

To:	Executive Board
Title of paper:	BBC CONTENT BEYOND THE PRIMARY WINDOW – AN OVERVIEW OF PROPOSALS

Action:	FOR DECISION
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Meeting:	9 June 2008
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Trust Approval:	Is approval required from the BBC Trust? YES
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Purpose:

The BBC Trust has requested some clarity over how the BBC is proposing releasing and managing its content beyond the public service (seven day plus series stacking) window in linear and on-demand across the UK. It builds upon the Public Service / Commercial Boundary framework - shared with the Executive Board and Trust Finance & Strategy Committee in April 2007 - and the iPlayer PVT.

This paper brings together the BBC's overall plans for content after the primary window, acting as direction and context for specific proposals (Kangaroo, public service archive, among others) that are laid out as separate papers for the Trust. The details of the archive paper were considered by the Executive Board last month and are not therefore included here, but are available on request from the Executive Unit.

Further detail on the paper is included on the next page.

Decisions required:

The Executive Board is asked to approve the approach outlined in this paper, in order to take to the BBC Trust on 19 June 2008.

Fundamental to the proposals outlined in this paper are a) editorial management controls that mitigate the risks associated with early release; and b) a business model that delivers a fair return back to public service to reflect the value generated by early release. Detail around both of these needs to be worked through and finalised before submission of this paper to the BBC Trust and will be shared with the Executive Board in advance of this.

	Name	Title
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Board Sponsor(s):	Jana Bennett Caroline Thomson	Director, BBC Vision Chief Operating Officer
Approval:	Has the paper been forwarded from another BBC Board : NO	

To:	BBC Trust
Sponsor:	Caroline Thomson, Chief Operating Officer Jana Bennett, Director, BBC Vision
Title:	BBC content beyond the primary window – an overview of proposals
Action:	FOR NOTING
Meeting:	19 June 2008
Paper No.:	T(08) xx

Purpose:

A seven day (plus series stacking) public service on-demand window was introduced as part of the iPlayer PVT. The Public Service / Commercial Boundary Framework considered by the Trust in April 2007 enshrined the principle of ‘continuous availability’¹. This paper brings together the BBC’s overall plans to deliver this principle by making content available to licence fee payers across linear and on-demand services across the UK after the primary (seven day) window; it acts as direction and context for the specific proposals that support this ambition, which are laid out as separate papers.

This paper lays out:

- How the BBC would like to make its content available to audiences, within the existing boundary framework
- The associated risks and how these will be addressed
- An overview of the proposals that support these ambitions
- How these proposals relate to the current mid term review of the BBC’s Commercial Strategy

Recommendation:

The Trust is asked to:

- Indicate their level of support to proposed approach to earlier programme release, including the editorial management model.
- Approve the proposed framework for the use of BBC archive content in public service domains. Further detail is in attached paper T (08) xx.
- Note the update on Kangaroo. Further detail is in attached paper T (08) xx.
- Note the UKTV proposal. A business case will come to the BBC Trust later in the year.
- Note the 2 Entertain proposal. A further paper will come to the Trust later in the year.

	Name	Title
Author:	Richard Halton Anna Tavares	Controller, Business Strategy Strategy Manager
Approved by Exec Sponsor:	Caroline Thomson Jana Bennett	Chief Operating Officer Director, BBC Vision

¹ “making as much ... programming easily accessible in perpetuity as possible, whether on a public service or commercial basis”

I. Introduction

In a solely linear age, the boundary between public service and commercial services was relatively simple. There was a clear distinction between the premiering and repeating of BBC content (public service networks) - allowing adequate time ('holdbacks') to nurture and protect brands from overexposure - and the repeating of BBC content on commercial channels and the merchandising of that output via DVDs and other products.

The iPlayer PVT made changes to the public service / commercial boundary in order to better meet the challenges of an on-demand age. It described a primary public service window of seven days (plus series stacking), after which point content could be made available on a public service or commercial basis.

Since that time the BBC has been working to understand how it can best realise the value and maximise availability of content in this secondary window, to meet the principle of 'continuous availability' set out in the BBC's public service boundary framework and balance public value, market impact and commercial return. We have looked at three areas:

1. How the BBC might ensure programming is available [Withheld under section 43(2)] after the primary window, without adverse impact on public services. [Withheld under section 43(2)]. This paper makes proposals for change.
2. How the BBC can maximise VFM through the commercial availability of content on demand and how it can protect its strategic interests, via the proposal for 'Kangaroo'. This paper sets out the overarching rationale for this approach and is accompanied by an update on formation of the venture.
3. How the BBC might address the limitations of a 'commercial only' approach and ensure that programming with little or no commercial value but high public service value is also made available to licence fee payers. This paper summarises these proposals which are set out in detail for approval in an accompanying paper.

The BBC is raising these issues now to ensure that we take a broad strategic approach to our position in the UK market, prior to taking individual decisions about specific proposals. For this reason the paper also reprises the BBC's proposed approach to its other UK secondary exploitation businesses, UKTV and 2E, although proposals regarding these business will not be brought to the Trust until later in the year.

