



Satellite & Cable
Broadcasters' Group

Ofcom's Annual Plan 2005/6: Response from the Satellite and Cable Broadcasters Group

The Satellite and Cable Broadcasters Group (SCBG) represents the interests of a wide variety of channels operating in the commercial multi-channel sector. Its members are responsible for more than 70 channels in the UK and in addition broadcast many more services from the UK to continental Europe and beyond. SCBG members collectively broadcast hundreds of thousands of hours of programming each year, though most channels remain highly targeted with audience shares ranging from less than 0.01% to 2% of digital viewers.

Overview

The commercial multichannel sector is the fastest growing sector in the UK television industry – delivering investment, innovation and increased choice to consumers. In the last few years, the sector has not only met consumer demand by providing new and specialised services but has also grown its output of original programming. In 2004 multichannel broadcasters contributed more hours of public service programming to UK television (according to Ofcom's new definitions) than the designated public service broadcasters combined. These programmes have been produced and transmitted without any regulatory requirement, and this trend is likely to continue and increase as long as the regulatory environment is supportive. SCBG has the following comments and recommendations for inclusion in Ofcom's Annual Plan:

Regulatory principles (p5 Figure 2.2)

The Satellite and Cable Broadcasters Group supports Ofcom's commitment to a bias against intervention and its desire always to seek the least intrusive mechanisms in regulation. It is extremely important for the relatively new and rapidly developing multichannel sector that any regulatory intervention is evidence-based, and proportionate to the history, scale and remits of different sectors within the broadcasting ecology. For example in the areas of Access Services and training, which are new and unfamiliar licence requirements for multichannel broadcasters, Ofcom must ensure that the contribution required from cable and satellite channels is proportionate to their size, turnover and business model, and to their present designation as non-public service broadcasters.

Communication with stakeholders (p31 paragraph 5.15)

Ofcom should recognise in its communication and consultation processes that most multichannel broadcasters are small, streamlined operations and many are not yet profitable. In general, they do not have the staff or other resources of the larger and more established broadcasters to devote to regulatory affairs. Advance warning of new initiatives and pre-consultation through the Satellite and Cable Broadcasters Group are therefore welcome mechanisms for input and feedback.

Public service television broadcasting (p13 Figure 3.3)

Ofcom has acknowledged that the key work streams set out in the Annual Plan concerning Public Service television broadcasting are provisional. The Satellite and Cable Broadcasters Group is surprised to see that the current Plan does not include consideration of the role of multichannel broadcasters in the PSB system, although this is one of the Next Steps described in the Phase 3 report (Ofcom's review of public service television broadcasting Phase 3, p19 paragraph 1.67). We look forward to further detail and clarification of this element of Ofcom's work on PSB in the finalised Plan.

The Satellite and Cable Broadcasters Group welcomes Ofcom's proposal in its Phase 3 report on Public Service Broadcasting to apply a universal approach to competition issues, including the BBC, and to carry out Impact Assessments for BBC new services. This will help to limit the chilling effect of publicly funded competition on innovation and growth in the commercial marketplace, which has been explicitly recognised by Ofcom. Again, we look forward to further information on this initiative as part of Ofcom's plan to open up markets, encourage innovation and take further targeted action to promote competition (p17 paragraph 3.26).

Broadcasting content production (p24 paragraph 3.50)

The Satellite and Cable Broadcasters Group welcomes the strategic review of the content production sector including the existing codes of practice. Multichannel broadcasters in the UK marketplace experience two significant difficulties concerning rights negotiations that restrict the proper functioning of the secondary market. Firstly, the market in programme acquisitions is hampered by the behaviour of dominant buyers such as the BBC who, for example, bundle rights by making the acquisition of secondary rights from a third party distributor conditional on a terrestrial purchase. This is similar to their behaviour in the market for original commissions from independent producers before Codes of Practice were introduced. Secondly, the public service broadcasters' behaviour towards hold-backs goes against the intention of the Codes, which was to ensure that independent producers were free to choose a secondary buyer. In practice, the hold-back has not been treated as a *mutual* agreement by the broadcasters. As a result, there is little room for multichannel broadcasters to develop relationships with independent producers and to deliver quality originated content more widely to viewers. We believe it very important that Ofcom includes these issues within its wide-ranging review.