

**Title:**

Mr

**Forename:**

Craig

**Surname:**

McLean

**Representing:**

Self

**Organisation (if applicable):**

**Email:**

**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:**

You may publish my response on receipt

**Additional comments:**

**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? :**

I do not. In no market has this assumption been proven and, in the markets where HD content is available on DTT platforms the amount of content continues to grow.

All threats by rights holders to restrict access to HD content if such management is not enforced have been proved baseless and empty. The threats which accompanied the failed US

Broadcast Flag initiative are an excellent example of this. Furthermore, such technologies seriously restrict the freedoms of we who license the content to use it in non-infringing ways, e.g. for reportage, scholastic use, comment and review and legal remixing.

In short, these threats from rightsholders are a bluff surrounding a power grab. We the license payers must not submit to such tactics and must ensure that our rights are well represented. The current agreement seems more satisfactory than the new proposal by far.

**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? :**

I do not. The BBC themselves understand that "where there's a will, there's a way" when it comes to DRM. By this I mean that it is admitted that infringers will always find a way to crack the DRM, and make content available on the internet. At this point DRM on UK transmissions is a pointless, expensive encumbrance.

Implementing this license amendment simply penalises those legal users of content by removing the ability of entrepreneurs to create end-user devices and systems, locking users into costly and feature-poor proprietary solutions.

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

I do not. Restricting the use of broadcast signals in this way, and forcing a limited set of proprietary receiving equipment on the public is fundamentally inconsistent with the BBC's stated goal of providing value to UK license payers.

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

I do not, for the reasons stated in Q.3

**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? :**

I do not. This proposal flatly ignores the legal, non-infringing use of non-DTLA equipment and restricts choice, which is counter to everything a free market should stand for. The appeals proposal is staggeringly vapid, and clearly an afterthought. The entire purpose of this proposal therefore appears to the layman to benefit only the rights holders. It enhances the rights of the license payer not at all. Finally the BBC's position in respect of the DTLA is one of supplication. It cannot, under even the best circumstances, grant license to content which is counter to those mandated by a foreign third party which has no need, and has shown no will, to respect or enhance the viewing experience of the UK license payer.

All of the above issues are inherent in any solution which requires DRM and limits fair use, therefore no DRM-based solution will ever satisfactorily safeguard fair-use. This is seen daily in the over-zealous use of the DMCA in the United States.

**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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Absolutely not. Regardless of how you chose to measure "cost", closed solutions which are mandated by rights holders have three chilling effects.

Firstly they reduce the availability of free solutions which may not be deemed commercially viable by large corporations. These projects typically enhance TV experiences for those with disabilities or limited access to technologies.

Secondly by restricting the receiving technologies to a small subset these proposals create a closed market which reduces competition and increases prices.

Finally there is a background cost to all the infrastructure which must be put in place to deliver such content protection. This includes licensing fees for the encryption technology, hardware costs and increased content costs. These will all be directly passed on to the consumer, the UK TV license payer.

None of the above is "negligible", and none of it in any way increases the value for money of the license payer's investment.

**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? :**

I do not. As stated above such technologies restrict competition by ensuring that disruptive technologies cannot emerge. The champion the status-quo and deny innovation. This, as stated above, will lead to an increase in cost and a loss of choice; the worst of both worlds.

**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? . :**

I have no opinion, other than to state that "as good as everyone else" is not the same as "as good as we can". Don't set your sights so low, the BBC is a world leader and should take a proactive stance here.

**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?:**

I have three points I would like Ofcom to consider.

Firstly: The right to control what devices can display content is a massive power grab and must be quashed immediately. This is an absurd infringement on the rights of the UK license

payer and, as stated above, will create a one-sided market and destroy innovation.

Second: In the other major digital content market, the music industry, all of the major distributors and rights holders have abandoned DRM as a costly and unfriendly, unworkable solution and the industry has singularly failed to collapse. Likewise a lack of DRM on DTV content, whether it is HD content or not, will not have anything like the cataclysmic effects being pushed by rights holders.

Lastly: It is the responsibility of the BBC to ensure that the license fee represents value for money. There is nothing whatever in this proposal which does this. In fact, the opposite is true. Everything in this proposal takes rights away from the licensee and gives them back to the licensor. In no other transaction would this be acceptable.

Imagine buying a car only to be told that you can only drive it on certain roads, at certain times, and only with the permission of an overseas company which can arbitrarily withdraw said permission. Imagine being told a year later that your car was no longer approved by this company, and you must buy a new one. Or being told you cannot repair the car yourself, or modify it in any way.

Suddenly you don't own the car, someone else does, but you're still paying for it!

I do not exaggerate when I say that this proposal is a dire threat to the way in which DTV content is delivered in the UK, and must be rejected.