**The Smith Institute**
The Smith Institute is an independent think tank that has been set up to look at issues which flow from the changing relationship between social values and economic imperatives.

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broadcasting

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# broadcasting

A series of four seminars held between
**April and June 2002**

Edited by Hugo Foxwood and Tony Pilch

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# Preface

The Smith Institute has been set up to look at issues which flow from the changing relationship between social values and economic imperatives.

This booklet is based on a series of four seminars held between April and June 2002 at 11 Downing Street. We have tried to reflect the debates which followed. Inevitably, in transferring live events into print, some of the colour and texture of the original debates may have been lost. We hope, however, that those who attended the seminars will recognise much of what is included here, and that those who read the booklet will respond to the issues and ideas which emerged during each event.

**Seminar 1**

# Cross-media ownership

A seminar held on Tuesday 23rd April 2002 at
**11 Downing Street, London**

Edited by Tony Pilch

# Introduction

## Wilf Stevenson

This series of four seminars looks at issues that are likely to play a part in the discussions on the forthcoming Communications Bill. It starts today with the topic of cross-media ownership, which is probably the most important issue in the series. Today's seminar comes just before the publication of the bill and therefore may still have an impact on shaping the bill. To get us started we have two academic speakers. Steven Barnett is well known as a specialist in the areas of regulation and policy. He is going to give some consideration to the evidence that has been submitted so far, but also put into his words what he thinks should be the outcome of the government's final wording on this. But we start with Gillian Doyle, who is a former equities analyst in the City turned academic, currently head of the Film and Media Studies Department at Stirling University. She has done some work for the Council of Europe on what effect the concentration of ownership in European newspapers, TV and radio broadcasting markets has on pluralism.



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## Gillian Doyle

Head of Film and Media Studies, Stirling University

The report that I did for the Council of Europe was about the effect, either positive or negative, that concentrations of ownership might have on pluralism. Pluralism is generally about diversity in the media, the presence of a number of different and independent voices of differing political opinions and representations of culture. Citizens expect and need a diversity and a plurality of media content and media sources, but the reason why the Council of Europe has taken an interest in media ownership is because it sees the need for pluralism as closely associated with the fundamental right to freedom of speech, which as you know is set out in Article 10 of the European Convention on Human Rights. If we don't have an open and pluralistic system of media provision, then the right to receive and to impart information for some individuals or groups within society might be curtailed. That's the basis and principle.

The Council of Europe has made it its business to monitor concentrations of media ownership, to analyse the consequences, and to make recommendations to its member states about different policy options to promote pluralism, including having media ownership restrictions. I'll just briefly sketch out how things stand at the moment in Europe and then talk a little bit about the UK situation.

Media Ownership in Europe

There are plenty of statistics about the levels of concentrated media ownership in the various countries of Europe. They are collected by, for example, the European Audio Visual Observatory, the Council of Europe, as well as Zenith, and so on. The general picture that comes out of looking at those statistics is as follows.

First of all, concentrations of media ownership are very common throughout Europe. No surprises there, because of course the industry does lend itself to oligopoly and monopoly, so virtually no country in Europe is without a small handful of very large and very powerful media players. In small European countries, large firms tend to dominate more easily, so if you look at some of the smallest countries in Europe – Luxembourg and Ireland – you see very high levels of press concentration. But the bigger and the wealthier markets of Europe also have produced the majority of what are unquestionably the most powerful conglomerates in Europe: Bertelsmann in Germany, Vivendi in France, Fininvest in Italy, News International in the UK. Looking across the picture in Europe there is no real sign as yet of any pan-European concentrations developing; but in recent years there has been an increasing trend towards cross-border expansion in Europe. The German and Scandinavian dominant media suppliers have, for example, been becoming very active in the countries of central and eastern Europe.

Of course, new competition in those eastern European countries is actually helping to open up markets in those countries, so the situation is generally one of pretty high and increasing levels of concentrated ownership. However, in parts of eastern and central Europe, the opposite trend is still evident, where the move from the old state monopolies to more competitive and more pluralistic markets is still taking place.

Data collected by the Council of Europe suggests that the arrival of new avenues for the delivery of media digital television hasn't really changed the situation because, so far anyway, it's generally existing large media owners that have been dominating the development of new media. Large established media conglomerates – for example, Time Warner – and large telecoms operators have tended to be the big investors in new media and in the most popular internet media services. So the large players have been migrating to new platforms and, despite more avenues, some of the same old voices are continuing to predominate.

### Effects of Concentrated Media Ownership

What's wrong with concentrated media ownership? Naturally enough, alarm bells do begin to ring when you have large commercial firms that accumulate too much control over the media. I think the main perceived danger is that excessive concentration of media ownership can lead to over-representation of certain points of view, certain political viewpoints, certain values or certain forms of cultural output that happen to be favoured by dominant media owners, whether on commercial or ideological grounds, at the expense of other points of view or other representations of culture, and so on.





But the question of what impact large media owners have on the collective good of society is complex. We all want the benefits associated with having very large, strong, indigenous media players, and concentrations can sometimes, under certain circumstances, contribute positively to product diversity. For instance, if the cost efficiencies that are available to a large publisher allow it to invest more in new product launches, that helps diversity and it helps to promote pluralism.

So it's a kind of contradictory picture, but concentrations of media ownership are often damaging for pluralism – that's the point I would emphasise. In the worst cases we have media owners that use their products to propagate their own political views. My report for the Council of Europe cites a number of well known European examples. Hersant in France, Berlusconi in Italy and, I'm afraid, Murdoch in the UK. It's a serious problem for democracy when you end up with certain viewpoints that are persistently over-represented and others that are excluded, and that's what it's all about.

Theoretically it should be possible to distinguish between ownership of media and control over its content. The content of broadcast is regulated, and in some cases in the press sector you can have regulations and interventions such as editorial agreements that help to create a measure of separation between ownership and control of content. But in reality, whatever measures you have in place, media owners who want to will find ways to assert an indirect influence over the content and the agenda of the products that they own. The risk of interference is always present. Even though many media owners, many UK media owners, are not interested in exerting any influence over content, media ownership always can translate into media power. Because of that risk, media empire-building needs to be watched and needs to be restricted.

Large media groups will sometimes contribute to standardisation of output because of economic rather than political imperatives. We have a lot of examples in Europe – in the UK, in Sweden, in Belgium and elsewhere – of concentrated press groups that streamline their news-gathering activities, and do so by recycling journalistic content between supposedly different titles so as to derive economies of scale and economies of scope. So the standardisation of output that occurs because of concentrated media ownership is not always politically motivated.

Sometimes large media players simply squeeze smaller suppliers out of the market. The European experience shows that competition from very big media concentrations can result in the demise of existing products. There are recent examples in both in Cyprus and Poland of daily papers being squeezed out of the market by large groups. So concentrations of media ownership are often harmful for pluralism, and that's why they need to be regulated.

## Rules on Media Ownership

Media ownership rules are not necessarily the only means of promoting pluralism; and they may not be sufficient to guarantee diverse media content. None-the-less, the presence of a diversity of owners is better than none, even if, for example, all the media owners choose to rely on the same sources of content. If we want pluralism, diverse ownership of the main avenues through which ideas are conveyed to the public is essential. Virtually every country in Europe has special rules on media and cross-media ownership, and they were summarised very well in the recent consultation document from the DCMS.

As for press ownership in the UK, our two largest suppliers of daily newspapers have in excess of 60% of the national newspaper market between them. This level of concentration is very worrying by international standards and by historic standards also. Comparisons between Britain and other European countries in the broadcasting field are a little bit more difficult because of the different state of play of technology in different countries, and things are pretty much in flux. But if the proposed deregulation of ITV and also of the commercial radio sector goes ahead, I think it would be fair to say that the UK will then top the polls, certainly in terms of concentrated ownership in the television and radio sectors.

## Synergies

If you look at the media ownership rules from a purely economic point of view, it is desirable that companies operating in the communications sector are not unduly restrained from enjoying natural economies of scale and economies of scope in the industry. But on the other hand, media companies that become too large or too dominant are just as prone to anti-competitive behaviour as companies in other sectors, and just as prone to so-called "X-inefficiencies" as companies in other sectors, and there are plenty of examples of that. So purely on economic grounds, there will be an argument





for having sector-specific ownership restraints.

As far as cross-media ownership is concerned, there is plenty of evidence that several combinations of cross-sectorial ownership can result in very worth-while synergies, very important gains. But one or two of the core assumptions that have been made about diversification and its economic benefits definitely deserve much more rigorous scrutiny than they have had from our policy makers so far.

For example, despite presumed synergies, there is very little hard evidence that cross-ownership of television broadcasting plus newspaper publishing will automatically result in a more efficient use of resources. Except in cases where there is a shared niche or a shared content specialism, owning television broadcasting plus newspaper publishing is unlikely, of itself, to bring about any major operational synergies. In fact, the main benefit of cross-owning broadcasting plus newspapers often boils down to the ability to cross-promote products, and whether that constitutes an economic benefit really is questionable. If it leads to new product innovations and to a bigger diversity of products, then great; if it leads to a domination of existing products, then not so good. So really not much has been put forward in the UK or throughout the rest of Europe as to why, on purely economic grounds, cross-ownership of the press plus broadcasting needs to be deregulated.

Comparing the performance of UK media companies with those in other European countries, there isn't much sign that the existing restrictions have actually held back the development of UK players. Britain certainly has its fair share of large and fundamentally successful media companies and, relative to our European counterparts, Britain's audiovisual sector has outperformed most in terms of our international balance of trade.

## Conclusion

In any case, the reason for having rules on media ownership is not about economics: It is about safeguarding and protecting democracy. I have said that levels of monopolisation in the UK's national newspaper industry are already very high; they are already what many people would consider unacceptably high. So if pluralism is a genuine policy objective, then the next step should surely be to strengthen rather than relax ownership rules.

If you look overseas, governments in virtually every other European country, as well as the United States and Australia, have all been prepared to write off whatever economic opportunity cost might go along with restricting media ownership because of their belief in the overriding importance of preserving a diverse and pluralistic system of media provision. There have been one or two countries that have failed to regulate media ownership adequately, and we don't have to look any further than Italy to see the disastrous consequences that can ensue. So I think it is very important that in Britain we don't lose sight of what media ownership rules are supposed to be about.





## Steven Barnett

Professor of Communications, Westminster University

My job is to be a bit more parochial than Gillian, although some of the points inevitably are going to overlap. I think this issue more than any other around the Communications Bill encapsulates the tension that has run through the whole of the white paper. The tension is: do we treat the media as an industry in which competing corporations should be encouraged to expand and invest with a minimum of regulatory interference, or do we treat it as the most vital component of Britain's democratic and creative health, where encouragement of diversity and pluralism is more important than size?

In its consultation document on media ownership, the government says its task is to find a middle ground that safeguards both competition and democracy. It wants to encourage a dynamic market while guaranteeing plurality and diversity. I have to say that I'm not convinced that a middle ground actually exists. If you read the responses to the government paper – and my eyes have been glued to my computer screen over the past week trying to do just that – the vast majority prioritise either deregulation or pluralism, and I am sure the bill, when it's published, will be seen in that light.

What I wanted to try and do is to elaborate on those two key issues with reference to the UK and what I believe the guiding principle for legislation ought to be. Then I'll look briefly at the options that are laid out in the consultation paper on ownership and the one that I think offers the best way forward.

### Historical Context

Concerns about cross-ownership are as old as commercial television itself, and the deregulatory environment has traditionally been laid down by Conservative governments. The Pilkington Committee in 1962 talked about the threat of an excessive concentration of power to influence and persuade public opinion; 26 years later, in 1988, it was the reforming Thatcher government that endorsed the principle of statutory separation of the media in its  a white paper that said: "With the greater choice in variety that lies ahead, the government is determined that ownership in the independent sector should be widely spread." It called for clear rules "… to prevent any tendency towards editorial uniformity or domination by a few groups".

The Major government's 1996 proposals contained what I think is still the most eloquent expression to date on the media's democratic and cultural contribution. While recognising the need for a multiplicity of voices and opinions, it talked about the media's role in promoting a culture of dissent and in contributing to the cultural fabric of the nation. The introductory chapter of that document is well worth reading.

### Ownership and Uniformity

Both the 1988 and 1996 statements of policy embody a crucial principle, which I think may have become slightly obscured in the current government paper. The issue of ownership is about much more than the risk of political bias in the presentation of news and current affairs: it is, as Gillian touched on, about uniformity of approach. In many of the responses to the consultation paper, and I'll pick out in particular *The Daily Mail*, BSkyB and the ITC, the issue of editorial bias was reduced essentially to concerns about news and current affairs. Such an emphasis leads to the natural conclusion that all you need, in the words of BSkyB's evidence, is "to tighten the impartiality rules to reassure people about any undesirable impacts of concentrated ownership".

That misses the point. The problem is that individuals and even corporations have a view of the world that impacts on their creative products. That's why this industry is different from cars or baked beans; and that's why the competition law is simply not the way to deal with it. They have an impact on the way people think, the quality of the information they have access to, people's passions, aspirations and fears, as well as how they vote. And the distinction that the consultation paper makes between pluralism on the one hand and competition on the other may be conceptually neat and even intellectually neat, but in practice the lines are much more blurred. I think that distinction may have actually done us a disfavour.

Just to take one example: the *Express* newspapers run by Trafalgar House were different from those run by Clive Hollick in ways that went far beyond differences of political opinion. They are different again under Richard Desmond – not, this time, for any obvious political shift, but in terms of the editorial decisions about the kinds of stories that are in or out; the kinds of journalists that are hired; where the editorial budgets go; and how they deal with Northern and Shell's corporate interests.





The same goes for television stations. As anyone who has read William Shawcross's book on Murdoch will appreciate, the Fox Network in America is a recognisably Murdoch channel, just as Channel 5 would become if BSkyB were allowed to own it. A TV station run by Richard Desmond would be different again, even if it was only in its approach to the representation of Asian women!

Editorial decisions will favour the owner's priorities and business interests. You won't get an exposé on a Sky-owned channel or in the *Sun* about corruption in the Premier League; just as you won't get a pro-euro story in *The Telegraph*, or a documentary on ABC in America about paedophiles being employed at Disneyland theme parks.

So I take issue with Andersen in its evidence when says: "The historic link between ownership and influence on content has not survived in a strong form." This is not about politics but about preventing the overweening domination of a small number of world or corporate views, and about appreciating the need for as many conflicting, dissonant views as possible.

### Ownership and Competition

Now Gillian has given us the contrary arguments, and I think it is important to spell them out because the business arguments work in precisely the opposite direction. That doesn't make them any less legitimate; it just means that they are working in another way.

