

Spectrum pricing for terrestrial broadcasting

BFI response to Ofcom consultation

May 2013

Summary

1. Ofcom's consultation on spectrum pricing for terrestrial broadcasting impacts on services delivered via the digital terrestrial television (DTT) platform. DTT services are of significant interest to the BFI, given that TV channels account for 80% of all "views" of films by UK audiences, and viewing on the free-to-air DTT channels represents a significant part of this figure. Most of this viewing is accounted for by the public service broadcasters, who also make important contributions in a number of other areas: in addition to their substantial and vital investment in original content, they support skills and training in the sector, innovate in forms of content, distribution and technology, and support national heritage through their contributions to the National Television Archive.
2. Ofcom has a duty to secure optimal use of the radio spectrum, meaning that spectrum should be used in a way that maximises the value derived by citizens and consumers – including the wider social value of spectrum use, taking into account specific consumer and citizen interests. The BFI believes that it is important to ensure the provision of sufficient spectrum to maintain a strong universally-available DTT platform, on both consumer and citizen grounds. The BFI has a particular interest in seeing spectrum policy pursued in such a way that helps ensure that as many people as possible have access to the widest possible range of films and moving images.
3. With regards to spectrum pricing policies, the BFI believes that broadcasting continues to exhibit distinctive characteristics. First, licence conditions to secure near-universal DTT coverage mean that multiplex operators cannot respond to pricing incentives, a key justification for Administered Incentive Pricing (AIP). Ofcom's own analysis shows how challenging it would be in practice for multiplex operators to respond to AIP in the way that other spectrum users can. And second, spectrum charges could have a detrimental impact on their investment in content – including film – and other activities such as skills and training, which would be undesirable for citizens and consumers. BBC Films and Film4 together invested more than £25 million in feature film production in 2011/12. The BFI would urge great caution when implementing spectrum policies that would serve to reduce broadcasters' content budgets.
4. Given Ofcom's view that AIP should be applied to DTT, the BFI welcomes Ofcom's proposal that AIP should not be introduced until plans for the future use of the UHF spectrum are well advanced (Ofcom gives an indicative date of 2020). We also welcome Ofcom's commitment to consider the potential effects of AIP on broadcast content and the steps available to mitigate those effects, at the appropriate time.
5. The BFI recognises that there are arguments in terms of fairness for recovering ongoing management costs (that Ofcom has to bear and recover somehow) in the meantime. As such costs are likely to be relatively modest, the BFI does not object to the imposition of such a fee.
6. Reflecting their contribution to PSB objectives, and to media plurality at the local level, the BFI welcomes Ofcom's proposal not to apply AIP to local TV

companies. We would encourage Ofcom to set any fees that seek to recover ongoing management costs at an appropriately low level that is commensurate with the scale of operation of the local TV providers.

Introduction

7. The British Film Institute (BFI) is the lead organisation for film in the UK. Since 2011, it has combined a creative, cultural and industrial role as a Government arm's length body and distributor of National Lottery funds. Its key priorities are to support a vibrant UK film culture by investing in film education, audience access, filmmaking and film heritage. Founded in 1933, the BFI is a registered charity governed by Royal Charter.
8. In October 2012, the BFI published 'Film Forever, Supporting UK Film 2012-2017', which set out its strategy for the next five years, following an extensive industry consultation. It described the activities underpinning the BFI's three strategic priorities:
 - Expanding education and learning opportunities and boosting audience choice across the UK
 - Supporting the future success of British film
 - Unlocking film heritage for everyone in the UK to enjoy.
9. The BFI welcomes the opportunity to respond to Ofcom's consultation on spectrum pricing for terrestrial broadcasting. The BFI has a particular interest in the DTT platform, which stems from the importance of TV as a platform for viewing films (part of the overall public value provided by public service broadcasters across their digital channel portfolios), and from the range and diversity of films that are offered. BFI research shows that TV channels account for 80% of all "views" of films by UK audiences (with viewing in cinemas, on DVDs, etc together comprising the remaining 20%). Viewing of films on the free-to-air TV channels on DTT represents a significant part of this figure. The BFI's interest lies primarily with the public service broadcasters, given the important contributions they make in a number of areas. In addition to their substantial and vital investment in original content, they also support skills and training in the sector, innovate in forms of content, distribution and technology, and support national heritage through their contributions to the National Television Archive.
10. With regards to Ofcom's overall objectives for spectrum, the BFI recognises the need to ensure efficient use of spectrum, and we particularly support measures that promote innovation: we can see the benefits of mechanisms, which potentially include Administered Incentive Pricing (AIP), through which more spectrum could be made available for high-value usages which might include new mobile services. More and more people are watching TV programmes, films and other video content on mobile devices, leading to a rapidly-growing demand for bandwidth. At the same time, we would argue that – on both consumer and citizen grounds – it is important not to undermine the viability of a robust DTT platform that delivers near-universal, low-cost access to PSB programmes, and choice for consumers in services and platforms. The BFI has a particular interest in seeing spectrum policy pursued in such a way that helps ensure that as many people as

