



BBC Trust Consultation Canvas Proposals – Provisional Conclusions and Public Consultation

**Submission by the Satellite and Cable Broadcasters' Group
12 February 2010**

The Satellite and Cable Broadcasters' Group (SCBG) is the trade association for satellite and cable programme providers who are independent of one of the main terrestrial broadcasters. Its members are responsible for over 100 channels in the UK and in addition broadcast many more services from the UK to continental Europe and beyond. Many member companies are pan-European broadcasters, producing and commissioning content for different national markets.

SCBG channels provide citizens and consumers with programmes and services for a diverse range of audiences across a wide range of genres and audiences, including entertainment, factual, educational, history, music, nature, art and science. Our member companies make and show programmes for children and young people, and for ethnic minorities in their own languages. SCBG members' channels are available in almost 50% of UK homes.

Satellite and cable broadcasting has been the fastest growing sector in the UK television industry, now employing over 6,000 people in the UK with revenues of nearly £5 billion.

Satellite and cable broadcasters operate in an extremely competitive and volatile environment, without privileged access to scarce Government-controlled spectrum or to the must-carry status afforded to terrestrial networks. They are therefore unable to attract mass advertising revenues, and – with a couple of notable exceptions – do not benefit from public funding.

Introduction

1. The Satellite and Cable Broadcasters' Group (SCBG) welcomes the opportunity to comment on the latest set of conclusions from the BBC Trust on Project Canvas. SCBG members already provide content across the full range of audiovisual platforms in the UK, and Canvas represents a significant new entrant to the market, and therefore a significant new opportunity for SCBG members. Our objectives are to ensure that Canvas is structured and governed in a way that provides the best opportunity for UK consumers to access the widest possible range of content from the widest range of content providers, and that competition in the emerging market for IPTV is vigorous and fair. Although there are many features of the Canvas proposals that support this objective, there remain some areas for concern that we believe the Trust should examine in this final period of scrutiny. Our response therefore focuses briefly on these issues.

Prescriptive nature of Canvas

2. The core concern in our previous submission was the extent to which the Canvas joint venture would go much further than a set of common technical standards to develop a common UI and UX that third parties would have to employ in order to use the Canvas brand. Our central argument was that this level of control, when concentrated in the hands of a PSB-dominated joint venture, could create an uneven playing field for third-party content providers. We would therefore urge the Trust to ensure that they afford due consultation with as wide a group as possible during the evolution of this technology.
3. We are particularly concerned that a prescribed EPG, which mirrors DMOL numbering and compartmentalises linear and on-demand services, will create an in-built bias towards the existing free-to-air providers. The JV justifies this approach by saying that it will 'bring cohesion to the DTT platform'¹. However, a lack of a common EPG look-and-feel has not hampered the success of Freeview and we would in fact argue that a prescribed EPG would actively limit the potential of Canvas to give users open, free and democratic access to the widest range of providers. To minimise this risk, we would ask that the Trust considers and publishes how it intends to consult on the EPG formation and its associated policy, and to ensure that EPG policy is treated, as a minimum, as a Super Majority requirement.
4. When assessing the public value of the Canvas proposal, the Trust has chosen to use the whole 'sum' of the project as it was presented by the Executive rather than assessing each component in its own right. In particular, the Trust has taken as a given that the positive public value of Canvas necessarily includes a Canvas-developed and managed UI and UX. For example, the Trust cites 'accessibility' as one of the positive benefits of a common user interface, saying that 'as content offerings become more complex, a single user experience that goes beyond basic principles and conforms to best practice in terms of usability and accessibility is likely to grow in importance'. Up to this point we would agree with Canvas approach. However, it goes onto say that it believes there are 'limitations of commercial provision'² in this area. While we agree that accessibility issues are exceedingly important, we do not accept that these features are not being delivered by the market, nor that they couldn't be developed by third parties for Canvas. Indeed, we do not see why such features could

¹ Page 151, BBC Trust, Canvas – Market Impact Assessment

² Page 108, BBC Trust - Canvas Public Value Assessment

not be included in the technical specifications, such that third parties offering different Canvas user experience can always offer users accessibility features.

5. In summary, we agree that there is public value in creating an accessible platform, but strongly question the need for that value to be provided by a Canvas-controlled user experience. We therefore challenge the Trust to ensure that the development of the common UI/UX continues to be managed closely, given the potential for negative impact on competition between PSB and non-PSB content providers. It is vital for the success of Canvas that non-PSB providers are actively engaged in the development of the platform and we would require comfort from the Trust to ensure that non-PSB's have an equal voice and are effectively heard during this period.

Openness

6. In SCBG's previous response, we said that in order for potential market impacts to be mitigated it was important that standards were genuinely open. We also raised concerns about the Project's relationship with Freesat and potentially Freeview, as well as the ability of the JV's partners to limit access according to editorial standards and so on.
7. We consequently very much welcome the fact that the JV and the Trust have agreed that standards should be genuinely open and that there will not be any relationship with Freeview. We also approve of the Trust saying that it 'intends to make it a condition of the BBC's participation in the Canvas joint venture that open third-party content provider access charged on a cost recovery basis is enshrined in the objects and shareholders' agreement of the Canvas joint venture' and that 'entry controls in terms of technical and content standards will be minimal, access will not be bundled with other products or services and listing on the EPG and UI will be awarded in a fair, reasonable and non-discriminatory manner.' If Canvas is finally approved, we believe that it is vital that the Trust ensures that the BBC – and the joint venture – delivers on these commitments.
8. Furthermore, we strongly advocate the development of the technical specification taking place through the DTG, so as to ensure that content providers do not have to develop multiple versions of their VOD content offerings (with all the attendant costs that that would entail), to maximize the content available to licence fee payers and to minimise any potential market distortions.

Process

9. Finally SCBG remains disappointed that the Trust did not undertake a procedure equivalent to a full Public Value Test on what will potentially be a very significant addition to a market that the Trust itself admits is 'immature and fragile'³. We question whether the Trust has adequately discharged its duty to 'have regard to the competitive impact of the BBC's activities on the wider market'⁴ as set out in the BBC Charter. As a matter of principle, we urge the Trust to ensure that Ofcom is given a role in assessing how future projects like Canvas will impact the wider marketplace.

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³ As revealed by the closure of Joost's UK operations in October 2009, page 13 BBC Trust, Canvas Proposals – Provisional Conclusions and Public Consultation

⁴ Page 8, BBC Charter