The economics of technology convergence promotes a more concentrated market and higher barriers to market entry for small companies. As the mega-mergers and consolidations of the last ten years have demonstrated, a few large multi-task companies have a better chance of survival and healthy profits because information can be recycled and products cross-promoted, and, in the light of yesterday's events,[1] that is not an objective that should be sniffed at. What appears on the surface to be a wide range of print, radio, television or online sources actually becomes, in content terms, a more limited choice provided by a few big owners.

1 Taurus filed for insolvency on 22nd April 2002

Proponents of the business and competition arguments are understandably concerned about the impact of regulating corporate expansion: holding back growth; reducing the scope for investment; fewer jobs being created; less competitive companies in a world dominated by big international players. These are all legitimate and important concerns. We can have a debate about the economic importance of trying to create a British global communications champion – I personally think that the importance of such an entity is greatly overstated, others I know think it is very important.

The crucial issue to my mind is that in the hierarchy of priorities it seems axiomatic that those legitimate business arguments are a lower audit concern than the need to protect a multiplicity of voices. Once you have deregulated, you cannot go back.

## Policy Implications

I've talked about the principles but not about the practical implications: what exactly does this mean for those next door grappling with the last piece of the Communication Bill's jigsaw? I think it means that the current rule, which limits owners to significant shares of a single national media market, is still the right one, although I do think more flexibility can be built in at the local level. The current rules, which take established share of market measures, have provided certainty and stability and have proved workable. Of all the proposals in the consultation paper I think the closest to what we have now – the sector-specific limits of 40% in one market, 30% in two, or 20% in three – is perhaps the most promising, but the thresholds would need to be reduced to something more like 10%, 20% and 40%. The limits then are clear, measurement is objective, and there is no room for ambiguity or the kind of intense lobbying on OFCOM for favourable treatment that we are bound to see in other areas, most obviously content regulation.

Most importantly the decision stays where it belongs in a democracy – with parliament. The only provision I would add, along with BBC and Channel 4 submissions, is that platform ownership must be brought into the ownership regime as another form of media because of the power of platform owners to determine the terms on which their competitors are allowed to compete.

By contrast, subjective options such as plurality tests, permeable thresholds or public interest tests to be determined by OFCOM are woolly, ambiguous and unpredictable. The same goes for Scottish Media Group's idea of prime media assets, the communications equivalent of listed events. Who decides what should be a prime media asset, on what basis, and what's the process of delisting or listing? Can it really be right that the same value is to be allocated, according to Scottish Media Group's list, to Talk Sport as to the whole of BSkyB's digital platform for *The Daily Mirror*?





Share of voice calculations sound great until you get into detailed questions about media exchange rates. How on earth can you compare the impact of TV or radio or newspapers or online? It is a methodological nonsense and it just doesn't work.

All these ideas are compromises, all are messy; but the least messy is the one that we currently have.

I'll end with one point that neither of us has mentioned and I am sure is going to be raised, which is that much of the momentum for change comes from the rhetoric about converging technologies, with assumptions being made about consumer behaviour. I suspect that the world of convergence looks rather different today than it did even a year ago. The fact is we are not reading newspapers on the net by and large; we are not watching TV on our computers; and we are not listening to radio on our mobile phones, even though the technology may allow us to. Perhaps this will change over time, perhaps not. It is not a valid excuse for chucking out the structures designed to protect us from editorial uniformity. If there is one useful function that perhaps OFCOM could perform in this area, it is to monitor any changes in consumer behaviour and then to advise on whether we need any radical changes in the ownership regime. At the moment the notion of convergence on the ground, as opposed to technology, is simply not happening.

To conclude: the twin aims, to quote the consultation paper, of freedom to be at the heart of media convergence and expansion on the one hand, and the need to uphold our democratic principles on the other, are obviously not totally incompatible; but where they are, and this is Channel 4's submission which I think sums up the problem, the government should make clear that, as a matter of policy, it will favour democracy over commercial freedom.

## Discussion

*Peter Bottomley MP, All-Party Parliamentary Media Group*
Can I just contribute three thoughts? The first is that parliament and government cannot be trusted on detail. The best example of that was the takeover of *The Sunday Times*, where virtually everyone followed like sheep when John Biffen, for one reason or another, didn't make the reference which by law he had to make. So don't look on parliament as the protector on detail. They may be that on policy, but not on detail because of the power of government and influences on them.

My second point is that I think we ought to recognise the problems of success. Again, sticking to News International, I don't think they have bought a profitable paper in this country except for *The Sunday Times*, and yet they have built themselves up. One could argue the same thing about the way the success of the *Mail* Papers has worked. There are problems with saying to people: if you do well, we are going to jump on you hard. We need to reward success.

Linked to that is what you might call the problems of survival. *The Guardian* was in a position to take over *The Observer* because *The Guardian* was surviving. Whoever may be looking at *On Digital* can look at it because they are survivors and are able to help move these things forward.

My last, rather different point is that we ought to recognise the mobility of successful editors and chief executives. One sees it if one looks through the career paths or jobs of, say, Greg Dyke, and in some newspapers you see the same kind of thing. One needs at least to have that in mind. It's not a way of resolving the issues facing government and parliament and the people, but there is a mobility not just of ownership but also of those owners who want to make a greater success of what they are involved in.

*Jocelyn Hay, Chair, Voice of the Listener and Viewer*
I was very glad to hear the emphasis on the aspect of democracy. However, I would like to pick up on a comment of Steve Barnett's, where in relation to media ownership he said there should be more flexibility – or suggested there might be more flexibility – at local level. We were concerned in the last Act to see that the levels of concentrated ownership in the regions were actually higher than in the UK as a whole for the national papers. If you happen to live in Scotland, as my parents-in-law did, your national newspaper could be *The Scotsman* or *The Herald*, and if your television and radio stations are owned by the same company, then it's a pretty powerful force that you are contending with. I would like some comment on that.

*Response: Gillian Doyle*
I agree. The way that media ownership rules are set at the moment is by reference to a share of the national UK market. If you happen to be in Scotland, then that doesn't necessarily seem like a particularly effective benchmark; and if you happen to live in Glasgow, you will find that your local TV company also owns the dominant newspaper. That is an issue and I think the rules could be more effective.

*Jocelyn Hay*
This applies also to Wales and Northern Ireland.

*Response: Gillian Doyle*
In response to Peter Bottomley, I think there is a great risk associated with having public interest tests that involve a discretionary element that's left up to politicians, whose career depends on having a good relationship with the media. Obviously that's problematic, so it's better to have clear-cut rules. I also take the point about the problem of penalising success. You just have to hope that indigenous media managers in the UK will flourish and represent a vital entrepreneurial force and therefore create the level of competition that everybody wants to see, but I take the point.

*Response: Steven Barnett*
Just picking up Peter's points first, I think he is absolutely right. There is a danger of penalising success, and it's a very difficult balance to get right. The problem is that successful media companies breed further success, and they gather momentum. I do think it is legitimate to have a point at which democracies say thus far and no further. I think that's different from penalising. I think you can legitimately say there are limits to the growth that is acceptable within a democracy, without saying we are actually going to penalise you.

The other point was about discretionary decisions by governments. The point that I was trying to get across is that I think it needs to be up to parliament to legislate for where the limits, the limits on cross-ownership or media ownership in general, need to lie; again I think that's different from individual discretionary decisions. You are absolutely right that it is very dangerous to allow government or individual ministers, as opposed to parliament, to make decisions about particular mergers or takeovers or whatever within the media industry. There are other examples like the one you gave, but I am talking about the need for parliament to lay down the rules by which media acquisitions and media growth should be limited.

On Jocelyn's point, I'm just thinking on my feet for a minute. It might be possible to draw a distinction between ownership at the local level and ownership at the regional level, which is actually what you are talking about. Given the move towards devolution and separate parliaments, I do think there is a case to be made, and I'm not sure it is made anywhere in this paper. Within wider regional areas we need to look very carefully at ownership regimes that mimic more closely the national regimes than perhaps the local regimes. I think at the more local level there are real issues, and I think this point was made quite articulately in *The Daily Mail*'s submission: there are real issues about allowing larger companies that want to invest at the local level the flexibility to do so, given that most people's information and most people's absorption of the cultural mêlée tends to be dominated by the national rather than the local media.

*Jocelyn Hay*
When we discussed that point with the civil servants in London, it came out that it was a London-centric view. They said there are six or seven national papers and we cannot legislate which national papers people read. They did not realise that the national paper for people living in Glasgow is *The Herald*, or in Edinburgh it is often *The Scotsman*. That was the point that we were trying to make: it was a totally London-centric view.

*Nigel Walmsley, Carlton Communications Plc*
I know that the heart of this discussion is about cross-media but I want to broaden it just a little bit, picking up a phrase I think I understood from Steven, which is "we've sort of got the tramlines about right now: be careful





before we meddle with them", and linking it to the concept of "there's a certain amount of bigness which is okay; when you get bigger than that, then the warning lights ought to flash".

Should we take those sentiments to apply to the BBC as well as to the rest of broadcasting? We have a situation today where the BBC is larger than any other commercial broadcaster, in any medium; and under the laws of today no commercial broadcaster however benign, gifted, talented, successful, well-resourced, whatever words you want to use, would be allowed by the law of the land to achieve any comparable status with that of the BBC. Is that right? If so, then we are testing the concept of bigness. Is there more than one kind of bigness that we are living with? And is there a slightly hypocritical inconsistency between all the standards that we are bringing to bear?

*Alison Clark, News International*
The first speaker made a lot of generalisations and comments such as those about Mr Murdoch and political intervention in the UK. I would be very interested for you to give me an example of where you think his personal political positions have been reflected in the papers. I don't know whether you know him personally, or have any idea what his personal political positions are on issues, but I would be interested to have some examples of that.

I was also interested in what you said about there being no synergies. Maybe if you think back to the late 1980s and the launch of Sky, do you not think there were enough synergies there with a company like News International as an established player in the British market launching a new TV station which brought choice into the UK? Were there no synergies there? Are there not synergies in the management of creativity? People who manage creativity in one media clearly must be better at managing it in another than perhaps somebody who makes washing machines. I would just be interested in some views on that.

Also, picking up on Jocelyn's point, I am finding it difficult to understand why cross-media ownership is more acceptable in the UK local market, where there is more concentration, than at a national level.

*Lord Gordon Borrie, Chairman, Advertising Standards Authority*
I just wanted to take up the point that Peter Bottomley made earlier about *The Sunday Times* takeover in 1981. Surely the problem there was that the power was in the hands of the ministers – John Biffen, as Peter Bottomley said – to determine that *The Sunday Times* was not viable and therefore virtually had to be taken over. That extraordinary decision was the ministerial one to which he referred. If that preliminary decision had been left to the Monopolies Commission – now called the Competition Commission – instead of their only being able to get hold of the subject if the matter was referred to them, then the matter would have been determined by an independent body. Given that the Enterprise Bill gives greater discretion to the competition authorities and involves less political interference, that minor change could be quite useful.

In response to Steven Barnett's points that when weighing democracy against investment and business opportunities we should come down on the side of democracy, it seems to me that when this conflict arises in individual cases of mergers or takeovers, then again the Competition Commission can quite adequately deal with that, just as they do in the rather less important field, which is what they do deal with most of the time, which is local changes of ownership of the something or other *Herald* in the south-west corner of the country. But I do think they are perfectly capable of weighing up different public interest issues, in this case competition versus the need for diversity and preservation of pluralism.

*Chris Bryant MP, Culture Select Committee*
I think I would be convinced about Rupert Murdoch not having any political views that are ever shown anywhere when HarperCollins produces a really good book on human rights in China. Or for that matter a biography on Pinochet, which was my idea a couple of years ago and never came to pass.

But the really important issues we need to face at the moment are about democracy and making sure that we preserve the British ideal of journalistic independence in television and radio news broadcasting, which isn't necessarily shared in many other European countries, in particular Italy. There is always the problem of Rye's views where one channel belonged to the Communists, one to the Socialists and one to the Christian Democrats and so on. That was then translated into the Berlusconi ideal of: "Well, in that case I need to have a channel as well."

But the issue that really worries me is about vertical integration, and I think Steve Barnett was right to raise the question of whether platform ownership should be brought into the cross-media ownership rules. In the select committee's hearings over in the United States recently, what has come across more and more convincingly is that if you have large parts of the country where a single platform operator has a monopoly, because cable or digital terrestrial television is going to be unavailable, then it is absolutely essential, if you are going to try and maintain any kind of plurality of voice and open access for broadcasters to audiences and audiences to broadcasters, that you do regulate the vertical integration where different parts of the value chain are tied so elementally together.

*Roger Graef, Managing Director, Films for Record*
I suppose for the purpose of this argument I should denounce myself as a former News International Professor at Oxford, as having been published by HarperCollins, and working a great deal for ITV whenever I possibly can, and certainly successfully for Granada for a number of years.

Why I say that is because the reason Granada paid for so many wonderful programmes is that they had to. Robert Fraser explained to us when we were trying to create Channel 4 at the time, and pushing for more standards not less, that he had to be very careful with the commercial interests of ITV companies. It had taken him something like five years to get *News at Ten* in at ten o'clock and not earlier than that. And he was terribly worried. At that point ITV was making about 25% return on capital. The idea that somehow you could separate culture from commerce is wrong, and the BBC has demonstrated that. I think Nigel is being slightly disingenuous by simply saying the BBC is too big by these standards. The BBC is doing another job. Where I think he is right, and where the BBC is in a sense creating a trap for itself, is over its use of its large position in ways that look like it's a commercial company. I think, to that extent, it plays into the hands of its critics.

So the notion is perfectly proper that culture and democracy and these plural voices need to be defended, to be separated from commerce, and balanced, as I think ITV managed in its most glorious years. We've done it for a long time, and anyone learning the lesson of American regionalism, let alone its national coverage, can see that there is only one baron who owns the town and the city. They can see whether that's good for democracy. That's why I live in England.

*Response: Steven Barnett*

I'll start with Nigel's point about the BBC and "hypocritical inconsistency", which I thought was a fair summary of the dangers. Roger sort of summed it up that the BBC is playing a different game. It doesn't come from a particular set of corporate interests. It doesn't have a world view, as anyone can see who knows the various people who run the different baronies within the BBC. It comes from many different perspectives, and I think that was probably more true under Greg Dyke than it had been for some time.

I do think – and again I suppose this is reinforcing Roger's point – that there is a danger that the BBC is being driven – externally rather than internally – to make more commercial competitive use of its own assets and products. That stems from ten years ago from various select committee pronouncements that it should be encouraged to be more commercial. I think there is government and parliamentary schizophrenia about quite how commercial the BBC should be, let alone internal BBC schizophrenia. So I think we need to be a bit careful about blaming the BBC for being a little too powerful, when it is actually doing what it's been asked to do by parliament and by successive governments.

