



News Release

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COMPETITION COMMISSION CONSIDERS CHANGES TO CRR

The Competition Commission (CC) is consulting on possible changes to ITV's Contract Rights Renewal (CRR) Undertakings. Those Undertakings were given to protect advertisers from the loss of competition in the sale of TV advertising, following the merger of Carlton and Granada in 2003/4. (See Notes to Editors.)

In May this year, the CC was asked by the Office of Fair Trading (OFT) to review the Undertakings and specifically whether circumstances had changed sufficiently since 2003 to warrant their removal or variation.

In its Provisional Decision published today at www.competition-commission.org.uk, the CC has found that ITV1's continuing ability to reach large numbers of viewers, and the strong bargaining position this gives it with media buyers, requires the retention of the CRR Undertakings, although some variations might be justified.

CC Deputy Chairman and Chairman of the CRR Review Group, Diana Guy, said:

ITV1 has seen a decline in its share of both viewers and advertising revenues since 2003 and there are now more alternatives for advertisers. However, ITV remains crucial for advertisers looking to reach large number of viewers, particularly if this needs to be done rapidly.

The media agencies, through whom the vast majority of TV advertising is bought, need access to ITV1 for their advertiser clients. As a result they cannot withdraw all their business from ITV1. However, we found that if they try to reduce their proportion of expenditure on ITV1 they could be faced with significantly less attractive terms for their remaining ITV1 business. Because of this the changes in the market since 2003 have not increased the bargaining strength of agencies. It is therefore our view that a remedy needs to stay in place.

However, we are considering whether some variations might be justified in light of the changed circumstances since 2003, and possible unintended effects of the CRR Undertakings in practice.

Although there may be a case for change, exactly how we do it is far from clear cut. We are wary of any measures that will increase complexity or will

depart from the transparent and measurable virtues of the current system. So we would welcome views from all interested parties as we consider any potential changes in detail.

With the provisional decision, the CC has also published for consultation a Notice of possible variations to the CRR Undertakings.

These include a proposal to widen the definition of ITV1 to include any ITV+1 or ITV1 High Definition channel that ITV decides to launch. The CC is also seeking views on—or alternatives to—other possible variations, both alternative ways of addressing the competition concerns and possible measures to address the unintended effects which may have arisen as a result of the CRR Undertakings.

The CC will now consider responses to these documents before publishing its final decision which it aims to do by the end of the year.

Interested parties are invited to comment on the provisional decision and/or notice of possible variations, in writing, by 6 October 2009. To submit evidence, please email marjorie.davies@cc.gsi.gov.uk or write to:

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Notes to editors

1. The CC is an independent public body, which carries out investigations into mergers, markets and the regulated industries.
2. The OFT and Ofcom formally launched a review of CRR in January 2008. This review was undertaken in light of possible changes of circumstance in the sale of UK television advertising since the Undertakings were accepted in 2003. ITV initially requested the OFT to review the Undertakings in October 2006.
3. On May 29 2009 the OFT advised the CC to reconsider ITV's CRR Undertakings. A redacted version of the OFT's Advice, along with other information on the review is available at: www.competition-commission.org.uk/inquiries/ref2009/itv/index.htm.
4. The CRR Undertakings are a part (Clauses 5 to 11 and associated clauses) of a larger set of undertakings given by Carlton and Granada in 2003 following a report by the CC on the proposed merger of those two businesses to form ITV plc. The CRR Undertakings address concerns the CC had about the effect the enhanced market position ITV plc would have on competition in the sale of advertising airtime. Among other things, the CRR Undertakings allow buyers of advertising airtime to roll forward their pre-merger contracts, subject to annual adjustments which reflect the change in ITV1's share of advertisement viewing (measured in the form of its share of 'commercial impacts'). The Undertakings created the Office of the Adjudicator which is responsible for determining certain disputes arising under the Undertakings and which reports on compliance. For a full text of the Undertakings and more information see the Office of the Adjudicator (CRR) website: www.adjudicator-crr.org.uk.

5. The CRR Undertakings were accepted by the Secretary of State under section 88 of the Fair Trading Act 1973. Under the Enterprise Act 2002 the power to supersede, vary or release undertakings under section 88 passed from the Secretary of State to the CC.
6. The members of the CRR Review Group are: Diana Guy (Group Chairman and Deputy Chairman of the CC), Robin Aaronson, Tony Stoller and Robert Turgoose.
7. Further information on the CC and its procedures, including its policy on the provision of information and the disclosure of evidence, can be obtained from its website at www.competition-commission.org.uk.
8. Enquiries should be directed to Rory Taylor or John Park on 020 7271 0242 (email rory.taylor@cc.gsi.gov.uk or john.park@cc.gsi.gov.uk).