



News Release

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CC PUBLISHES FINAL DECISION ON CRR

ITV's unrivalled ability to deliver large audiences on ITV1 means that the Contracts Rights Renewal (CRR) undertakings are still needed to prevent the channel from exploiting this position to the detriment of advertisers and other commercial broadcasters, the Competition Commission (CC) has concluded today.

The CRR undertakings allow buyers of advertising airtime to renew their existing contracts with ITV, adjusted to reflect the change in ITV1's audience share. In its final report on the undertakings, the CC has confirmed that the definition of ITV1 in the CRR undertakings will now be varied so that audience share on time shifted (+1) and high-definition ITV1 channels can be included in the CRR calculations. The CC has also renewed its call for an overall review of the system for selling television advertising.

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

ITV1 remains a 'must have' for certain advertisers and certain types of campaign. Despite all the changes in this market, no other channel or medium can come close to matching the size of audience that ITV regularly provides. So the essential reason for the CRR undertakings remains: to protect advertisers and other commercial broadcasters from the enhanced market position created by the merger of Carlton and Granada.

There has been virtual unanimity among the advertisers, media agencies, commercial broadcasters and trade bodies we have heard from that CRR should be retained in some form. We believe that ITV has overstated the cost and distortions imposed by CRR. When it succeeds in making popular programmes which attract large audiences, CRR does not prevent ITV from reaping the rewards. We agree, however, that in order to avoid distortions, the definition of ITV1 should be widened to include +1 and high-definition channels.

Our review looked only at the circumstances surrounding the CRR undertakings in the context of the current television airtime trading system, a system which has a significant influence on the need for CRR to be retained in some form. Although we rejected ITV's alternative remedy proposals as ineffective to prevent ITV from worsening the deals it offers to advertisers, we have no wish to see CRR in place forever.

Many participants have told us that the system of selling television airtime is far from perfect and we repeat our concerns, also raised in 2003, about the potential anti-competitive effects of 'share of broadcasting' and agency 'umbrella' deals between broadcasters and media agencies. We continue to believe it appropriate for there to be a wider review of the whole system for selling TV advertising.

The CC found that:

- ITV1 retains the unique ability to deliver audiences of up to 18 million at a time, and in 2009, accounted for 982 of the top 1,000 most-watched programmes on commercial television.
- Despite the many changes in this market over recent years, ITV1's relative position of strength compared with other commercial broadcasters is little changed since 2003. Whilst ITV's share of commercial impacts (SOCI) has fallen since 2003, it remains by far the largest commercial broadcaster with a share more than double that of the next largest commercial channel (Channel 4). Media agencies and advertisers continue to believe that ITV1 offers them something that no other commercial channel can give. ITV1's price premium over other commercial channels has increased since the undertakings were introduced.
- Although the internet and the advent of many new digital channels provide possible alternatives for advertisers, these cannot yet replicate ITV's ability to deliver such large audiences on ITV1. The internet's growing share of overall advertising expenditure in the UK has been driven by classified advertising. Expenditure on internet display advertising—which is closest in nature to television advertising—was only a fifth of television advertising expenditure in 2009.
- Most advertising is bought through a small number of media agencies, who cannot credibly withdraw expenditure from ITV1 if they are to serve their clients' needs. Attempts to switch some of their spending elsewhere could still result in much less favourable terms, were it not for CRR.
- ITV has overstated the detrimental effects of CRR, which does not prevent ITV from producing good-quality programmes that people want to watch. The majority of media agencies have continued to negotiate at least to some extent with ITV rather than simply falling back on deals from years ago.
- Although the CC has a preference for a solution that will encourage competition rather than regulation, ITV's alternative remedy proposals would not be effective in preventing ITV from worsening the deals it offers to media agencies and advertisers.
- The definition of ITV1 in the undertakings should be widened to include any future ITV1+1 channel and the recently launched ITV1 high-definition channel so that impacts on these channels are included in the CRR calculation. The changes will come into effect once revised undertakings are agreed with ITV.

In May 2009, 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. The undertakings were introduced to protect advertisers and other commercial broadcasters from the loss of competition in the sale of television advertising airtime, following the merger of Carlton and Granada. (*See Notes to Editors.*)

Last September, the CC [provisionally concluded](#) that the CRR undertakings should be retained given ITV1's continued advantage in delivering large audiences for advertisers, although developments since their introduction in 2003 could justify some variations. Since that time the CC has been discussing these potential variations with ITV and other parties and has also received several further submissions from ITV including a number of variations on an alternative remedy proposal entitled 'Rules for the Protection of Advertisers' (RPA), on which the views of other parties were also sought.

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 formally launched a review of CRR in January 2008. This review was undertaken at the request of ITV plc in light of possible changes of circumstance in the sale of UK television advertising since the Undertakings were accepted in 2003.
3. On 29 May 2009 the OFT, with assistance from Ofcom, 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 of ITV plc would have on competition in the sale of television 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 ratings (measured in the form of its share of commercial impacts). The CRR 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 CRR Undertakings and more information, see the Office of the Adjudicator's 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 Review Group are: Diana Guy (Review Group Chairman and Deputy Chairman of the CC), Robin Aaronson, Tony Stoller and (until the expiry of his term of appointment as a member of the CC at the end of January 2010) 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 on 020 7271 0242 (email rory.taylor@cc.gsi.gov.uk).