

Net Neutrality Review: Call for Evidence

Response from the Association for Commercial Broadcasters and On-Demand Services to Ofcom

November 2021

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 and 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. COBA believes the existing rules have generally worked well, encouraging a diverse array of services for the benefit of consumers, and we are not convinced there is a need for changes to the current framework. Where there are potential congestion issues, such as at the start of the Covid-19 pandemic, it was agreed certain updates would be made off-peak. COBA members are responsible actors and worked with Ofcom and ISPs to reduce bit rates at the outset of the pandemic to mitigate the possibility of network congestion. We are open to consideration of whether updates are required in some areas, such as for education sites, but do not see a need for wholesale change.
2. Within this system, many content providers invest in ways to mitigate network congestion, such as content delivery networks, as they are already incentivised to invest in ways to mitigate network congestion so that audiences have good experiences. This investment should be acknowledged in the event of future moves to address any congestion, as should the role content providers play in attracting consumers and audiences through investment in attractive content.
3. We would therefore be opposed to requiring content providers to pay additional sums to alleviate any network congestion.
4. When considering whether there are congestion issues, it is worth bearing in mind that the Covid-19 pandemic demonstrated how the current system has a significant degree flexibility already. This includes allowing network operators to manage these processes as needed via 'reasonable' traffic management measures where certain conditions are met. As Ofcom's call for evidence notes, there are already exceptions for traffic management:

'[T]o comply with a legal requirement; to preserve network integrity and security; and/or to prevent impending network congestion and manage exceptional or temporary network congestion.'

As noted above, however, we are open to consideration of whether guidelines might be clarified in limited areas – e.g. to manage live events or software downloads that are not time critical – but do not see a need for fundamental change.

5. If these measures are judged not to be working, then further forms of collaboration between platforms and content providers might be explored, such as a forum for collaboration when organisations are issuing large downloads. This might help coordination to avoid certain dates in the calendar, or to halt distribution if an emergency national event occurs (such as a terrorist attack). BT Group, which is a COBA member to support the interests of its TV business and also a UK network operator, welcomes the constructive discussion around the issues raised in the call for evidence within the COBA membership.