service broadcasting. We think this in practice means reconnecting people with the BBC as an institution.

9. We believe that the BBC's concern can be expressed roughly as follows:

- On the demand side, the BBC is increasingly seen as irrelevant by young people;
- As viewing habits are formed early, this potentially creates a 'lost generation' effect for the BBC;
- This will undermine the case for universal funding;
- On the supply side, programme making is, by and large, a younger persons' activity and people entering the industry will want to work for a company that (at least in part) makes programmes which are youthful, funky and cutting edge.

10. All of these issues are interesting and germane to the future structure and funding of the BBC. And this would explain why BBC Three is seen as pivotal to the BBC's future in digital, multi-channel broadcasting. The Government's role however is to support a viable broadcasting ecology in the round, not simply to underwrite the BBC's own vision of its future role within that ecology.

11. We think that the idea that the BBC is becoming disconnected from its future audience is in any case misconceived. The BBC has always had a problem appealing to the young in any given generation, but the elongation of the period where people have 'youthful' lifestyles (long work hours, hectic socialising, information consumed 'on the hoof' mean that adults in their twenties are as disinclined to traditional viewing patterns as teenagers are) has increased the size of this traditional 'hole' in BBC viewing.

12. But it remains the case that many people do eventually settle into a more ordered pattern of life, typically now in their early to mid-thirties. There is no reason to believe that the BBC could not

recapture many viewers and listeners who remained indifferent to its output during their twenties at this stage of their life. The idea that these viewers and listeners are lost forever seems misconceived.

13. Of course, young parents with mortgages are a less attractive demographic to advertisers than twenty-somethings with high disposable incomes – but this is a concern for commercial broadcasters chasing advertising revenues, not the BBC. Indeed, this is another reason to consider that, from an objective stand-point, the BBC's proposals are misconceived. Even if there is dissatisfaction with existing output amongst the twenty-somethings, wouldn't we expect commercial broadcasters, in an advertising recession, to do all they possibly could to address this?

14. We noted the 'supply side' argument that the BBC must remain active and visible in youth-oriented programming in order to attract and retain young people to work for it. Whether or not this argument is correct, it is the case that the BBC already has the scope to experiment and blood new talent through its various joint venture channels, such as UK Play.

Impact on commercial rivals

15. As usual, the BBC focuses exclusively on the horizontal impact of its activities on other providers of programming, and not at all on the vertical impact on competition at the retail level.

16. BBC3 will, we assume, be granted 'must carry' status requiring all cable companies to carry it in their most basic tier of programming. As such, it will harm our ability to tier and package services. Our costs will rise because we will have to set aside capacity to carry this channel which might otherwise have been used to carry services for which the customer would value more highly. Cable's position is therefore weakened vis a vis other channels, in particular satellite, which do not face the same costs associated with carrying must carry channels (indeed, BSkyB gets paid for conditional access for BBC channels).

17. Were BBC3 to be wildly successful, this effect might be offset by customers positively electing to take cable in order to take BBC3. But we are sceptical about this. No BBC channel other than BBC1 or BBC2 has so far been successful in multi-

channel homes. There is no evidence to suggest that BBC3 will break this trend. There is nothing in the channel proposals which in our view (based on a detailed analysis of what affects our customers' behaviour), implies that it will have such a dramatic impact. Were BBC3 to be more or less as successful as, say, E4 has been, then we would, all other things being equal in a commercial environment, be prepared to carry the channel but only on the basis that it was offered as part of a higher 'tier' of channels which customers were not forced to pay for in their basic access subscriptions.

18. In terms of the horizontal competition effects, as we do not compete with the BBC in the programming space, our concern here is more about the long-term effects of BBC activity on competition and choice from our perspective as a content customer. In the short run, BBC programming provided for free would probably assist us if it substituted directly for commercial content from the likes of Sky for which we currently have to pay.

19. It is an issue for commercial rivals to answer as to whether BBC3 will harm their businesses. However, we would point out that the research conducted for the BBC by Oliver & Ohlbaum is flawed not in its execution but in the assumptions which underpin it. In particular, it rehearses the argument that declining market share for ITV1 does not matter as ITV can simply raise advertising rates. This argument requires that the impact of BBC activity is felt by ITV1 – which may fairly be said to be in a position of considerable market power in relation to advertising 'impacts' and hence able to raise prices for advertising above the competitive level. But BBC3 will attack the market share of C5, C4, and in the pay TV space, E4. None of these channels has ever been shown to possess the kind of market power that would allow *them* to raise prices above the competitive level.

Interactivity

20. A key element of the proposals is the addition of interactive enhancements. The BBC is right to consider interactivity as a key element of digital TV, but there are serious practical problems with delivering this.

21. So far, the BBC's enhancements of its linear programming have been inconsistent across platforms. Cable customers suffer

in comparison with digital satellite customers, who obtain higher levels of interactivity. It could be argued that interactivity should be provided at the level which all platforms can support. A softer version of this would be to require the BBC to negotiate on an equivalent basis with all platforms, recognising that the capability of each may be different from time to time. This may be a more progressive approach but it will still cause political difficulty if viewers perceive that they are not enjoying the same level of benefit from the licence fee because of the platform they have chosen.

22. What is not practicable is to impose a requirement on each *platform* that it simply falls into line in carrying whatever interactive services the BBC is providing. There are technical differences between the plaftorms which simply preclude this. For instance, both cable and DTT, as a result of capacity constraints, are going to struggle to support the kind of multiple channel linking services which the BBC has developed, notably for last years' BBC Wimbledon coverage. On the other hand, were the BBC to focus its service development on the cable return path capability, this could not be replicated on either satellite or DTT.

<u>*Conclusions*</u>

- We do not consider that BBC3 will contribute materially to the uptake of digital TV.
- Even if the channel is wildly successful, on the basis of the proposals outlined, we believe that this success will be achieved at the expense of commercial rivals, rather than growing the market for digital viewership overall.
- It is simplistic to argue that £70m is money well spent if it persuaded a certain number of the under 34s to take digital TV, when the same amount of money might be much more usefully spent on persuading older people and 'digital refuseniks' to switch.
- The BBC's interest in achieving high levels of penetration across all groups and demographics is an understandable institutional response to a scary and unpredictable future, but that does not mean that approving BBC3 would be sensible public policy.

- It must be recognised that approving BBC3 and granting must carry status to it on cable would cause comercial harm at the retail level.
- A carefully balanced policy on interactivity needs to be developed to ensure equity in the treatment of customers on different platforms.

NTL Public Policy
January 2002