In response to Lord Borrie's point, the Competition Commission, as I understand it, exists to promote efficiency and competition between corporations. It's designed to promote economic efficiency. Can it weigh up the public interest in an area that is really not comparable with car manufacturing or the financial services industry or any other kinds of companies? I think we are talking about a different order of magnitude, a different kind of concept altogether, which requires different kinds of public interest tests and different understandings of the tensions that are at stake. And ultimately I think that's something that needs to lie with parliament rather than with an appointed commission.





*Response: Gillian Doyle*

I'll just take up that point as well about competition. The competition authorities can and do play an important part in promoting diversity and competition and rivalry, and therefore they help to promote pluralism. However, there is a distinction between concerns about competition and about pluralism. You can have a situation where you have a market where there are no concerns about competition but there are still concerns about pluralism. In some instances, the fact that a monopolised market is contestable theoretically means that you don't have competition concerns. But for pluralism you do need the actual presence of a diversity of suppliers and different voices. There is a tendency for competition interventions to involve behavioural rather than structural remedies and there is a tendency to take a case-by-case approach, so that leads you into the possibility of ministerial discretion being called upon and so on. I think we do need to keep a clear distinction between pluralism and competition, albeit that promoting competition is important to the objective of maintaining pluralism.

On Chris's point about vertical integration and so on, it's true that vertical monopolies ought also to be monitored and examined for their impact on pluralism, and they can have a significant impact. In fact, the competition authorities have actually made effective interventions on that front in relation to gatekeeper monopolies, and trying to regulate the behaviour where I suppose the monopolies were necessary.

Going back to Alison's point, I understand where you are coming from as an employee of News International. You are taking issue with whether or not Rupert Murdoch interferes with the editorial line of his newspapers. There are many academics – not myself I have to say – who have done plenty of research in this area, and there is a bibliography at the back of my report for the Council of Europe. I could draw your attention to the work of James Curran, or I could drawn your attention to Chris Bryant's remarks, or even to Andrew Neil's book – there is plenty of evidence about.

You also raised a point about synergies between television and newspapers. I think there has been quite a lot of hype about synergy between these sectors, but in reality I think it is undeniably the case that your own organisation tends to run its newspaper enterprises quite separately from its television.

If there were great synergies I don't know why they wouldn't be operating hand in hand.

On the BBC, I think it is absolutely right that as the BBC becomes a more and more important player in the market you do need to ask whether the size of this organisation needs to be taken into account. Interestingly the UK rules have been in a bit of a muddle about that: in the radio sector there are measures that include the BBC's audience share within ownership restraints but not in television, and it's not clear why. However, as a public service broadcaster the BBC subscribes to are values that again contribute to pluralism. So I'm afraid the counter-argument would be that the BBC is about universality and about inclusion, and that it has a commitment to quality and diversity. To some extent that alleviates concerns about its growth in the context of the wider market.

*Denise Kingsmill CBE, Deputy Chairman, Competition Commission*
In relation to the competition issue, as far as newspaper mergers are concerned, we do take into account more than simple economic factors. For instance we take into account editorial freedom, and this came up in a recent case that I dealt with when *The Belfast Telegraph* was being bought by Independent Newspapers. We held a public hearing in Northern Ireland in Belfast, and there was considerable interest from the political community, MPs of every kind were there, and the issues that they wanted to talk about were those of editorial freedom and not the economic issues. So as far as newspaper mergers are concerned, we currently take these other factors into account.

What is interesting is that we don't take those things into account in mergers of other media outlets, and one might ask why that is the case. There is also the Enterprise Bill, and one has to remember again with the Enterprise Bill that the media mergers are ones where it is likely that we will not be determinative, or we are less likely to be determinative, and that ministers are likely to retain some control in relation to the final decisions there.

*Response: Wilf Stevenson*
Steve posed the point that there is a different order of magnitude involving issues to do with culture in general terms, as opposed to economic issues. Do you accept that there is that difference, or are you really saying that actually history has shown that you can deal with such broad and diverse points?

*Denise Kingsmill CBE*
Certainly in relation to the newspaper mergers, we have routinely taken those into account. In line with our normal procedures we take account of everybody's views, and we weigh up the public interest in relation to those particular issues. We pay particular attention to what the editorial staff of the newspapers think about the likelihood of them being able to continue expressing their views.

I have to say, in the particular example I gave you, that Independent Newspapers were very keen to say that they were not in the slightest bit interested in influencing the editorial content because *The Belfast Telegraph* was such a successful newspaper. As such it was a sort of rich cash cow, putting forward the viewpoint that it did put forward, and they had no particular interest in changing that position, notwithstanding the personal views of the owner of Independent Newspapers.

*Richard Price, Digital Classics TV*
Artsworld and ourselves came on the scene about two years ago, providing arts broadcasting across the country on the Sky platform. Then BBC4 arrived with the BBC's huge elephantine ability to cross-promote all its work. As a result, it reduced the amount of arts programming on the mainstream BBC1 and BBC2 channels to very small amounts. I would have very much liked to have been able to take the BBC to the Monopolies Commission before we ended with a situation where we are being gently squashed by the huge size of the BBC. I think we ought to be able to see some way round this sort of problem. Even Chris Smith said before BBC4 was approved that he didn't want the BBC to be out there directly competing with the sort of things we were doing. The government changed its mind. I would have liked to have been able to see a little more representation to allow us to have proper competition for both Artsworld and ourselves.

*Colin Stanbridge, Managing Director, Carlton Broadcasting*
Just to take the point about the BBC, having worked for both organisations I find it interesting that the academics both take the view "Oh well, it's the

BBC, it's public service broadcasting, let's take it out of the equation." Well you can't take it out of the equation. In my daily life in broadcasting it is the competitor – 25% share on BBC1, 10-12% share on BBC2, and then you throw in Channel 4 with 10% – that sort of plurality is an everyday factor, and it distorts the whole way one views the issue of plurality in the English broadcasting market. The point is that if you compare BBC1 and ITV, the plurality you're getting is on ITV: it's ITV that does *Bob and Rose*, it's ITV that does *Othello*, it's ITV that does *Bloody Sunday*, it's ITV that does *The Forsythe Saga*. Those sorts of factors need to be taken into consideration, rather than just saying "Oh well, it's the BBC and therefore we'll just allow it to do what it wants because of its history and its size".

*Ray Gallagher, Director of Public Affairs, British Sky Broadcasting Limited*
I would like just to go back to first principles for a moment. Gillian referred to the basis of concern being the right of individuals to receive and impart information, and Steve also talked about protecting the multiplicity of voices being the top priority. It seems to me that there is more ability for individuals and groups to express themselves through various media today than ever before in the history of mass communication; even in the most totalitarian states they couldn't stifle alternative voices. Here we have democratic states with this vast range of media available, and I am interested in a little reality test to see if there is a true belief about a problem of less ability to enter the market and express voices today.

Just taking the example of broadcasting in the UK, when Sky originally pioneered the platform there were the dominant voices of the BBC, ITV and Channel 4. There are now dozens of entrants in the market on an open platform that is regulated in terms of fair, reasonable, non-discriminatory access, including conditional access in electronic programme guides. This gives the opportunity for the Artsworlds and Digital Classics and dozens of others to come into the market, and the total market share of Sky's own broadcast channels is about 6% of all UK viewing. So I would be interested in comments on that.

Also, we now have a 13-year track record of running, say, Sky News, which has never had any indication whatsoever of editorial interference from the proprietor.





*Tom Gutteridge, Managing Director, Mentorn Barraclough Carey*
I'm an independent producer. I really think that we should be careful not to confuse concerns about political bias, which are clearly real, with our desire for diversity of content. The two things are not related in our view.

If you take Gillian's example of Fox in the US, Fox is actually an excellent network and transformed American television from the moment it first went on air. We actually need a Fox in the UK as producers. The sort of output, the sort of editorial stance its commissioning editors take, is precisely the sort we could do with here. I think the production community would actually, ironically, welcome a takeover of Channel 5 by News International if it resulted in a Fox Television on Channel 5 in the UK.

Consider the example of Disney owning ABC: the effect of Disney on ABC is not to protect Disney's interest per se, it's actually to do with the particular slant that ABC's commissioning structure now has, which is all to do with feel-good and family. It is actually affecting its ratings hugely; and commissioning agents at ABC – and I make programmes for ABC – look with great envy at what NBC can now do which they are prevented from doing because Disney's lawyers and Disney's control of the ABC network says, "this is going to be an American family network in keeping with the Disney ethic". Now that is not per se about political bias, but it is relevant to concerns about diversity.

On competition law, I wonder whether it actually can, in any sense, effectively help diversity of content. We know that, for example, the independent sector is not currently protected by competition law in its relationship with broadcasters in terms of the rights that broadcasters are allowed. Now this may be the old independent hobby horse, but it is relevant. When you say, "let's suppose that News International were allowed to purchase Channel 5", I believe we would still have exactly the same problems gaining access to that network that we currently have getting access to the other networks. Control of rights of intellectual property will remain the same as long as competition law fails to have a proper definition for the broadcasting sector of what they call "market abuse". It's all down to the definition of the word "market", and as long as you are defining "market" as the global reach of Sky or newspapers, then that fails to understand fundamentally what is going on in terms of broadcasting content. When you have a channel that sets itself up with a certain target and a certain ethic – be it ABC, Fox, BBC1 or BBC2 – then that is a single market which we as content providers are seeking to provide programming for, whereas the Competition Commission and OFT perceive the market as the global entity, and I think there is a problem there.

*Susannah Simons, Classic FM*
I'm just concerned that the academics, when they are talking about the democratic debate, are limiting the idea of democracy only to a debate about news and current affairs within our media. To pick up on a point made earlier, surely you have to include culture in its broader sense, which means access to the arts. Various people have talked about what it is that ITV is doing; the role of companies like *Artsworld*; and if I look at what Classic FM has done, it has increased access to the arts and culture of this country in a much broader sense than the BBC has ever done. So if you look at democracy in a broad sense, then actually that's coming from the commercial sector. You can't define access to democracy only in terms of concern about news and current affairs. I think there is a danger that that is happening.

*Gerry Morrissey, Assistant General Secretary, BECTU*
Consider what the most recent regulation delivered in relation to concentration of ownership inside ITV. Initially there were 15 companies, but with a couple of exceptions we have now got two companies dominating the network. Because of the current position with ITV Digital, this has now affected not just a couple of companies but the whole of the network in relation to programme budgets and so on. Therefore that is an argument against further concentration of ownership. If there are economic problems later then it has a much wider effect than if there was a greater diversity.

In relation to the point Ray makes in respect of BSkyB, yes, BSkyB has been around for 13 years. However, throughout this period, and even in the recent consultation, they have continually opposed any increase in regulation. Content regulation inside BSkyB giving a level playing field would do so much for the independent production market in the UK, but they have continually opposed that.





*Response: Gillian Doyle*
Yes, I think a good point has been made, perhaps not for the first time, that the avenues for delivery of media content have multiplied so that there is no problem with access, but I think it is important to remember that pluralism is not about diversity of products per se. It is partly that, but it is really about diversity of voices. We may be getting more and more avenues and more magazines, more internet sites etc, but the point is: who owns the most popular avenues for conveying ideas to the public? I think there still will be a case for monitoring that and restricting levels of ownership.

A number of you are taking issue with the BBC, and I think that is very understandable. The BBC is very well resourced, very good at what it does and of course the envy of the rest of the world. It is tough if you have to compete against an organisation that happens to have as many things going for it as the BBC, but I think, Susanna, Classic FM in a way is an example of how it can be done successfully. We had Radio 3 with what, 1% or 2% of the audience before you came along? You had a budget that was minuscule compared to Radio 3's, and without wishing to make a great advertisement, you have done a tremendous job of creating a niche and finding a gap in that market. I think perhaps we might go back to Peter's point about penalising success. The BBC is very good at what it does, so inevitably the downside of that for rivals is that it is a tough competitor that keeps you on your toes. From the point of view of viewers and listeners, I am not sure that we are disadvantaged by the strength of the BBC.

*Response: Steven Barnett*
Picking up on Susanna and Tom's remarks, I specifically tried to make the point that this goes much wider than news and current affairs, so I would like to take this opportunity to emphasise that as well. I think Gillian is absolutely right: Classic FM is a perfect example of a market entry that has been very successful. The BBC, which is often accused of trying to trample on any particular rival, has not actually tried to mimic what Classic is doing, but has kept Radio 3 to a rather more elitist style. I think to some extent the BBC is a red herring in this debate and is often brought up when actually what we are talking about is how we should regulate the commercial sector.

Tom made the point more eloquently than me when he talked about the nature of the corporate ethic and Disney's ethic. From the standpoint of an independent producer I thought it was very interesting that producers know – and I have heard this from a producer in America as well – that you can only pitch certain kinds of programmes to Disney-owned ABC, which is more or less exactly what I was trying to say. Now I may or may not have problems with what the Fox channel is about, that's not the issue; my point was that there is a corporate ethic about the owners of the Fox channel. With that particular organisation there ought to be limits to the amount of access it has to very powerful means of communication.

Which brings me to Ray's point – the way he put it was quite interesting and I wouldn't dispute any of it. There is more opportunity today for individuals to express themselves than ever before. I think that is absolutely true in terms of outlets for people to go on the phone, write letters, chat online, visit websites, whatever. That's not the issue. The issue is access to the levers of powerful means of communication which are still essentially, for all the talk about convergence, one-to-many broadcasting and one-to-many newspapers. In other words, what we used to call the mass media.

It's true that Sky have actually given the opportunity for different kinds of organisations to get on to the Sky platform, but on their terms. I think it is important that we remember the prima facie evidence put by the Office of Fair Trading, which is now saying that BSkyB behaved anti-competitively. That brings us back to the limitations of the competition law. The problem with competition law is that it is ex post facto: it doesn't stop people doing things, and then the very slow wheels are set in motion to try and prevent any harm or damage that they may have been allowed to do. Whereas a statutory approach means that people are simply not allowed to do things that might not be in the public interest. I think we would have to be very wary of anything which says, "Sweep away statutory limitations; we'll allow competition law to determine what's going to happen". I think we have the evidence in front of us that the wheels of competition law are very slow, and frankly don't seem to be particularly effective.

## Seminar 2

# Unregulated TV

A seminar held on 30th April 2002 at
**11 Downing Street, London**

Edited by Tony Pilch

# Introduction

## Wilf Stevenson

Welcome to the second seminar in our series preceding the consultation on the communications white paper. The previous seminar focused on cross-media ownership. Perhaps inevitably we spent quite a lot of time looking at the role of the BBC, and in particular the way in which it interacted with the marketplace. That is one of the main issues for this seminar. We have really got two related aims: to try and define the limits to the services and reach of the BBC in a competitive market environment; and to look more closely at the role of commercial broadcasting.



