

COBA (the Association for Commercial Broadcasters and On-Demand Services—supplementary written evidence (BFF0069)

House of Lords Communications and Digital Committee inquiry into BBC future funding

Introduction

1. COBA is the Association for Commercial Broadcasters and On-Demand Services. It represents multichannel broadcasters in the digital, cable and satellite television sector, as well as on-demand services.
2. COBA members operate a wide variety of services, offering news, factual, children's, drama, music, arts, entertainment, sports and comedy. Their content is available on free-to-air and pay-TV platforms, as well as on-demand.
3. COBA members are arguably the fastest growing part of the UK television industry, and are increasing their investment in jobs, UK content and infrastructure. They make this investment without support from the licence fee or indirect support from statutory prominence.
 - Scale: In the last decade, the sector has increased its turnover by 30% to more than £5 billion a year. This is rapidly approaching half of the UK broadcasting sector's total annual turnover, and has helped establish the UK as a leading global television hub.¹
 - Employment: As part of this growth, the multichannel sector has doubled direct employment over the last decade.²
 - UK production: In addition, the sector has increased investment in UK television content to a record £1.1 billion per annum, up nearly 75% on 2011 levels.³

¹ Ofcom International Broadcasting Market Report 2013
² Skillset, Television Sector – Labour Market Intelligence Profile
³ COBA 2019 Content Report, Oliver & Ohlbaum Associates for COBA

Response

- 1) At the request of the Committee, we would like to outline our concerns about the governance and regulation of the BBC and proposals for addressing this to ensure the BBC's market impact is fairly and objectively scrutinized.
- 2) As we noted in our original submission, we do not believe the BBC board is fit for purpose to take objective decisions on market impact, populated as it is with a majority of BBC executives and/or BBC appointees. For the record, HM the Queen appoints five members on the advice of ministers, while the BBC appoints a further five, in addition to four members of BBC management sitting on the board. While this is necessary to maintain independence from Government, and the BBC Board may have an important role in other matters, commercial competitors cannot reasonably be expected to provide sensitive data to the board, and the board cannot be seen to be objective.
- 3) Currently, when the BBC proposes to make a major change to a service or launch a new service, it conducts a Public Value Assessment, which includes a public consultation weighing up the BBC's market impact. Ofcom then approves the resulting decision, sometimes conducting its own market impact assessment. In practice, this means the process may be conducted twice, sometimes with Ofcom overturning the BBC Board's decision, as occurred with its proposals to change the iPlayer in 2018.⁴ It has also resulted in Ofcom trying to hurry the process by giving respondents no more than two weeks to respond on one occasion. This is unreasonable.
- 4) We believe decisions about the BBC's market impact should be left solely to Ofcom, the sector regulator. The BBC has in the past raised concerns about the process being too slow, but our proposal would address this by removing one stage of the market impact assessment. Nor should the BBC submit a proposal to Ofcom for minor changes. Ofcom should issue detailed guidance as to when it expects to be consulted, and have step in powers in case this is necessary. This would be similar to how Ofcom approaches compliance right across the broadcasting sector.
- 5) The BBC remains a huge intervention in the market and independent, objective scrutiny of its impact should be a given. This will be all the more important if and when the BBC funding model is changed to include advertising or subscription, and its impact on the market all the greater.

April 2022

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0018/130752/Review-BBC-Materiality-Assessment-Proposed-Changes-BBC-iPlayer.pdf