The potential of the opportunities presented by on-demand and supported by the BBC's public service framework is immense. In the future, licence fee payers could have full access to the entirety of the BBC's programming library, including full programmes, clips and text, as well as multiplatform products. The ambitions of the BBC Knowledge strategy are underpinned by the availability of a range of content to audiences in perpetuity and the liberation of the BBC's archive.

This paper lays out:

- How the BBC proposes to make its content available within the existing boundary framework
- The associated risks and how these will be addressed
- An overview of the proposals that support these ambitions
- How these proposals relate to the current mid term review of the BBC's Commercial Strategy

Trustees are asked to indicate their level of support for the proposed changes, prior to final proposals being brought later in the year.

2. Content Availability

Currently, the BBC public service aims to make its content available in a way that maximises its public value through a) making content available in the initial transmission; b) delaying the release of content to the commercial sector in order to repeat on public service networks and adequately protect brands from overexposure; c) making that content available in the secondary market to better drive VFM.

This section of the paper provides an overview of the proposed changes to how content is made available to audiences and the impact of these. It takes linear and non-linear in turn.

2.1 Non-linear

		0-7 days	7-30 days	31 days - 6 months	6 months - 18 months	18 months - 5 years	5 years
On demand - current	Public Service (BBC iPlayer*)	7 day window	Limited availability (series stacking** and some archive)				
	Commercial to rent	Blackout			BBC One and Two programmes only	Plus BBC Three / Four programmes	Plus Children's programmes
	Commercial to own (DVD)	Blackout					

[Withheld under section 43(2)]

* or similar, e.g. Virgin Media catch-up service

** Series and seasons would be made available thirty days after the final episode / programme

Proposals:

- [Withheld under section 43(2)]
- All commercial content would be subject to tight public service editorial control
- More systematic use of archive content after the primary window where there is little commercial value and high public interest

Impact of the proposed changes:

- Better meets principle of 'continuous availability' [Withheld under section 43(2)]
- Ensures consistency of distribution models. [Withheld under section 43(2)]
- [Withheld under section 43(2)]
- Ensures BBC captures the value after the primary window. Demand for this content is demonstrated by the use of PVRs and piracy to access BBC content (Top Gear was the number two most pirated TV show in 2007²)
- Risks to cannibalisation of public service reach and dilution of brand credit are mitigated through introduction of tight editorial management control
- A fair return back to BBC Vision reflects the value generated by early release

[Withheld under section 43(2)]

² Based on data from download tracker Mininova

2.2 Linear

The BBC operates a programme release framework (established by the public service in consultation with BBC Worldwide, Ofcom and PACT) that supports a channel / genre-based system of 'black-outs' ('holdbacks') from first transmission, preventing programmes being aired on commercial networks for between six months and five years.

This system aimed to protect the BBC public services from cannibalisation of reach and dilution of brand credit – as well as helping to achieve value for money through repeats. However the release of 'holdbacks' for on-demand presents a number of risks to the linear commercial business model (UKTV) and, therefore, the return the BBC receives from BBC Worldwide to re-invest in public service programming.

Nonetheless it is recognised that linear continues to represent the bulk of television viewing and – therefore – the bulk of the risk. [Withheld under section 43(2)]

3. Risks

The risks arising from implementation fall into four categories. We will discuss how we propose mitigating each in turn.

[Withheld under section 43(2)].

2. The BBC needs to ensure that its commercial activities do not cannibalise its public service activities or undermine the public service brand

Under the proposals outlined above, the BBC public service (Vision and MC&A) would take complete control over the release and management of BBC in-house content in the on-demand secondary market, [Withheld under section 43(2)]. This builds on the existing arrangements in place to manage the release of content to UKTV, which are based on the established model that the BBC must retain editorial control of and accountability for the commissioning, availability and scheduling of BBC content in the UK, whether on publicly funded or commercial services. The underlying principles of this model are as follows:

- Clarity and coherence – the mix of public service / commercial content and how it is promoted should be clear and editorially coherent for audiences
- Accountability – unbroken line of editorial control and accountability to BBC Vision
- Independence and Trust – ensure audiences continue to understand the BBC's independent from commercial influence and trust our brand to be impartial
- Proportionality – commercial services should be largely based on secondary use of content
- Value for money for the licence fee – programme release should help build commercial value, deliver return to public service and improve VFM to the licence fee payer

A single point of control within BBC Vision would allow the coherent management of public service content across public service and commercial domains, ensuring consistency of release, marketing and promotion to audiences and bringing credit back to the BBC for its content. It would establish clear lines of accountability to our audiences and aim to build powerful programme brands with longevity across public service and commercial domains. [Withheld under section 43(2)].