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## Gavyn Davies

Chairman, BBC

I am going to talk about the role of the BBC as I see it in the digital age, and I will also speak a little bit about ITV Digital and some thoughts we have on that subject.

### Market failure in the current system

The BBC has always essentially had a *raison d'être* built on market failure of one kind or another. Some of my colleagues at the BBC hate it when I say this, but we basically have to believe in some form of market failure in broadcasting, or you couldn't believe in the panoply of instruments and the large public corporation that we have at the BBC.

In the old days when there was only one broadcaster in Britain and a major shortage of spectrum, it was easy to see what the market failure was: it was a tendency to lead to monopoly – for the broadcasting ecology to lead to monopoly or oligopoly very rapidly simply because of a shortage of spectrum. Nowadays, with the spread of channels in the digital sphere, it is harder to make the case based on spectrum shortage. But the case can still be made because, right now, slightly more than half of the population has access to the same television channels that they had 20 years ago, with the addition of Channel 5.

We shouldn't forget that half of the British population is still operating with four or five television channels, and therefore the arguments based on shortage of supply and tendency to oligopoly or monopoly still exist for that half of the population. Those arguments will not go away for those people until we get to analogue switch-off, at which point we will be in the new environment where we could charge subscriptions for BBC services if we chose to do so.

My first point is that the marketplace has not changed as profoundly as many people think, and it's only after the uncertain future date of analogue switch-off that we may need to face up to a completely new situation.

### Market failure in the Digital Age

However, in that completely new situation with all channels potentially technologically available to become subscription channels, I still believe that there will be a very strong case, based on market failure, for the existence of the BBC in something like its current form.

I've written about this in detail over the last ten years, but certain types of market imperfection will still exist.

First of all I think there will still be a tendency towards, if not monopoly, then monopolistic competition in the broadcasting market. The broadcasting market has extremely large fixed costs. The Sky system had large fixed costs and then rather low variable costs. In some cases the variable costs come down to nothing, and if you look around the United Kingdom you will see that industries with those two characteristics tend to concentrate in a few hands. I think that will happen in broadcasting if we simply leave it up to the market. Broadcasting in my mind is too important to allow that to happen. Regulators operating ex post facto, in a system that is dominated by one or two very large players, are going to have a tough time controlling them.

There are other, equally powerful arguments for market failure in the new system. Externalities exist today and still will exist in the future. By externality I mean that I would quite like it if, when I was watching England *v* Germany, Wilf could watch it too so that I could talk to him about it, but I'm not willing to pay for him to watch it. So what that means is that the interconnectedness between viewers and citizens is not fully reflected in their willingness to pay a price for the service that they would like each other to consume.

There are also really severe informational deficiencies in broadcasting. It is difficult for people to know the kind of programmes they might like in the future before they are exposed to those programmes. In pure market systems there is a tendency for enormous amounts of dumbing down in programme output, simply because people's tastes and expectations of television become conditioned by what they've seen already. And then the broadcasters simply provide and supply what people have seen already.





There are also lots of other forms of market failure. If you don't believe what it may be like in a free-market system, then look at a couple of examples which in my mind are not that encouraging.

The first one is radio in the UK. We've moved substantially towards a free-market system, a regulated but a free-market regulated system. In the last decade the number of radio stations in the UK has dramatically risen from about 100 to 250, but most of them are doing the same thing. They provide a service to people that want to hear what they are playing, but what they are mostly doing is playing the Top 40 hits repetitively throughout the day. I actually quite like that, but it's not the only thing I want to hear on radio. Fragmentation with hundreds of radio stations but no diversity of output worries me.

Television in the United States is another example. Many of our favourite television programmes come from America, but looking at the overall ecology of American broadcasting I'm not sure that we would want to see it replicated in the United Kingdom. There is also a tendency in American television for a huge number of channels providing relatively limited choice for the viewer. And if we want to raise our standards, raise our game, and challenge the viewer, then we still need a publicly-funded broadcaster.

It's a strange mix. There is a tendency towards monopoly in a free market, but in the services that are actually provided you just get a fragmentation and multiplicity of channels, provided probably by a few people, and that fragmentation doesn't necessarily provide diversity or choice. That remains to be addressed by an organisation like the BBC and other public service broadcasters in the digital age.

### The future role of the BBC

Greg Dyke has said, and I agree with him, that we can group the areas in which the BBC can still act in the future into local, national and global spheres. In the local sphere I think the BBC's role in connecting citizens and serving citizens is actually becoming more important through time, simply because ITV is becoming a more nationally based service. As ITV moves towards a single national entity, I think there will be a bigger role for the BBC, both in television, radio and on the web, in serving local communities, and

I think that's happening already.

We've just seen the national role the BBC plays with the coverage of the Queen Mother's death and her funeral, which did bring the nation together. We had 23 million viewers for one part of our funeral coverage. And of course the global role that the BBC can play has been shown very, very clearly since September 11th. One of my first experiences as BBC Chairman was receiving letters from the United States after September 11th from American citizens who had seen BBC World or listened to the World Service saying, "Thank goodness for the BBC; their coverage since September 11th has remained truly impartial in a way that has not been true of networks in the United States, which have spun the events of September 11th in a way that was jingoistic and not truly impartial." That is very understandable to everybody, I'm sure, given all our emotions at that time. It is interesting how many letters I got, and how many editorials we read in the American press arguing that. So I think these cases for the BBC stay entact in the new digital world.

### Future scale of the BBC

What about the scale and scope of the BBC in the new digital world? You won't be surprised to learn that I have no sympathy for a marginalised BBC. The pressure we get from our private competitors is not actually to close the BBC down, and it's certainly not for the BBC to take advertising in competition with them – they don't want that. But what they do want is a marginalised BBC. They want the BBC to limp along, castigated in *The Daily Mail*, charging a licence fee, but not competing head on for advertising revenue with them. I do not believe a BBC that shrinks towards such an outcome is healthy. The reason is that I don't think it would be big enough to play the role in influencing the marketplace that it needs to play. If it becomes too small as a percentage of the broadcasting system, I don't think it can provide the kind of value for money that is also a core reason for having a licence fee.

Market failure is one reason for having a licence fee, but if we cannot provide value for money to the people who are paying £112 with no choice, and if they don't feel that's broadly acceptable to them, then I think the whole system will eventually fail. It will become politically untenable. There are some parts of the population right now who are not served as well as others and who might



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already be wondering whether £112 is really a fair price to pay for what they are getting from the BBC. We must address that through time.

We need scale to do our job, but we mustn't be dominant. We are often criticised as if we want to be – and we don't – a dominant institution that is outside the realms of economic regulation and competition policy. We are often criticised for being outside and acting as if we were outside competition law and economic regulation. We are not. We are fully subject to the same laws of the land, including competition law, as anybody else in all of our services; and I can assure you the governors really do spend a lot of time ensuring that we do not breach our fair-trading regulations. We do receive complaints about alleged breaches of fair trading, but there has never yet been a successful case upheld in the courts against the BBC on that basis. We would like that to remain the case and we are very, very careful in ensuring that what we do is fully in line with both competition law and also with our own fair-trading arrangements.

So, I think we need scale. I'm not going to say how much scale, but to push us into a marginalised corner of broadcasting will in the end spell the death knell of the BBC because we will not be able either to do our job in influencing the marketplace, or to provide value for money to citizens.

### Creating new channels

On the number of channels we may have, I know Irwin Stelzer in the past has suggested that we wake up in the morning, look at what's on the Sky EPG and then duplicate it. We don't do that. We are not seeking to duplicate what the marketplace is already providing. For example, where the market is doing a very, very valid and successful job in providing sports subscription channels or movie subscription channels, there is really no case for the BBC to duplicate that.

However, we do have to take into account that, with the expansion of the number of channels, people are beginning to view television differently from how they used to. They are not as much the prisoners of the mixed-genre big channels – the BBC1s and BBC2s of this world – as they used to be, and in some genres consumer habits have changed quite a lot. For example, people are increasingly consuming news and parliamentary coverage through specialist 24-hour media. They are not willing to wait, as they were in the old days, for the BBC to get round to putting the news on at ten o'clock – they want the news when they come home. That is one of the core reasons why we launched News 24.

Kids are increasingly going into the EPG – if they have multichannel households – and picking from the EPG their favourite programmes. They are simply not looking at the mixed-genre channels to select programmes. Our two new children's channels are partly designed to address that.

I think there is going to develop in arts and serious discussion a similar tendency, as there has on the radio to some extent. BBC4 – our new television service – is designed to address that need.

That leaves young adults. Young adults do have different television habits and different needs from older adults. I don't know where the cut-off is, but it is somewhere in the 30s. That has been the reason why we've suggested launching BBC3, which is a public service television channel for young adults. It is an important part of our portfolio. We are waiting at the moment to see if the DCMS gives us permission to launch it, but that kind of family of channels is about it for the time being. That's what we see as the portfolio, designed several years ago by our predecessors at the BBC, to serve the public in the multichannel age.

### Regulating the BBC

One word on regulation, which is currently dominating a lot of the discussion about the BBC, but I hope – maybe I'm too optimistic – that we are moving towards a consensus on this. I think the consensus would be – and I would be part of this consensus – that parts of what the BBC does should indeed be subject to regulation by OFCOM. For example, basic standards of taste and decency, fairness and so on should apply across the entire broadcasting spectrum. They should apply to the BBC in the same way as they do to anybody else, and that should be fully under OFCOM control. And I don't see any problem with the quotas for regional production and independent production which, in the white paper, was subject to OFCOM control.





When it comes to the public service remit of the BBC, I think it's more of a mixed bag. I think the public service remit is different for an entity as different as the BBC. In the past, governors have been useful in protecting the BBC, both against political interference and against the desire of commercial competition to marginalise the BBC; that role of the governors remains valid.

The question that Chris Smith has mentioned in debates considers the backstop power to that governor responsibility. In our mind at the BBC it should lie with the Secretary of State because the BBC is a publicly funded organisation that should report at the end of the day to the political process. In the views of Chris and some others, that backstop power should be with OFCOM. There is still clearly scope for a debate on that; the role of OFCOM in writing reports on the overall landscape of public service broadcasting may be an area where we can reach a compromise solution that everybody can go forward with happily.

So I'm reasonably hopeful that the OFCOM debate, in the context of the considerable reforms that we have now introduced internally to the BBC system of regulation, can be settled with everybody feeling reasonably happy about it.

### ITV Digital

The ITV Digital question. We've had periods in the last several weeks where we feel we've been asked inappropriately to support a particular commercial venture, and we didn't feel we could do that. Actions that would have put money into the ITV Digital framework and platform, which would have helped that particular pay platform against others such as Sky and the cable platforms, is something that we thought a) was the wrong use of public money and b) would have led us pretty rapidly to the competition authority's front door. Despite the fact that we are very concerned about the platform, and it is a big problem for the BBC if the platform goes under, we've not been able to persuade ourselves that we should do anything that would essentially help to bail out a private commercial venture.

### The free-to-air platform on DTT

However, as I say, the free-to-air platform on DTT is very important to the BBC. If you think about what would happen if it failed, you can immediately see why we are concerned about it. We would be spending about £250 million a year – about 10% of our total revenue – on the services that not everyone can now get, and which it's hard to believe everybody will be able to get in the future. So the universality concept, which remains absolutely essential to the BBC, would begin to become stretched in the sense that we would not be able to put our hands on our hearts and say that all of these services will, in a fairly short period of time, be available to all of our licence fee payers. If we get into that situation, then we have got to look again at the funding of our digital services. It is key to us not to get into that situation, but rather to have a digital platform on DTT which can solve the second set problem, and the primary set problem for people who don't want pay television.

As a result of this, Greg wrote a column last Sunday, I think in *The Sunday Telegraph*, which argued that the free-to-air services need to be seen now as crucial to the future of DTT. The reasoning is we are not convinced, in the modelling and studies of the markets that we've done, that there is enough of a market for pay television on DTT to sustain the platform on its own. We think the free-to-air proposition has to become more central to that platform than it's been in the past. Now we are ready to do this with the new services that I have mentioned already. The reduction in the price of boxes, which I think is just around the corner, will be very helpful as well. But there are other things that we feel the authorities can do to help.

It would help to reduce the overall number of channels on DTT because each channel can then have more interactivity and be technologically more advanced than it has been in the past, and this combined with an increase in the power of the signal, can make it much more likely that when people buy a box and plug it in it will actually work. We think that if you reduce the number of channels to about two dozen, and have a few of those available for pay and the rest essentially available as free-to-air, you will get to a system where almost 80% of the population can expect to buy a box, plug it in, wait for five minutes, and see it work. If we can get to that stage I think the free-to-air proposition can sell DTT to the public, and that's really what we want to see.

So, these are not imperialist ambitions that I have put forward to you today; they are a BBC that is of scale and scope to do the same job in the digital age as was done in the analogue age.





## Dr Irwin M Stelzer

Director, of Regulatory Studies, The Hudson Institute

I should say at the outset that I speak only for myself and not for News Corp or any of my clients, which I will prove instantly by saying that I wouldn't be at all offended if the BBC went into the advertising business.

One of the things I've learned over the years in this country is that it is dangerous for an American to talk about two things: the NHS and the BBC. Apparently you believe I come from a country in which we allow people who have forgotten their credit cards to bleed to death on the steps of hospitals, and that we spend our time watching mindless or pornographic programmes interrupted frequently by commercials.

I am not here to dispel those misconceptions. I noticed that Gavyn said that he is sure that you would not want the American broadcasting system replicated in the UK. I assume that's because we have so many more hours of arts programming than you do that he would find it boring. Nor am I here to try to suggest that the American model is appropriate for Britain. We rely on a combination of a constitutionally guaranteed right of free speech, which Will Hutton argues in his new book makes public interest regulation almost impossible, and diversity that we feel results in competing biases – we don't try to eliminate bias by controlling content; we try to make sure that there are competing biases.

Again, I'm not here to defend that system because I think Britain long ago decided to go its own way in response to its special history and its special needs, and that it prefers a mixture of regulation, government funding of public service broadcasting and commercial broadcasters with a regulatory regime, adapting itself to change as time goes on. Each country should decide. This media policy is very difficult and each country should decide it for itself.

So oddly enough I've come to praise public broadcasting, not to bury it, but to favour a role for what I will call non-market-orientated broadcasting, which has direct or indirect funding. Financing what the market will not deliver is not necessarily to favour the existing system, any more than to favour the National Health Service that provides free care at the point of delivery is to favour the existing organisation of the NHS. You can be for the former without being for the latter. I'm for a vigorous public service broadcasting sector, and you will see I have some minor quibbles about how it's currently organised.