possible have access to the widest possible range of films and moving images.

11. As we discuss in our response to the individual consultation questions below, the BFI would be concerned about policies that have a detrimental impact on the ability of broadcasters, particularly the PSBs, to invest in original content and to offer audiences a diverse range of films. Such concerns are especially acute when broadcasters' content budgets face pressures resulting both from the current challenging economic conditions and, over the longer term, from greater competition for audiences' attention due to the impact of convergence and globalisation.

Revised proposals for spectrum fees in broadcasting

12. Ofcom has a duty to secure optimal use of the radio spectrum, which it defines as using spectrum in a way that maximises the value derived by citizens and consumers – including the wider social value of spectrum use, taking into account specific consumer and citizen interests. Ofcom's spectrum pricing policies are intended to further this goal.
13. AIP refers to the policy of setting charges that reflect the opportunity cost of holding spectrum, which is applied using a methodology that estimates the highest-value use of that spectrum, including potential alternative usages. Broadcasting has up to now been treated as a special case: broadcast multiplex operators have historically had access to spectrum without having to pay fees. In a statement in 2007, Ofcom concluded that spectrum used for digital broadcasting should be subject to spectrum charges just as for other users of spectrum, and that AIP should be introduced in 2014, following the conclusion of digital switchover and the expiry of current DTT multiplex licences.
14. The current consultation sets out Ofcom's revised proposals to delay the introduction of AIP for the use of spectrum by national DTT multiplex operators, in the light of the potential clearance of the 700 MHz band and migration of DTT services to the 600 MHz band.¹

Question 1: Do you agree that the principle of applying AIP remains relevant to spectrum used for broadcasting?

15. In its consultation document, Ofcom summarises two key arguments made by broadcasters and the multiplex operators that justified the historic exemption from spectrum charges (paras 3.12-13). First, specific licence conditions imposed by Ofcom to secure near-universal DTT coverage mean that multiplex operators are unable to respond to pricing incentives, a key justification for AIP. And second, there was a concern that spectrum charges would have a detrimental impact on investment in content, including film, and that reduced programme budgets would be undesirable for citizens and/or consumers.

¹ This was discussed in more detail in Ofcom's recent consultation on the award of the 600 MHz spectrum band. For the BFI's response, see <http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-response-to-ofcom-consultation-award-of-the-600-mhz-spectrum-band-2013-04.pdf>