How BBC content is branded, marketed and promoted is key to ensuring brand attribution back to the BBC in the commercial space - [Withheld under section 43(2)]. Work is underway to ensure that public service is responsible for the branding, marketing and promotion of content in Kangaroo or any other commercial ventures in order to support and bring credit back to the public service. [Withheld under section 43(2)]

3. The BBC needs to ensure that the implementation ensures value for money for licence fee payers

Early release and the editorial management model described above should be underpinned by a business model which enhances value for licence fee investment. Moving to a hybrid public service / commercial model will help ensure that the costs of 'continuous availability' to public service are more closely managed. In addition to this, the value released to the commercial sector by the public service [Withheld under section 43(2)] needs to be recognised through a fair market return back to the content groups to reinvest in public service originations. The BBC would expect the revenue negotiated for linear / non-linear with BBC Worldwide/Kangaroo/UKTV in return for earlier holdback release to be benchmarked against equivalent rates in the market to ensure it is at or above market rates.

4. External perception and negative market impact

The ambitions outlined above imply that a higher volume of BBC content will be made available to audiences in perpetuity across public service and commercial domains and the BBC is aware of the need to assess the potential for adverse market impact as a result. New proposals for programme release will be subject to market impact assessments and Fair Trading guidelines and it is imperative that the BBC supports the release of fair value into the commercial sector, in particular to independent production companies and rightsholders.

The new model for editorial management is currently under discussion with ITV and Channel 4 in relation to Kangaroo, but should be reflected in any new venture with the commercial market place. The BBC is currently working with Fair Trading in order to assess how the BBC can adhere to Fair Trading guidelines and maintain the necessary editorial jurisdiction to secure public service value. A benchmarking exercise is essential to ensure the revenue the BBC generates from any new ventures clearly demonstrate fair return and – therefore - value for the licence fee payer (see point 2 above).

4. Proposals

There are a number of projects that will enable the models of availability outlined above.

4.1 Changes to programme release model for BBC video content

[Withheld under section 43(2)]

The principles of the new editorial management model that will support early release have been agreed in principle between BBC Vision, MC&A and BBC Worldwide, with work is underway to finalise the detail. The BBC public service is currently working with WW and Fair Trading to ensure the proposals adhere to Fair Trading principles, in particular that they generate a fair return for the early release of content.

BBC Trust are asked to indicate their level of support for the proposed approach to change the programme release models in on-demand and linear. Full Fair Trading agreement is dependent on better understanding the business cases for Kangaroo and UKTV.

4.2 Public service archive

The BBC has one of the most deep and diverse archives in world media, which is currently unable to be viewed by audiences other than via occasional linear transmissions and some ad hoc availability as part of existing propositions on bbc.co.uk.

While the BBC recognises that a significant minority of its archive has commercial value and can be made available on this basis (via 'Kangaroo', as below), there is a significant proportion that is of high public value but low commercial value. The BBC has developed a framework to enable this content to be made available on a public service basis as part of the BBC's existing multiplatform propositions (the proposals for BBC Knowledge content will be demonstrated at the Trust meeting). This framework sets clear financial limits to the amount of content to be made available and represents an incremental approach within existing service licence agreements.

These proposals are set out in detail in the attached paper T (08) xx and the Trust are asked to agree these proposals today.

4.3 Kangaroo

'Kangaroo' is the proposed joint venture between BBC Worldwide, ITV and Channel 4 to make the BBC's commercially valuable archive content available on-demand to UK consumers. [Withheld under section 43(2)].

BBCWW are in the final stages of agreeing long form agreements with Channel 4 and ITV and have completed draft 4C compliance. OFT are currently considering Kangaroo and once their findings are agreed the proposal will be brought back to the Trust for full approval.

Today the Trust are asked to note the update on negotiations with OFT and Channel 4 and the latest from the OFT, attached as paper T (08) xx.

4.4 UKTV

UKTV is the BBC's 50/50 linear television joint venture with Virgin Media. [Withheld under section 43(2)]

4.5 2E

2E is BBC WW's 50/50 DVD sales joint venture with Woolworths plc [Withheld under section 43(2)].

Further to detailed consideration by BBCWW, a proposal will be brought to the BBC Trust later in the year.

5. Implications for the ongoing review of BBC Commercial Strategy

The BBC is currently conducting a mid term review of its commercial strategy in consultation with BBC Worldwide ('BBCWW') and the Trust Unit. This review is timed to reflect the changing market dynamics since the agreement of the BBC WW Five Year Plan by the BBC Trust in January 2007 and is intended to look ahead to the next charter review. The work will specifically address the overarching objectives the BBC sets BBCWW; whether the current governance framework is appropriate and robust; and recommend a clear public position for the BBC to take regarding its commercial services.

While the proposals described in this paper do relate to new BBC commercial services, we suggest that the dependency between the agreement of these proposals and the agreement of a revised commercial strategy is low. This is for three key reasons.

1. The proposals fall within the existing interpretation of the BBC's public service boundary.
2. The commercial proposals relate to 'core' BBC commercial activity, i.e. the secondary exploitation of the BBC's commissioned content in the UK market. They do not represent entry into new markets, require the purchase of third party assets or entry into new sectors.
3. As requested by the BBC Trust in their original consideration of Kangaroo, [withheld under section 43(2)]

Clearly were the BBC to impose specific restrictions on BBCWW in relation to these ventures (e.g. capping access to third part finance) this would impact on the business cases and should be reflected as risks.

The BBC plans to bring initial findings from the commercial review to the Trust later in the year.