

**Title:**

Mr

**Forename:**

Owen

**Surname:**

Manby

**Representing:**

Self

**Organisation (if applicable):**

**What do you want Ofcom to keep confidential?:**

Keep nothing confidential

**If you want part of your response kept confidential, which parts?:**

**Ofcom may publish a response summary:**

Yes

**I confirm that I have read the declaration:**

Yes

**Ofcom should only publish this response after the consultation has ended:**

Yes

**Additional comments:**

Unlike some of the other responses I have read on this issue, I personally take no issue with paying the license fee. Nor do I feel the BBC generally abuses this privilege. I am a supporter of both the BBC and believe in the necessity of its existence. However, that is not to say that the actions of the BBC should be above public scrutiny or that it should be free to operate as it pleases.

**Question 1: Do you agree that copy management would broaden the range of HD content available on DTT and help secure its long term viability as a platform? :**

No. That some copyright owners are comfortable attempting to hold the BBC to ransom is disappointing, that the BBC and Ofcom are considering submitting is laughable. The range of HD content in the UK is currently small, this is due largely to slow adoption of High-Definition equipment. This range will only be broadened by a wider acceptance from the public as HDTV and Freeview HD reaches saturation point. The implication that a lack of content management is somehow limiting HD content is a fallacy, as is the implication that the introduction of such a system will improve the situation

If content providers are threatening to remove content without DRM, submitting to their demands only returns the BBC to the position it was in before and does not broaden its content. Rather it places the corporation at the whim of the distribution industry and not the public. Were the removal of content anything other than an empty threat, the short term effect would only be the preservation of the status quo and not an increase in service. However, as it is largely unlikely that content providers would cut off major sources of income to push a DRM system that has been rejected elsewhere in the world and will continue to be rejected; the fact that this consultation is even taking place is ludicrous.

However, the long term effects will undoubtedly be horrendous for the DTT standard and HD adoption in the country. Introducing yet another technology that will force people to upgrade is a dangerous game to play so near to the digital switchover and further muddy the water that is seriously clouding the public understanding of both HDTV and Freeview. It is more likely that the average consumer will choose instead to migrate to a paid option for convenience.

The viability of the platform will ultimately be secured by understanding, convenience and compatibility; with this technology in place, will ofcom be taking steps to guarantee future compatibility of the platform? After the Huffman Tables are inevitably decoded and become entirely useless, what will protect the BBC from being blackmailed into accepting an updated, equally useless standard and trigger the buying of a new generation of TVs? Finally, it is important to consider the interests of the groups placing pressure on the BBC. Appeasement has a nasty habit of encouraging greed, the same groups involved in these proposals have a habit of making more demands once their foot is in the door.

**Question 2: Do you agree that the BBC's proposed multiplex licence amendment represents the most appropriate means for securing an effective content management system on HD DTT? :**

This question really depends on the goal of the content management. If the goal is to stop piracy, then no. This measure will have absolutely no impact on the spread of piracy.

Firstly, as we're talking primarily about content from independent providers, it's likely we're talking about international productions. As other countries have had more sense than to even consider such an idiotic proposal, British pirates will just obtain their illegal copies from abroad. The Internet is international even when the TV isn't

Secondly, there have been no DRM systems in the world that have succeeded in avoiding being cracked wide open. Were the entire world to adopt this protection then it would be a matter of days before dedicated pirates had found a way around.

From this point of view it will be entirely unsuccessful at "managing content."

However, if the goal is to limit the flexibility and usability of the technology, providing the end user with less options then I would say it achieves this goal. In the end this will only harm the consumer while having absolutely no positive effects for the public. As the BBC is operating a royal charter with specific instructions regarding upholding the public interest, this should be of prime concern to ofcom.

**Question 3: Do you agree with the proposed change to Condition 6 in the Multiplex B Licence? :**

As previously explained, I believe the BBC's reasons given for applying for the license change to be fallacious. As such I believe that the change should be completely and totally ruled out until serious, lengthy scrutiny had been given both to the plausibility of the technology involved and the potential conflict between the BBC's proposal and its role as a public service.