Problems with public service broadcasting

Now I ask you first to rise above the reasonable tone that Gavyn has, which is so seductive in meetings with ministers and regulators, as it was in the investment banking business, and consider instead what he is asking you to do. He is defending a system in which a dominant organisation is funded by exacting fees from consumers, rather than winning them in open combat with rivals, and in which decisions as to what to broadcast are made not by honouring viewer preferences or some very specifically articulated non-market standard of excellence, but at random. I thought at the beginning that Gavyn was withdrawing his application for BBC3 when he said well-served areas are not for the BBC, but then apparently we need that channel because there are a lot of viewers out there, never mind whether they are served already.

I prefer to start with the Gavyn Davies I knew in the Davies Report who pointed out: "There are particular grounds for concern about the commercial activities of a broadcasting organisation which is primarily funded from the public purse."

Now what I would like to do in a few minutes is first review the grounds for concern, and then return to praising public service broadcasting that operates within certain sensible limits.

There are four concerns: waste; a chilling effect on new investment and diversity; elimination of competition; and misallocation of resources. Now let me take these in turn.

Waste. Efficiency is not the result of good intentions; it's the result of incentives to make the best use of available resources. To say that that incentive in the case of the BBC is attenuated is to put it mildly. For example, having made a settlement with the government in 1996, it then accepted a very generous invitation to increase the amount of money well before the





settlement period ended. Note that the parties at the table in that negotiation were the BBC and government ministers, none of whom had a single pound at risk. It was the people's money they were talking about distributing.

As for the effect on investment and diversity, I think anyone who has a new idea has to face a very harsh fact: if he or she is successful, a well-heeled imitator lurks. Now this is true in all industries, and this is why Schumpeter talks about a creative gale of destruction, because you have new ideas and innovators who then get imitated. But in the case of the BBC it has rather an advantage as an imitator: it can give away the product for which ordinary commercial broadcasters must charge a fee. This is obvious in the case of 24- hour news, where after nearly nine years of losses Sky approached break-even point after investing blood and treasure in this venture, only to find out that it was competing with somebody offering a similar – I would say not as good, but similar service free of charge. It is very hard to compete with a free imitator. The BBC's action posts a warning notice to anyone who thinks about entering this industry: they have to worry that there will be a free competitor around the corner.

As for unfair competition: we are going through a period in Britain in which we are seeking to enshrine in law a very much more vigorous attitude towards what constitute unfair competitive practices, and I was relieved to hear Gavyn say that the BBC intends to submit to the full force of that law in all aspects of its operation. If that turns out to be the case, it should not be an issue.

As for resource allocation, I can make this point quickly since Gavyn's already made it. I recall his statement that people who are white, middle class, middle-aged and well educated are being over-served by the BBC. That was later amended to refer to those people as the heartland of the BBC – much more congenial. It's a way of saying that the BBC misallocates its resources in response to certain sorts of pressure that it perceives exist out there in terms of preserving the licence fee.

The problem is that in the absence of the ability of consumers to signal what it is they want to see, it's impossible not to misallocate resources by lurching first this way and then that in order to maximise chances of retaining the licence fee: that is an intrinsic problem. I don't mean to confine this resource allocation problem to the BBC: it's true of other public service broadcasters who receive resources of varying sorts from taxpayers. This is a sizeable problem, but having chosen this sort of broadcasting it is just one we have to live with and try to solve as best we can.

This is because you have no signal that tells you how to allocate resources in the economically efficient way, and so you find other devices. In the case of the NHS, for example, queuing is the rationing device rather than price, and society finds that much more acceptable than it finds price. I think we have the same problem in broadcasting.

Benefits of public service broadcasting

Let me turn now just briefly to the virtues of public service broadcasting, and its limits. I listen to the BBC in Colorado all the time, and having heard American broadcasts which Gavyn seems to think were jingoistic.

*Gavyn Davies*

I was just quoting from letters from Americans, not making a comment. I didn't even see the coverage myself.

*Dr Irwin M Stelzer*

Fox was censured because its coverage was not evenly balanced between the Taleban and "our marines". I like to listen to the BBC news broadcasts where there is a more even-handed approach to those two adversaries.

But it seems to me that if we accept the fact that public service broadcasting in Britain makes an enormous contribution to the quality of public life and, as Gavyn points out, contributes to what we in America call the water-cooler effect – that is, it integrates, it gives people something in common to talk about when they gather together – and if we agree with Patricia Hodgson who says frequently in talks – in her frequent talks – that man does not live by bread alone (which I would translate, as an economist, into man does not live by GDP alone) then we see why a democratic society can quite sensibly choose to supplement what the market will produce with services that it, as a society, decides enriches the lives of its people. Adam Smith recognised that there are public goods and that there are externalities that warrant not allowing market forces to be the sole determinant of how resources are used.





Limiting public service broadcasting

What an economist can do in a debate like that is to ask that the costs of providing non-market services be explicit, and that people know what it is they are giving up in order to get those services. Whether it's expenditures on health, or expenditures on other sorts of programming, an economist can perform a valuable function in saying: "Look, this is the cost of your social preference." Again, I agree with Gavyn who said it's a very difficult problem. He laid out, in his report, cases that are so difficult that reasonable people would come to different decisions as to whether something is properly in the realm of public service broadcasting or not. There were three really good examples in the report.

The question is, as Gavyn said in the report, whether the market left to itself will provide the broadcasting that our society wishes to foster. Now a question for another seminar: when you have an organisation with a huge publicly funded lobbying apparatus and hugely preferential access to the halls of government, is what is produced, what society prefers? I think it is fair to say that when we look to what the market will not provide, Gavyn's market failure conception, we come to a limit on what public service broadcasting should be. It should be distinctive – a word that keeps coming up in Tessa Jowell's decisions.

The question is, of course, what is distinctive? Is a fee-funded 24-hour news service by the BBC distinctive from what was already on the air? Is the new culture, arts and ideas channel distinctive? Are the new children's channels distinctive? By what criteria are they distinctive? By what criteria – to use the words of the minister – do they offer the hope of a new golden age of children's programmes?

Unless you argue that the very fact that a programme is provided by a public service broadcaster makes it distinctive, in which case there's no limit at all, then I think we have to grope around for these criteria. And because it is so difficult, we have to rely on the quality of the people involved in the process, which is why I was so delighted when Gavyn agreed to give up one life for another, a more difficult one I think. And we have to rely on the transparency of the process. I think that's probably not going to happen. This process is not transparent and is not likely to become so. And we have to rely therefore on some appeals process through which there can be an appeal to bodies more immune from political pressures. That's what OFCOM would be for.

Funding the BBC

The second thing we have to consider at some point – I think when Gavyn turns to it, maybe not now – is the whole funding procedure. Gavyn in his report pointed out the regressive nature of the tax used – or the funding mechanism used – it's a poll tax basically, and that has never been popular. It's not consistent with Adam Smith's criteria for a sound tax. It didn't prove the source of enduring political popularity for its previous proponent. Something is going to have to be thought through that is less regressive, and which also provides better signals as to what people want. I don't think that means going fully into advertising or fully into subscriptions, but some other funding mechanism has to be invented.

Independent broadcasters

Meanwhile independent broadcasters have to earn their bread by offering programmes that people want to watch and are willing to pay for, either directly by subscription fees or by allowing their eyeballs to be sold to advertisers. They have to manage their businesses prudently lest they go the way of BSB and ITV Digital, which was brought to its knees by some combination of faulty regulation and bad management that one of our audience memorably characterised as their managers being unable to run a bath; and unfortunately they will have to devote resources to ongoing efforts to limit the role of public service broadcasting to distinctiveness, or some conception of market failure. That's not an easy life, but surely an interesting one. One that is interesting and challenging as is Gavyn's.





## Discussion

*Peter Bottomley MP, All-Party Media Group*

I don't think Mr Stelzer dealt with Gavyn's point about the deliberate role of public service broadcasters in distorting what the free market would otherwise do. It's not just complementing, it's actually distorting; it's deliberately there to have an impact. I would suspect that if public service broadcasting in the States were wider, its influence would be greater as well. That matters quite a lot.

The second point I want to make very briefly is that the regulation question is an important one. I represent Worthing, where Channel 5 is inaccessible, and one person in four years has asked me if I could do something about it. Now it seems to me that people can't always ask what might be good for them, and there is a role for some other people – whether in parliament or public processing or public debate – to start arguing for those who don't necessarily get the microphone for themselves.

*David Hulbert, President, Walt Disney Television*

I would like to ask about the concept of regulatory capture. Having heard with delight that Gavyn isn't imperialist in his intentions for the UK TV industry, it does occur to me, looking around, that maybe a third of the people here, if I leave out the MPs, have probably worked or do work for the BBC. There is a real danger here that the BBC may just carry on capturing the process. What is Irwin's point of view as an economist on handling that particular problem?

*Rt Hon Chris Smith MP, former Secretary of State for Culture, Media and Sport*

Can I first of all welcome Gavyn's willingness to engage at least in the debate about the backstop powers issue as we move to discuss the Communications Bill after it's published in a week or two's time; but I really want to focus on the basic thrust of what Gavyn said. It seemed to me to be an argument for the BBC based primarily on a principle of market failure: that the BBC was there to fill a gap, rather than to do what I believe the BBC is there to do, which is rather more positive, which is to lift the horizons of the whole broadcasting ecology. When he talked about children not being able to access multi-genre channels through the EPG, I think he revealed a problem with a purely market-based approach to this, because the logic of that approach is to abandon mixed-genre channels. I think it would be very sad indeed if that happened to British broadcasting.

*David Elstein, Chairman, National Film and Television School*
Really I have only one question I would like to ask Gavyn in this context. At one point you said: "Don't marginalise the BBC because, if you do, we can't provide value for money." Now I don't quite follow that because it implies that the BBC has to be very big in order to offer value for money. Now, I would have thought that any public institution has to have a version of itself at any size which is good value for money – otherwise why is it there?

Most of us in this room – I would have thought everyone in this room – could make a case for public sector/public service broadcasting – Irwin as well as everybody else. The issue is: how big should it be and what role should it play? We never know at the margin what should be happening. You yourself, when you chaired the report on the BBC's bid for new digital channels, found several different bids. The earliest bid was huge and half of it was, "We'll tell you later what it's going to pay for". The bid that was accepted was then changed into something else.

We have never had a BBC consultation which says, "Would you like to have this service, or have some money back?" When the BBC commits itself to reducing its overhead, it never says, "and we can therefore reduce the licence fee". It says, "We will spend the money on more content". Almost by definition that can't be the highest priority content otherwise it would already exist, so what Michael Checkland called the "imperial march" never has a backward step.

I've heard you say, "Well, there are things we wouldn't do", but nothing ever stops and there never seems to be an option offered to the public which might be fairer and of better value. You have said yourself today, and it's something we should all note, that if we stop believing in the analogue switch-off timetable – and I was at a conference yesterday where 80 delegates did not believe 2010 (one working for the BBC did) – then you are going to have to reconfigure all the new digital services and push them back on to subscription funding or a digital licence fee, or UK TV or something. But we never really get a sense that that's what you think you ought to do; it's "what we would do if all else fails", I'm not sure that we as members of the public get a sense of the BBC striving to offer real value for money, including the possibility of being smaller.

*Response: Irwin Stelzer*
I'll comment very briefly. First of all we should keep in mind people who are apparently undisturbed by not having Channel 5. That's certainly an understandable emotion. But as Gavyn pointed out, half of the people in the country are restricted basically to four channels. However, that is a conscious choice: they have the option of more channels. It's not spectrum limitation that restricts them to four channels; it's a choice not to spend money to get more channels because they have other things they want to spend their money on, which seems to me quite appropriate.

Second, regulatory capture. I had a whole section in my prepared remarks on regulatory capture. I couldn't quite get myself to do it, not because of time constraints but because I don't believe that Gavyn is capable of being captured by regulators. But it is a real danger. The UK system has no rules against all sorts of things that would land you in jail in America, such as private presentations relating to ongoing matters where there is no public record and no adversary on the other side. That system works pretty well in Britain because of a level of decency in public affairs that I find admirable. But still, that makes the danger of regulatory capture very real, especially when you have a well-funded behemoth like the BBC.

As for Chris Smith's point, it is an interesting point and I quite agree, but the problem with it is there is no limit. Once you abandon the market failure concept and go to a universality standard that says, "Well there's somebody out there who is not watching us so we had better create a channel for him so that we have universality", there's no limit. What I would like to see is the limiting case.

Finally, David Elstein's point was so beautifully made it needs no comment from me.

*Response: Gavyn Davies*
I want to pick up on Chris's point about the debate on backstop powers. In the white paper itself there was really just a line that said that OFCOM should have the right (I think it might have said "duty") to report periodically on aspects of public service broadcasting. That is the area I think we can look at, essentially to see whether it gives us a solution that we are willing to sign up to enthusiastically. I'm hopeful that we can do that.

On market failure, I don't want to give the idea that I think each of our programmes, or even really each of our services, narrowly defined, has to attack market failure every day of every week. I don't believe that; but I think that the institution as a whole has to do that because, unless you believed there wasn't a market failure to correct, you wouldn't go to the considerable lengths we go to to create the BBC. Where I absolutely agree with you is that one of the market failures that the BBC is there to correct is a failure that is widely spread across the whole of the private sector, and that's why I think we need scale and we need mixed-genre channels in order to, as I said in my report, condition the marketplace in a way that might be preferable in the public interest from what would simply be provided by private commercial broadcasters.

I certainly see a big future for mixed-genre channels. I think they are like the front page of a newspaper which attracts people to the richness of content that lies behind the front page, and I am not by any means abandoning them. The only thing I would add, though, is that viewers themselves, in some types of their activities, are preferring to access parts of what they used to get solely on BBC1/BBC2 via other channels. If the BBC is not able to respond to changes in viewers' tastes and preferences, partly driven by technology, then it will ossify; it will be like the BBC in 1966 saying: "Well we've got BBC1, it's black and white, it's in 405 lines and that's fine."

I know you wouldn't ever suggest, having fought for the BBC in its public service role for so long, that that should be the case. We have to adjust to technical changes and retain a place in viewers' tastes and habits as they change. BBC1/BBC2 will of course remain key to what we are trying to do.

I want to respond to David Elstein's point that the imperial march has never taken a backward step. Well, we have shrunk very considerably as a percentage of national broadcasting, not only since the 1950s when we went from 100% to 50%, but also in the 1990s. The arrival of a great new competitor and new service in Sky has taken our share of TV revenues down from around 50-60% to a much, much smaller share now. Sky's revenues are close to the BBC's revenues. Sky and ITV both grew much more rapidly throughout the 1990s than we did; and my observation of the BBC in the 1990s was certainly not that it was an imperial march that had never taken a backward step. It was becoming constrained by revenue growth over a very long period of time, which was much less rapid than what we were seeing in the commercial sector.