16. The BFI believes that both of these arguments remain relevant and important, and that – taken together –broadcasting continues to exhibit distinctive characteristics as a result of which AIP should not apply.
17. With regards to the first argument, Ofcom argues that multiplex operators can respond to the price incentives that AIP would provide over the long term, for example by adopting more efficient transmission technologies. However, when Ofcom considers such changes in detail (in Figures 4.1 and 4.2 of its consultation), it acknowledges, firstly, that multiplex operators have little scope to achieve efficiencies acting independently; and secondly, that while significant efficiencies could potentially be achieved through coordinated action, they would be challenging to achieve in practice. Specifically, their room for manoeuvre is constrained by:
- Universality-related coverage obligations imposed by Ofcom through licence conditions;
 - The risk that an uncoordinated transition to more efficient transmission technologies would leave significant numbers of consumers with obsolete receiver equipment to the detriment both of those using the DTT platform and to the reach of public service content; and
 - Broadcasters’ use of particular spectrum frequencies in the UK being dependent on internationally agreed coordination (to avoid cross-border interference).
18. The BFI believes that this analysis presented by Ofcom supports the key argument that broadcasters and multiplex operators are not in a position to respond to AIP in the way that other spectrum users are.
19. Turning to the second argument, the BFI would highlight the vital role played by the public service broadcasters in particular in investing in original moving image content, including film, along with other activities such as support for skills and training; innovation in forms of content, distribution and technology; and support for national heritage through their contributions to the National Television Archive. The broadcasters’ investment in film is of particular importance to the BFI. BBC Films spent £12.5 million on feature film production in 2011/12. Recent theatrical releases include *Quartet* and *Good Vibrations*. Film4, meanwhile, had a £15 million film production budget in the same year, with *Sightseers* and *Seven Psychopaths* released recently in cinemas. As noted above, the broadcasters’ investment in content and other related activities face increasing pressure due to the current economic climate and to increased competition for audiences’ attention resulting from convergence and globalisation. On both consumer and citizen grounds, the BFI would urge great caution when Ofcom considers implementing spectrum policies that would increase this pressure further, to the detriment of overall investment in content.

Question 2: Do you agree with our revised proposals to delay the introduction of AIP based on opportunity cost for the use of spectrum by national DTT multiplex operators until we have materially progressed our proposals for the future use of the UHF spectrum?

20. Notwithstanding our difference of opinion on the rationale for applying AIP to DTT, the BFI agrees with Ofcom that the proposed migration of DTT services from the 700 MHz band to the 600 MHz band represents a “unique combination of circumstances” which prevents AIP from meeting “its core objective of securing the optimal use of spectrum” (para 4.25). We therefore welcome the proposal that AIP should not be introduced until plans for the future use of the UHF spectrum are well advanced (Ofcom gives an indicative date of 2020).
21. Given our concerns about the principle of applying AIP (set out in our response to Question 1), the BFI would also encourage Ofcom to revisit its analysis of the rationale for introducing AIP before its planned introduction. Ofcom refers to its earlier commitment to consider the potential effects of AIP on broadcast content and the steps available to mitigate those effects before applying AIP – particularly in regard to public service television broadcasting. We welcome Ofcom’s view that this position remains valid for when it considers the imposition of AIP for the use of spectrum for national DTT broadcasting, and that it will consider those implications at the appropriate time (paras 4.35-36).

Question 3: Do you agree with our proposals to apply a fee for spectrum used for national DTT, in the meantime, based on recovering our on-going costs in managing the licences?

22. While any kind of spectrum charges could potentially have a detrimental impact on broadcasters’ investment in content, the BFI recognises that there are arguments in terms of fairness for recovering ongoing management costs that Ofcom has to bear and recover somehow. As such costs are likely to be relatively modest, the BFI does not object to the imposition of such a fee.

Question 4: Do you agree that charges based on the costs of managing the spectrum should be applied to DAB radio and to local TV broadcasting?

23. The BFI believes there to be exciting possibilities for collaboration with local TV providers, for example around the presentation of high-quality content from the UK’s archives, which could be of significant appeal to the new local TV channels’ audiences. The BFI has begun to engage with the new local TV providers as they develop their content propositions ahead of launch, to explore mutually beneficial partnerships.
24. Reflecting their contribution to PSB objectives and to media plurality at the local level, and given that it is generally recognised that local TV companies will be operating under extremely restricted budgets, the BFI welcomes Ofcom’s proposal not to apply AIP to local TV companies. As in our response to Question 3, we recognise the arguments in terms of fairness for recovering ongoing management costs. We would encourage Ofcom to set these fees at an appropriately low level that is commensurate with the scale of operation of the local TV providers.

25. The BFI is not in a position to comment on spectrum pricing for DAB radio.

Consideration of the level of AIP and the manner of its introduction

Question 5: Do you agree that when full AIP is applied for spectrum used for national DTT broadcasting (once we have materially progressed our proposals for future use of the UHF spectrum) it should be applied gradually, rising over five years.

26. Notwithstanding our concerns about the rationale for applying AIP to DTT, if AIP is to be applied at a future date, the BFI agrees that a phased approach as proposed by Ofcom would be preferable to introducing AIP in one step.