**Question 4: Do you agree that Multiplexes C and D should be granted a similar amendment to their Licences as Multiplex B?. :**

No, as I explained, the motivation for this entire endeavour is totally incompatible with any kind of sensible reasoning

**Question 5: Do you agree that the BBC's proposed approach for implementing content management would safeguard citizens and consumers legitimate use of HD content, and if not, what additional guarantees would be appropriate? :**

This proposal is a direct attack on the legitimate use of HD content by consumers. It ignores the right of the consumer to record content as and when they choose, it ignores the right to time shift programmes (recording in order to watch at a later date) and it ignores the right for a consumer to record content, transfer it into a different medium and watch it in a more convenient fashion. Instead it places these options in the hands of copyright owners, leaving them to impose restrictions that fall outside of current British law. Furthermore it will introduce a requirement for the consumer to purchase new equipment to meet an artificial, ineffective restriction.

An attack on the rights of consumers will never be in their interest, Ofcom should be seriously concerned by this question.

As to additional guarantees, short of scrapping the entire system, I can think of none. Any content management system that operated within the rights of the consumer would have to allow the user to record at will, watch the recording at their convenience and copy and convert as they see fit. Such a system would achieve nothing and will never be proposed.

**Question 6: Do you agree that the BBC's proposed choice of content management technologies will have only a negligible impact on the cost of HD DTT receivers and their interoperability with other HD consumer equipment? . :**

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Two things must be considered here, firstly that of the technology itself. The cost of researching the encoding's implementation, introduction and advertising to make the consumer aware of their obligation to upgrade will not be, by any stretch of the imagination, negligible.

Secondly, we must consider the influence of the manufacturers and retailers who will be sorely tempted to use compatibility as a branding, a badge of honour to push up the price of otherwise unremarkable televisions and set top boxes.

In terms of cost, this has no benefit to the consumer and again violates both the BBC and Ofcom's role in defending the public interest.

**Question 7: Do stakeholders agree that the BBC's proposed Huffman Code licensing arrangements would have a negligible effect on the market for HD DTT receivers? :**

The industry is already having a hard time convincing the public to adopt Freeview HD boxes, introducing a new standard just at the point the public is becoming fully aware of the concept will create massive consumer confusion and could harm the future of Freeview HD. Ever changing standards, increasing complexity and incompatibility will make paid options like Sky or Virgin Media seem more organised and more responsible.

**Question 8: Do the BBC's proposed content management states and their permitted use for different categories of HD content meet the requirements of other HD broadcasters on DTT? . :**

Perhaps this is something Ofcom should consider before anything else, were competing broadcaster to introduce alternative, incompatible technologies requiring compatible hardware, the UK market could find itself in the middle of a form of television "format war" with BBC's encryption up against ITVs and the consumers forced to pick a TV based on which soap they follow. The whole issue is a quagmire of problems.

**Question 9: Are there any issues that you consider Ofcom should take into account in assessing the BBC's proposal, that have not been addressed by this consultation?:**

There were so many assumptions made in the formation of these questions that I don't know where to begin.

Firstly, how did Ofcom arrive at the decision that content management was needed, desirable or even beneficial.

Secondly, Ofcom should take serious time to consider who these proposals actually benefit? Is the potential, probably temporary, loss of certain content worse than forcing thousands of people to purchase new TVs and set top boxes?

Thirdly, Ofcom has recently expressed the opinion that the consumer is too confused about upcoming television standards, is it worth adding to this confusion at the behest of copyright owners?

Fourthly, as a public service broadcaster, is the BBC's responsibility to the license fee payers or copyright owners? If the interests of these two parties conflict, who is the BBC to prioritise?

Fifthly, there are serious ramifications for hardware and software compatibility that I did not see seriously addressed in either the summaries or the questions. What is Ofcom's position on perfectly legal, open source software alternatives to set top boxes? As these are unlikely to meet approval for the encoding standards, why is Ofcom not concerned with the rights of the consumer in this issue?

Sixthly, why has Ofcom not addressed the obvious disparity between the restrictions made possible through this proposal and the rights of the consumer under British law?

Seventhly, why has Ofcom ignored the obvious possibility that this proposal is not motivated by a desire to curb piracy and is instead intended to modify the behaviour of viewers or stimulate hardware sales?

Eighthly, is Ofcom concerned about the incompatibility between British and European hardware this will create?

Ninthly, as the points above and previous issues raised in this response clearly had not been considered by Ofcom, why are Ofcom "currently minded" to approve the BBC's request?