We've seen a slight redress of that in the last couple of years because of the downturn in commercial advertising revenue, but look at the long-term trend and you will see that the BBC now is faced with far more significant competition of a far greater scale than it has ever been in the past.

On waste, the BBC has a total and absolute duty not to waste public money; to produce programmes in the most efficient way possible; and to be at the cutting edge of the most efficient way of both producing and delivering programmes. I believe that we are basically there. All the studies we do, and all of the studies that outsiders do, of the costs we incur in producing programmes tell us that we are not wasting resources compared to the private sector.

When Greg came to the BBC he set a target of reducing the amount of expenditure on non-programme activities from 24% to 15% over, I think, four years. We are very close to having achieved that already. We are taking out about £50 million of costs every year from a total cost base of £2.5 billion. We are really not a wasteful organisation.

*Nick Toon, Head of Corporate Affairs, ITV Network Centre*
I just wanted to correct one thing that Gavyn said in his remarks, echoing what Greg has said on a number of occasions, which is that ITV is becoming a less regionalised and localised service. There has indeed been a considerable consolidation of ownership within ITV over the last number of years; but ITV's regional commitments have been protected in legislation by regulation,

and ITV1 is still broadcasting more or less double the amount of regional output on one channel than the BBC manages on both BBC1 and BBC2. And while we hope that the bill will allow for further final consolidation of ITV, I don't doubt that there will be considerable provisions in there to protect the regional services that exist on ITV, and that will be the public service price for that consolidation.

However, I was interested to hear that the BBC is committed to becoming a more regionalised and localised service. I am particularly interested to hear if you have got anything to say about plans to deliver that, in particular on BBC1.

*Tim Lord, Head of Regulatory Affairs, ITV Digital*
There were various comments about what should now happen to the DTT platform and some comments about why it may have failed at this stage, or at least why the current owners have failed to make it work. My suggestion is that in looking forward to what should now happen with DTT, regulators and the government would do well to examine very closely why they have failed. The reasons that have been given traditionally are things like poor management, the power levels in the transmissions, the bid for rights and whether we overbid.

The one that is missing but is very present for me is that it could have been – and we are still waiting to find out – to do with the income from pay TV. Once BSkyB was kicked out of the consortium in 1997, it responded very aggressively to this potential national competitor and may have sought to force us out of business. It is a well-run company; it controls 95% of the premium sports and media market; it controls 50% of all distribution in pay television; and it had a considerable amount to lose if ITV Digital had successfully managed to compete with it as the next pay TV platform.

Now unfortunately the situation is that we don't know for certain whether it was anti-competitive behaviour or not, but it is one of the things that has to be on the list of possible explanations. You might ask why we are still waiting to find out, and what was effective or what was ineffective about the various regulators' interventions on that problem. The European Commission, the ITC, OFTEL and the Office of Fair Trading have all been involved in looking





at behaviour by BSkyB, and ultimately none of them has ever really ultimately said, "Not Guilty." What they are all in the process of doing is still thinking about it; and while they have been thinking about it, ITV Digital has gone out of business, or at least into administration.

At least some time should be spent on that issue. Was the problem that ITV Digital faced a function of these things which you know nobody could have done anything about, or was it really a function of a slightly new or slightly cautious approach to affecting competition laws in this country?

*Paul Robinson, Managing Director, Walt Disney Television*
Irwin talked about the need, in his view, for the BBC services to be distinctive, and we've managed to hear quite a lot from the BBC themselves. In fact the BBC used distinctiveness as part of the rationale for the approval of the new services, albeit without any real criteria you could actually get hold of.

Having had those channels on air for a while I think we should just look and see whether they are indeed distinctive. I would question whether shows such as *The Crab Twins* and *The Mummy* and *Super Duper Sumos*, scheduled as you know at peak times, are really distinctive. In our view the BBC children's channels are not distinctive.

*David Graham, CEO, DGA*
I've got three questions, if I'm allowed, for Gavyn Davies. First, does he agree that, at least to some extent, market failure is perpetuated by having as large an organisation as the BBC in existence, albeit set up to remedy it in the first place?

The second question is: do you have any idea what proportion of television intellectual property rights is controlled by the BBC through its distribution arms?

Third, there is a larger question that I don't think I'm hearing addressed. What happens to the commercial part of public service broadcasting in seven to ten years' time? Then, for instance, it will be possible to deliver an entertainment channel by some kind of common carrier whose capacity is virtually limitless. The current basis of commercial public service television is essentially a trade-off whereby government gives, if you like, privileges to licensed broadcasters – which have a perfectly well-defined financial value – in return for public service programmes. What happens if that deal becomes unworkable? The government can't go on spending more and more money to keep it in place. What if they decide to go for a standard broadcasting licence which would be available to them, leaving perhaps the BBC as the only provider of public service television at that time? Would that be a desirable outcome, and what's your view on that issue?

*Response: Gavyn Davies*
On David's point about market failure perpetuated by the BBC, you've heard me say a couple of times today, as you say, that we exist as a very big answer to a very big question: is there market failure at the heart of broadcasting in the United Kingdom? I would become very concerned if I thought we were indeed becoming the source of further market failures. The way in which that could happen would be if we were dominant and anti-competitive. In our role as regulators, the governors need to make sure that we are not. And we are subject to all of the competition authorities in ensuring that is not the case.

Second question: I don't know what percentage of TV intellectual property rights we own. With 37% of the current TV market – we have been more in the past – I would imagine that we have a significant proportion of intellectual property rights in the area. But we don't know the number offhand.

Commercial public service broadcasters: I am delighted to say this is not something that I have to opine upon; and I'm even more delighted to say that Tim's remarks about BSkyB are certainly not something that I have to opine upon.

Our ecology right now, in which ITV and Channel 4 in particular have significant public service responsibilities, is a good ecology. I hope and expect that the main aspects of that can be sustained for a long period as the broadcasting technology shifts. If those companies decide one day in the future that they no longer wish to take on the onerous burdens of public service broadcasting because they prefer to be commercial broadcasters, we'll be in the new environment. I honestly don't think that's likely in the next five to ten years.





*Response: Irwin Stelzer*
It seems to me there are two things to keep in mind on competition. One is that when someone enters a market I assume they know what the technology is, what the reach is, and that it doesn't suddenly change on them after they get in. They should know what they are dealing with.

The second thing they should know is that the incumbent doesn't just stand there and wait for bad things to happen. It tends to react. Now whether the reaction crosses the line into "anti-competitive behaviour" is a function of the numbers relating to costs and prices. Since I haven't seen the numbers, I can't tell you whether that's the case, but the fact that you would have liked it to have been decided sooner, I'm rather sympathetic with. On the other hand, it is an enormously difficult problem, as you can guess. John Vickers was getting his feet under the desk at the time at the OFT. I have reasonable faith that they will come up with a sensible decision. Judging from what he has written on this kind of subject, he certainly knows how to handle it, but I don't have any knowledge about how he is going to decide one way or the other. I think it is a legitimate question. But the notion that you enter an industry and you are shocked to find that there are weaknesses in the technology, and you are shocked to find that there's an incumbent out there who might want to react to new competition, strikes me as academic and not very business-like.

The other thing I can't get in this discussion is: what will the BBC not do other than a paid sports channel and a paid movie channel? That is, what are the limits once you go beyond market failure, once you go to where Chris wants you to go – to this universality concept?

What are five things, other than pornography, that you wouldn't do by these tests? It seems to me that if the test has any meaning, it has a limit. That's what I don't get out of this whole discussion.

*Response: Gavyn Davies*
We wouldn't intentionally make bad programmes. We wouldn't intentionally make programmes that don't widen choice, increase diversity and provide value for money. I think the BBC has to be judged as a package. It has to be judged by the governors and the public as a package; and if, as a package, it is extending its scale and scope in a way that does not add to quality,

diversity and choice, then it's gone too far.

Initially on an annual basis, and then periodically and frequently, the governors, the public and government ministers are able to judge whether the BBC is performing a role in improving the quality of broadcasting in this country. So far, in general, the answer to that has been a qualified yes, but qualified by the need to keep on its toes to cope with very active and successful competitors. This mix, where we have extremely successful, in general terms, private competition, plus Channel 4, plus Channel 5, plus the BBC and ITV, has, I think, served the public in a way that is sustainable in the future. To change that markedly, in advance of seeing the reality of what's happening in the marketplace as we are all digitalised, would be a very risky thing to do.

*Response: Wilf Stevenson*

I want to thank both our speakers very much indeed for sharing with us their insights. We have got to come up with new wording to cope with "regulatory capture", "conditioning the marketplace" and, of course, the old familiar words "distinctive and transparency", but at least we know where the debate is going. And we have at least got substantial insights into it, even if we haven't got the answers. Thank you very much indeed.

**Seminar 3**

# Now or never? The future of digital terrestrial television

A seminar held on 18th May 2002 at
**11 Downing Street, London**

Edited by Tony Pilch

## Introduction

## Wilf Stevenson

Welcome to this third seminar which we arranged, in response to the collapse of ITV Digital, to look more deeply at the future of digital terrestrial television (DTT). DTT is still very much at the heart of the Communications Bill. It is very much in the thoughts of those who are concerned about the future of these industries; and it is going to be a very material element in any public discourse about how we relate to the citizens in this country over the medium term. It certainly affects all OFCOM's interests and it is clearly relevant to the way democracy is flourishing in this country.



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## Greg Dyke
Director General, BBC

Coming on a day when the government has proposed legislation that will allow Disney to buy ITV, it's a strange time, when the house is burning almost, to be talking about DTT. I'm sure that the debate will go on in the coming months, so I don't think we need to have it today.

I've entered this because of what's happened to ITV Digital. Whether it was foreseen or not foreseen by companies I don't know, but here we are. We are in a crucial time for the future of DTT. Decisions made over the next couple of months will decide whether DTT works in the future or not.

We have a window of opportunity. The relicensing of the three multiplexes is under way, and under way in what seems to be an eminently sensible way which allows all sorts of options that we would welcome.

We think it is vital that we learn what has happened and why. There is a danger that the failure of ITV Digital is put down to management cock-up, whereas actually it's probably much more than that. We need to consider a radical redesign of a platform. If not, we think DTT is ready to die or, even worse, limp on without ever being successful and never getting large numbers of consumers. The danger of that is for those of us who are paying large sums into the BBC, and for all the commercial companies who are paying large sums of money for distribution on a platform that has very few viewers.

### Analogue switch-off

So why does DTT matter? The argument goes that it is essential for analogue switch-off, and there does not seem to be many people arguing against this. All the main political parties believe in analogue switch-off. There seems almost to be a competition as to who can name the earliest date. Although satellite and cable theoretically cover 98% of the UK, we don't think there will be enough. As yet they cannot overcome the second and third set problems or the planning restrictions on dishes. There is still a chunk of the population who are quite resistant to having a dish. There is a resistance to pay, and a free-to-air satellite option if you don't want pay is very expensive for non-pay homes: it's a £250 outlay to get it. And cable, of course, is unavailable.

Why do we necessarily need analogue switch-off? Apart from being the policy of all three political parties, which makes a discussion about it quite difficult, it does make Britain a digital nation. You will return to a shared experience of television, i.e. there will be more television available to all, instead of the digital haves and have-nots. Third, I suspect the most important reason for the government is the windfall from the spectrum sale. No one is quite sure what it is worth. At the time of the 3G licences, everybody thought it was worth in excess of £20 billion; three months ago everybody thought it was worth very little. But there is no doubt that at some stage the spectrum that becomes available will be worth a considerable sum of money.

If you want switch-off, we think you have got to have DTT, assuming we can make it work.

### Learning from ITV Digital

What do we learn from ITV Digital's collapse? Two things: the technology didn't deliver; and second, competing head-on as an inferior pay operator, i.e. the third into the market, doesn't work. On technology, if I can remember the figures, ITV Digital expected that 70% of the population would be able to get one of the boxes, take it home and work it with a card in. Actually the figure turned out to be 39%, and that 39% is disproportionately in urban areas where there are two other competing pay platforms. As a business model, I would suggest that is what brought down ITV Digital. There were all sorts of other problems, but that's what brought it down. Only 39% of households in this country actually lived in an area that could receive it and had an aerial that could receive it.

So how do you change that? What our engineers believe, and what our strategy department has tested and worked out, is that if you had a mode change, combined with the increase in power that is already going on, you could take the number of homes that can simply get a set, take it home and receive DTT from 39% to 55%. You also cover a bigger area – the numbers needing a new aerial don't change a lot – but actually you can get into 80% of homes. We also have a plan of how you do the last 20%, which you would have to do much later, but we won't go into that today.

What it means is that an additional four million households could then plug





in and play. But to achieve the mode change you have to reduce effectively the number of channels that are available on DTT from 36 to 24. In other words you have to reorganise the multiplexes: instead of six channels on a multiplex you have four, you boost them at a higher power, and you can actually get another four million homes.

So, we think you can achieve a better reception position. Competing head-on in pay TV didn't work for ITV Digital. A piece of interesting research that we commissioned a few months ago was an analysis of what was happening all over the world in terms of pay platforms and the rest of it. No country in the world has got three competing pay platforms that are all successful and viable. Just look at what is happening in Spain. DTT folded last month. Telefonica is trying to merge with Canal Satellite – both are losing a lot of money.

ITV Digital in these circumstances had the weakest pay offer; it had the fewest numbers and struggled to attract subscribers. That's 1.2 million compared to Sky's five million, but all of us know the 1.2 was a very suspect number because trying to stop getting ITV Digital was incredibly difficult. If you rang up and said, "Look I'd now like to stop", you got offered everything for £10 for ever almost. So, of those 1.2 million customers, we would like to know how many were paying.

### Attracting the non-pay customer

The other problem, if you look at this from a position of aiming to get switch-off, is that the consumer demand for pay is peaking. Actually there is quite a large chunk of the population who do not want pay television. We have done the research; others have done the research. The figures, we think, are: 65% might want pay; the rest don't want pay. Therefore, if you are going to try and achieve analogue switch-off, and all the digital platforms are based around pay, you are not going to get there. The take-up of Sky and cable is slightly more. I suspect the take-up has been pretty good in the last two or three weeks since ITV Digital went bust, but that's people switching: they are not new people.

Ten million households, two-thirds of those who haven't got digital at the moment, say they don't want pay television. Therefore it is not possible to achieve analogue switch-off with a purely pay offer. If you want analogue switch-off, the next phase of digital growth has to attract the non-pay customer.

Now, having said that, can pay DTT be viable anyway? If we attack the reception problems and reduce the number of channels from 36 to 24, at best only six to eight of these could be pay – a pay light service. There could perhaps be an à la carte pay light television where you chose: “I only want one football channel”, or “I want one football channel and one movie channel”.

That may not be enough to sustain a viable independent pay business. If DTT is going to be run as a pay business on eight channels, separate from anyone else, we don’t think it is a viable business.

However. we keep meeting politicians and regulators who want a third pay platform – they want more competition. But politicians wanted a car industry in this country and they haven’t got one. It is markets, not politicians, that decide whether things work.

### Sky and DTT

Our argument is that only Sky or the cable companies can make pay light on DTT work, that you have got to do it on the back of something else. You have got to use it on the back of somebody’s call-centre, on the back of somebody else’s marketing. We think BSkyB or the cable companies could possibly run pay light successfully. In the present financial situation – and we will find out from Adam whether that is changing – the only people who can run it are BSkyB, because this is the only company that has any money.

But we know that BSkyB was in the original DTT bid, and was thrown out by Brussels. Everybody you ask, all competition authorities and everyone who is involved in competition policy, believes that the same would happen again and that BSkyB wouldn’t be allowed. Now that might not be the case, but that’s the impression one gets from both competition authorities and politicians.

So if that is the case, what do you do? We think 1) change the way DTT is transmitted – a mode change; and 2) turn it into a free-to-view only platform.

### Proposal for a free-to-view platform

How could it work? One way, and not necessarily the way it has to run, is to set up a not-for-profit consortium run by the free-to-view broadcasters and multiplex operators – in other words, you have to get everybody who has currently got gifted capacity or a licence to be in on this, because otherwise you can’t reorganise it. Three of the multiplexes we know now are up for re-licensing, and the BBC, ITV, Channel 4, Channel 5 and SDN have gifted capacity. The consortium would bid among the three multiplexes. It doesn’t have to be owned by these people; it could be something that actually embraces all these companies, as long as they are all doing it. I don’t think it is a commercial business because it is cost-sharing as opposed to profit-making – I don’t see how anyone can make money out of just charging extra for using this spectrum.

You make the mode change; you fill the capacity with free-to-view channels; you would also bring in interactive services and possibly digital radio. The existing channel operators would commit to taking capacity, which for some could be less because, if you have three channels on your half multiplex at the moment, you would have only two in the future. Existing channel operators would commit to taking the capacity; the remaining capacity would be leased to new free-to-view channels.

A possible channel line-up would include all the existing services. Possible new services would be a second news channel, sports news, children’s channel, movies, music, history, comedy; they would have to be newly created channels, or channels that are already free-to-air elsewhere. You won’t get people who currently have pay channels on Sky and cable. And you won’t see those pay channels giving up pay to switch to free-to-air on DTT. The economics just don’t make sense. The amount of money you are getting from Sky or the cable companies could not possibly be outweighed by what you would get as a free-to-air with advertising revenue. So you won’t get the UK Golds; you won’t get Sky 1 and those sorts of things – it just won’t happen.

Now the question is whether a 20-channel, say, with four interactive channels selling the idea of interactivity and more television, is a viable consumer proposition. We can all sit here and think up wonderful ideas, but if the consumer isn’t going to take it up, it’s a waste of time.

In the discussions we have been having with Carlton and Granada and the late demented ITV Digital over a period of months, we have considered quite a lot of research on this. The research suggests that boxes would be popular: 30% of non-digital viewers today say they would be interested in more television and say they would buy a £99 box to get more quality channels – and they do stress quality with no subscription. Pace launched the £99 free-to-view digital adapter in April. I have to say, that the week before last, I finally got one. Technologically I am not up there with the best of them, but I took it home, plugged it in, and in ten minutes on my set in the study I had 16 free-to-air channels. It took ten minutes. However, that's the good news. The bad news is that Carolyn Fairbairn took one the same day to her home in Winchester – also supposed to be in the area that can receive DTT – plugged it in and couldn't get one channel. However, the mode change will overcome that.

Pace are there. We have no other manufacturers that are ready to enter the market, although the fall of ITV Digital hasn't helped because they will all be destabilised by this, and the quicker we all say this is what we are going to go with, the better. If it is £99 now, we all know from new technology that that price will fall over time. I wouldn't be at all surprised if, in five years' time, we have a £25 adapter. If you get to a £25 adapter then you help to remove another significant barrier to switch-off, which is the second and third set problem. While not a problem in cable homes, it is still a big problem in satellite homes. We talk about being the most advanced digital nation in the world – actually we are the most advanced nation in one room in the house; the rest of the house is still all analogue.

The prize is to win over the digital doubters by overcoming the barriers among that group to going digital. There is a simple proposition: better normal television. The research we have done suggests that when you say to people you can buy a £99 box, what they believe is that you'll come back some time later and charge them more. You have got to convince them, and you have to sell the idea that actually this is much more like buying a television than it is anything to do with pay. When you buy a television you take it home, you plug it in, you hope it works, and you've got five channels. In the future, you buy that television, you buy this and it goes with it, and it will give you another ten to 15 free channels. That is a big marketing challenge, but you're selling it as better normal television: no subscription, simple





technology and a limited number of high-quality channels.

One of the criticisms that have been made about the BBC by ITV Digital is that we didn't do enough to promote digital. Actually they were not complaining about us not promoting digital; they were complaining about us not promoting them. But we have very real issues about what you are allowed to promote and what you're not allowed to promote when it is tied to a pay platform. Once you separate it from a pay platform, it is much easier for the BBC to promote: "If you want to see the BBC's extra channels, there is a number of ways you can get them: you can get them through Sky etc., but if you don't want to pay, you can get them here. This is how you can do it." And there will be a helpline and all the rest of it. But it would be much easier for us in terms of state aid and competition issues if it were free-to-air.

Again, our research suggests that we can aim to get more than five million future DTT homes by 2006. Effectively what you are saying is, "Look, digital comes in three different ways: you can have cable which is pay; you can have satellite which is pay; or you can have DTT which is free-to-air." So the potential growth in the digital take-up platform by 2006 could be as follows. At the moment you have got 16 million households that are not digital. We believe satellite will continue to grow, cable will clearly continue to grow, but if you add in DTT you could reach six million who are non-digital. If you get to there, analogue switch-off begins to be a realisable aim, particularly if there are other things you can do for the areas that can't receive DTT at the moment. Plus, in satellite and to a certain extent in cable, many will use DTT for second sets.

### A dangerous alternative

The danger is if we don't do something like this, if we don't do a serious rethink about the whole basis on which we do DTT, then there will no doubt be some smart-arse venture capitalist who will be persuaded to put up some money to bid for the pay and be convinced because the business plan makes it look workable. You only have to bang a different number on the computer and you get a different business plan – we've all done that. We can all make any business plan work until the day we actually have to run the business, which is of course what ITV Digital discovered – although I'm not sure Granada ever actually even banged the computer. I think they got in so late they never did the business plan. But that's a different matter.

You will get a venture capitalist who will come along with an idea for Pace saying, "Let's do it, we'll make this work." It will happen. In two or three years it will fall over again because unless the pay is on the basis of somebody else's pay services, we don't think pay can work. So the danger is it falls over again and that's the end of DTT because I don't honestly think it can live through this again; and the consumer will be completely confused by what it's about and what's happened. If that's the case, analogue switch-off will remain a dream.



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## Adam Singer

Group Chief Executive, Telewest Communications Plc

Those of you who know me know that I had a real shock yesterday. I took yesterday off. I sat down about three o'clock in the afternoon with a cup of tea and wrote some notes for today, and then I saw the news. I have essentially been giving the same old speech for ten years, and suddenly I saw the news. With one fell swoop the government has forced me to write a new speech. So this will be the last outing of some old thoughts, but I don't make that as a promise.

Yesterday's announcement was a major change in the rules and thus a change in the game. It is acknowledged that the era of public spectrum dominance is over, and rightly, or wrongly, the economics of private spectrum is now the driver of policy. It envisages a future in which every home is a multichannel home and is competed for. And anyone – citizen or non-citizen – can own a channel. It is unique. It is radical. The message is clear: TV is now a commodity. That may not have been the intention, but that will be the result.

When you look back and ask what happened, remember a contributory factor was ITV. When they might have been putting £1 billion into programmes, or building a competitive position on Astra, the satellite, they put it into ITV Digital, which was their third strike after Super Channel and BSB.

### ITV Digital and bandwidth economics

It is important to understand what happened to ITV Digital if one is going to comprehend this new private spectrum future, if one is to comprehend the forces that the government is dealing with.

Now imagine, if you will, a thriving high street. In the middle is a vast shiny WH Smith where 1,000 magazines bloom. Because it is a large space the total rental cost for the shop is high, but the price per square foot is comparatively low. It is a triumph of volume economics. It is the embodiment of that key indicator of the retail trade: return on floor space. Thus each magazine sold makes a significant contribution to the cost per square foot.

Now, some considerable time later, another newsagent sets up immediately next door. Monkey Mags, as it is known, has a small shop thus lower total rent, but a higher cost per square foot, and can stock only a limited number of magazines. Thus each magazine makes a smaller contribution to the cost per square foot.

In the new media, bandwidth is square footage. ITV Digital was making insufficient return on its digital bandwidth. That was why it could not work. ITV Digital then made it worse by stocking its limited digital shelf space with own-brand publications such as Carlton Films. Then, as a finale, imagine a small newsagent trying to finish off WH Smith with a killer blow of buying the exclusive rights to sell the *Daily Express*. Or, in the case of ITV, second division football rights.

ITV Digital did not understand private spectrum bandwidth economics. Now these people are intelligent, capable people, they have built highly successful companies, but they have been brought up in the post-1955 duopoly culture of public spectrum economics. The difference is this. You harvest public spectrum: it is farming. You build private spectrum: it is an industry. It is not a question of which is better; it is a question of understanding the difference. Cable and satellite is an industry based on return from bandwidth. That is very different from traditional broadcast television, which never had to account for bandwidth.

Now I know all this stuff about bandwidth economics is really boring, and it is not half as much fun as talking about public service broadcasting with a plurality and all those other things we love to talk about, but it is the essential underpinning of the economy we are going into.

ITV thought that because it was all television, it would be easy. To put it another way, just because snooker and golf look similar, and you walk around with a stick trying to push a ball down a hole, it doesn't mean you can be champion of both.

Greg is right. DTT only works if it isn't a business, and that is essentially what he has just outlined. My comments today don't respond to Greg's or dovetail. And you will understand that this is very rich coming from someone who runs a cable business that has seen its share price collapse and has £5 billion





of debt! All of us here could have a very good weekend on £5 billion. But once again it is the bandwidth economics that drive that. The truth is that the most cost-effective way of delivering classic, conventional, one-way multichannel pay television to the home is satellite. Ray will be taking careful notes of me saying this.

This is why the idea of Sky being involved with DTT, or being involved with DTT at any point, was never a long-term runner because they were always going to make more money on the bandwidth they were selling to a dish than the bandwidth they could sell to an aerial.

As ITV Digital discovered, you cannot compete with satellite by delivering less. The only way you can compete with satellite is by delivering more. If cable was capable of supplying only digital TV channels it would be dead. Satellite economics beat it by a country mile. Cable only makes sense if it can supply huge quantities of two-way bandwidth covering television, telephone and, most of all, high-speed two-way file-sharing in the guise of high-speed internet.

So, at a very high cost, cable has built a network that can offer quicker, cheaper, more abundant two-way bandwidth and satellite. The difference between cable and ITV Digital is that cable as a business works. What doesn't work are the huge levels of debt borrowed to build the networks. I am very reluctant to say this, but let me draw on something that I read in the newspapers. I quote a thought from the weekend's papers: "Cable is analogous to Concorde, Canary Wharf and the Channel Tunnel, all of which were debt disasters but now flourish." Now clearly, as the CEO of a cable company, that's nothing to be proud of, especially if one has to face the employee and investor victims of this, but it is an important observation and is a way of saying that, regardless of current circumstances, cable remains a long-term player.

### Growth of multichannel television

So where does this leave us? Almost 50% of UK homes have multichannel television. Forget the will-they-want-it conversation: they've got it. Roughly 50% of UK TV homes have multichannel TV, and that 50% is roughly under 50 years old. That is not literally true, but is directionally correct. This was the same dynamic in the US when multichannel television reached around the

45% level of penetration. The growth of multichannel pay homes in the US, even with the recent aggressive competitive arrival of satellite, has been about 1-2% a year for the last ten years. Eventually everybody has more channels than they do today, but pay TV in this country is likely to grow at about 1-2% as children leave home and multichannel television moves in the national consciousness from novelty to utility.

In this future it will be logical for Sky to buy Channel 5, at which point ITV would be further diminished. Either way, the worrying thing is if Channel 4 ends up as No. 3 commercial broadcaster, which may well not be good for diversity.

In the light of last night's breaking news, I suspect a price of a potential Sky acquisition of Channel 5 might well be that content and distribution gets split. This would make tremendous sense and solve the gatekeeper issues, and I bet that's the deal behind there.

### Future position of the BBC

In all this do not believe any arguments about better programming improving multichannel take-up coming from anyone, especially the BBC. Not because they can't make better programming, but because all new programming is incremental and proportionately has less driving power. As for the BBC, they are going to do very well in this future. They are going to create the DTT public service read-out as Greg has just pointed out. Their competition is fragmented and they will be in a very powerful position. The issue there will be: what are going to be the limitations? Because there is no human activity on earth that cannot be covered in the rhetoric of public service broadcasting.

The question for the BBC will not be anti-competitive practices against Talk Sport, or the Arts Channel. Both entities volunteered to compete in an area where the BBC traditionally works, and Greg is absolutely right to be robust with them.

But the question must be: why is my licence fee being spent on new search engines when the market has produced loads? Why do they distort the market with *Top Gear*? Why did they destroy a great publication like *History*





*Today* with a poor competitive copy supported by free advertising and free cross-promotion?

The BBC, to make the point, is in public service television, public service radio, public service books, public service magazines and public service internet, and the Zen riddle of the day must be: how can the sound of one voice be pluralistic?

### Conclusion

The issue for the government is not only about defining the BBC, but about understanding that multichannel television is not the digital divide any more than there was a colour TV divide. No, the digital divide will be between those who have access to high-speed internet and those who haven't. Analogue switch-off is an unnecessary, needless irrelevance, but welcome to the new duopoly of the BBC and Sky. It will be interesting, but remember what is driving this is not the government as it was in the 1920s or in 1955, or when it established Channel 4 while there was still bandwidth and broadcasters could be created. No, what is driving this is the new spectrum economics, and the government deserves points for recognising that.

## Discussion

*Patricia Hodgson, Chief Executive, Independent Television Commission*
I thought some of the things that we heard this morning moved our understanding of DTT on quite a bit. Probably it takes one more step to understand how it fits into the overall ecology.

We should stop thinking about three competing platforms and realise that we are talking about three ways of channels getting to market. The competition is between the channels; and what is important is that the ways in which they get to market be open. As Greg said, DTT is important because in the medium term it is the only platform apart from satellite that will offer universal service, and cable's wires will take a long time to be universal. It's clearly the platform for second and third sets and a substantial minority – perhaps 30-35% of homes – who won't take pay.

Greg is also right about the importance of a radical rethink about how we use the platform, which is why the ITC's tender document says basically anything, consistent with running a national television platform. DTT will undoubtedly succeed – you've only got to see the strength and power of the rethinks that are going on – but how it succeeds is very important. The sorts of ideas that Greg has, or any other ideas for how this platform might operate, must be open to a range of services.

We have just had a government bill which is radical about ensuring that the UK market is open to the most dynamic of investment and television opportunities; it is absolutely vital that DTT is as well. And it is vital that, learning from the mistakes of ITV Digital, and consistent with using this platform in a way that works, we don't foreclose uses that Adam mentioned, for example being able to buy individual channels and making changes to bundling rules.

In five years' time this market is going to be very different. How we use DTT must be as flexible as the future will be.





*David Elstein, Chairman, National Film and Television School*
Difficulties with analogue switch-off
Greg says all political parties are committed to analogue switch-off. What do you say if everyone in the world believes in something completely ridiculous? It doesn't make it less ridiculous, but it does make it harder to persuade them of how pointless the entire object of the exercise is. So I have actually tried to concentrate on why analogue switch-off is so incredibly hard to achieve, and the problem with Greg's presentation is that it replaces the larger insanity with a smaller insanity, but it is still unable to cross the credibility threshold which is: how do you physically do it?

I don't think anyone seriously believes that the original 95% digital take-up, i.e. one set per home, would ever have been a sufficient threshold for analogue switch-off. It's just not credible that any government would switch off three-quarters of the televisions and videos in people's homes. It's never going to happen. Yet if you think about it, and you actually do commit yourself to analogue switch-off, and do commit yourself to converting every single TV and every single video recorder, it's just incredibly hard.

Now Channel 5 went through a little process of this kind called retuning. Greg was there at the time. It cost roughly three times what the applicants said it would cost, and it was a really simple business. It was knocking on ten million doors, doing a ten minute screwdriver job, and that was it.

Converting every home means multiple visits to every home to check they have got all the equipment, to check that it works, and to come back to check their aerial. If we invested the entire UK population of aerial installers to this one job it would take, by my estimation, roughly 27 years. (I've just multiplied the eight months it took Channel 5 by the 40 times harder it is.)

Anyway, the point is that it's not only incredibly difficult, it's incredibly expensive. Almost certainly vastly more expensive than any possible value that might be derived from spectrum sale. Indeed, the ITC two years ago conceded that most of the analogue spectrum would have to be reallocated to complete DTT rollout, so what you might have left to sell is of dubious value in a market where there is no shortage of bandwidth. It is a remarkably curious object of the exercise.

Barry Cox let the cat out of the bag on Monday when he said that it's nothing to do with spectrum sales, it's to do with protecting public service broadcasting. Now personally I think he meant public service broadcasters. There are lots of different ways of protecting public servicing broadcasting, and it's a perfectly laudable objective, but you do have to measure the cost-effectiveness of what's going on.

Now I agree with Greg that pay TV on DTT can't work. Big pay failed comprehensively. Small pay – pay light – must fail because the infrastructure cost is so high that if you have lower revenues, you've got no hope at all. Those of us who have studied these things carefully would have noted that ITV Digital's infrastructure costs in the year ending last September, excluding content, excluding ITV Sport – just their infrastructure costs and customer management costs – were £400 million. There is no way in the world that a DTT pay service of any size, I suspect even if it was the only pay TV service, could sustain that level of cost.

It was also noticeable when Tessa Jowell spoke on Sunday on *Breakfast with Frost* that she abandoned the 95% precondition as one of the three pre-conditions; she concentrated on two. One of them was accessibility to digital. Well, as Greg says, 98% of us have accessibility to digital satellite, so we've met that test today. The other test was affordability. I'm not sure what a minister does about affordability. Does a minister say, "It's 25 quid – you can afford it"? On the whole I believe that consumers make decisions about affordability, not ministers.

Digital boxes: Pace, Sky and ITV

Greg tells us that there's research from the BBC that 30% of non-digital homes would buy a £99 Pace box if it were offering more quality. Well, we've been down this route. Channel 5, when it launched, attempted to sell analogue dishes which provided ten free-to-air channels, including Channel 5, for a one-off payment, no subscription ever, and we got no takers until we subsidised the price down to £25.

Now the key to this is that the existing five channels have a £3 billion programme budget. All the new channels combined have roughly a £300 million budget. I realise that quality is a subjective thing, but for most



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consumers that is not a big enough come-on.

You have also got a slight problem with the Pace box, apart from its very low functionality. I'm glad it works, and I'm sure it's a good product for £100, but for three years there was a £100 box out on the market with very high functionality, easy upgrade to pay TV, terrific interactivity. And did the BBC promote the hell out of it as a good-quality consumer product? No, because that was the Sky digi-box offering huge numbers of free-to-air channels. Indeed the Consumers' Association described it as by far the best way to get digital radio because you get all the digital radio channels for £100. For three years there was complete silence on this terrific consumer product, and suddenly we are going to be told that the BBC is going to – I won't say break its Charter – do something it previously wouldn't do, which is offer the public, or imply to the public, that there is a good-quality product out there. I have some reasons to differ.

One final point: the £99 box is very interesting, but there are 1.2 million ex-ITV Digital homes, most of which are going to upgrade to cable or satellite. They are going to be sitting on a residual ITV Digital box. Given that ITV Digital suffered a huge amount of completely illegal piracy, a lot of people would have problems preventing Mr Bloggs buying off his cousin a £35 ITV Digital box, which has just the same functionality as the Pace box, rather than paying £99 for a new one. Nobody is going to be marketing DTT boxes in the heavy way that ITV Digital did. We have just got to come to terms with this. If it fails, it fails. We would improve the chances of digital switchover much more if we transferred the investments we are making in free-to-air BBC content and DTT transmission to subsidising cable and satellite boxes. We would get three million new installations a year, instead of doing what we are doing which, is confusing the poor old consumer.

There is an even simpler way forward than 24 channels: it is one multiplex for people who want to convert from analogue to digital and just keep their five channels. You could roll that out really fast, but I don't hear that coming forward because what everyone wants to keep going is their additional channels, not consumer functionality.

*Response: Greg Dyke*
The moment we announced that we were going to start promoting free-to-air digital, Sky withdrew their digi-box because it was so expensive for them. We hadn't liked it much either because we had to pay £10 – 10% of people's licence fee – per digi-box. But the moment we started to promote free-to-air digital last year they withdrew it, and I think fairly.

Our research showed that there is a consumer proposition which people would buy. People quite like the idea of getting more television; what they don't like is the idea of paying for it.

In response to Patricia's point, there will be difficulties with access for new channels. Let's assume that interactivity is one of the things that will help drive this, and interactivity in both Sky and what we have been doing is quite interesting now. Within the BBC we have gone from that period when nobody was really very interested to now, when everybody wants to do their programme with interactivity. If interactivity is one of the things that help push this and sell this, you are down to probably 20 channels, because ITV will want interactivity and I suspect Channel 4 will want interactivity at some stage. Therefore you are probably down to 18 to 20 free-to-air channels, and it cannot be that any new person has a means of coming into the marketplace because there is a limitation.

Now because of that, the licences are limited for periods of time, and therefore the opportunity does come when the licences end, but until then I don't think you can get new people on free-to-air channels.

The problem in the first place, as you saw from the list, is that you have got to get 20 free-to-air channels that think they can make a viable business of it. That will take some investment from people.

The danger with us suggesting and pushing this is that everybody thinks, understandably, that this is the BBC trying to grab more territory.

*David Elstein*
And it isn't!



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*Response: Greg Dyke*
The real truth is that the BBC doesn't want to continue to pay the cost of DTT in a world where there is no uptake. It's a waste of time and it's an incredible waste of money for all of us. That's where David and I will agree.

So unless you believe we have a means of making DTT an attractive consumer proposition which a large number of consumers would take, we would do better to pull out of it. But then, as I say, that is the end of switch-off. David might feel that doesn't matter, but that's a perspective for government at the end of the day.

*Response: Adam Singer*
David is making an essential point, which is that pay television and multi-channel television is a mature business. Mobile telephones in this market are a mature business. DVD is a mature business. VCRs are a mature business. Colour TVs are a mature business. When you have the levels of take-up of pay and multichannel television that we currently have, it is a mature business. It will grow with those kinds of dynamics.

I totally agree with Patricia in the sense that DTT essentially becomes a default transmission norm. That is essentially what she is saying. But the real thing is that it will only support channels that are single-revenue-stream channels, i.e. advertising only, and there aren't very many of those that will work. Even Discovery, one of the most successful channels in the US, carried on every cable service, does not work as a single-revenue-stream business. It's worth hanging on to that one thought. It would not work as a single-revenue-stream business here.

The other point is to look again at my theory on WH Smith and bandwidth economics. Historically the BBC had initially 100% of available bandwidth, then 50%, then 25% – and it's trying to maintain a significant level of bandwidth. The best way to do that is by corralling more of DTT so you have a significant amount of bandwidth, a significant amount of shelf space, a significant amount of utilisation that justifies the licence fee. That is essentially what underpins the strategy.

*David Hulbert, President, Walt Disney Television*
I apparently work for the future owners of ITV.

It seems to me that Greg is confusing his desire to have a lot more free-to-air channels with the way that you get analogue switch-off, if that's desirable – that's a different debate. Looking at the cost roughly, if there are left five to ten million homes that haven't gone over to digital, then surely it's cheaper for society as a whole for someone to go and just reinstall those homes with digital. That has to be cheaper than buying the spectrum and then creating eight to ten new substantial free-to-air channels, which by Greg's own calculation have no other value and therefore have to be funded by the taxpayer and presumably therefore operated by the BBC.

*Response: Greg Dyke*
No I didn't say that. That's not true. There are free-to-air channels already on satellite and cable that would come over. It would certainly not be the BBC's intent to increase any more channels than we have now as free-to-air public service channels. It is not our intent. We would not do that. But I would have thought, over time, Channel 4 may be interested; ITV, which has created ITV2 might certainly be interested. In two year's time Channel 5 might be interested in doing a complementary channel to the one it runs now.

I think there are people who would be interested in trying to create free-to-air advertiser-funded channels. It would not be our intention. I made it very clear to MacTaggart two years ago – and we are still saying it – that we do not wish to do more channels than we are doing at the moment. The only addition is that we would like to be able to do the interactivity on DTT that we currently do on satellite.

*Deirdre Hutton CBE, Chairman, National Consumer Council*
I agree with much of what has been said, particularly about the importance of DTT to analogue switch-off. Our position has been that we need to get pretty near 100% coverage before it's reasonable to switch off analogue.

What hasn't been covered is the sheer confusion among consumers about what the offerings are out there, how they decide what box to buy, and whether it's a good deal or not. If the market is going to run this, which it





clearly has to in the end, then there has to be a great deal more clarity for consumers. The research we have done within the high street shops has shown that the information given to consumers is universally wrong, which is a bit worrying. A lot of effort needs to be put into simplifying the proposition for people before this future is going to take off.

*Response: Adam Singer*
It's interesting that we are focusing a lot on DTT. What happened last night makes the DTT conversation interesting because there is another thing behind it. What do you think the UK TV ecology looks like with five major commercial channels – picking a number at random – each with a maximum 10% audience share, and the other 50% share being fragmented across a wide range of channels? Multichannel viewing already has 22-23% share which equals ITV. So the question you have to ask yourself – at least I ask myself – is whether the ecology we have all grown up with will cease to exist. Five channels with a 10-15% maximum audience share is a very different industry from the one we are used to. And that was what was announced last night.

*Lord McNally*
Just one sobering thought for the rest of you: when Mr Murdoch bought *The Sun* it was a defunct ex-TUC house magazine. Whoever buys Channel 5 and what they do with it may also change the ecology of broadcasting.

My question is simply an enquiry about the timescale and the framework within which this DTT decision will be made. Is it purely a decision of the ITC? Do they have to refer to the Secretary of State? Does parliament have a view of this? If this is a decision that is going to be taken within weeks, then it makes a slight absurdity of the wide consultations and considered evidence being given to joint select committees and all the rest of the legislative process if one of the most important decisions – namely the way this window of opportunity is going to be used – is going to be made quickly and without any of the other consultations that are going to play a part in this debate.

I don't know if there is anybody in the room who knows the timescale and the decision-making process, but it does make an awful lot of difference to everything else.

*Andrew Ramsay, DCMS*
The licences are being re-advertised and there is a process going over the next six weeks to see whether somebody will takeup those licences for a balance of pay and free-to-air television.

*Lord McNally*
But what if a venture capitalist has a wonderful business plan and we believe them? That is scenario B in Greg's presentation, which he suggests is a road to disaster.

*Andrew Ramsay, DCMS*
The ITC has got to make a judgement about those people applying for the licences and the sustainability of what they are going to propose. That is its decision.

*Lord McNally*
It is the ITC's decision, but no reference to the Secretary of State, no reference to parliament?

*Andrew Ramsay, DCMS*
No, it's a licensing decision for the ITC.

*Rt Hon Chris Smith MP, Islington South & Finsbury*
One of the things that worry me about the discussion so far is that it has been entirely – or almost entirely – from a producer's point of view. I want to look at it from a consumer's point of view. What are they wanting out of all of this? Consumers see this mess; they don't really understand very much about what digital television is; they have heard about ITV Digital – most of them haven't embarked on it. What do they actually want out of their television?

They want probably a bit more choice. If they pay for something, they certainly want it to work. And they want to ensure that in future further choices are going to be available to them. That's where the Greg vision of an entirely sealed system that is purely free-to-view strikes me as being ultimately flawed. While it is a very attractive proposition, and I suspect it will probably work, it limits the future options for the consumer. Surely we ought to think whether we can build into such a vision future options of subscription, of pay, of expanding what is available to the consumer?





*Jocelyn Hay, Chair, Voice of the Listener and Viewer*
I'm very glad that Chris Smith has articulated some of the consumer concerns. I agree with Patricia Hodgson who outlined many of the benefits of DTT, but also with Deirdre Hutton about the confusion that reigns among consumers.

I speak at an enormous amount of public meetings and find that people simply do not understand digital at all. It is quite appalling. On the other hand people are looking for some extra choice and they like the simplicity of digital terrestrial technology. I am also interested in the costs, because the costs that have been put forward to us have been very much less than many of the costs that have been banded about by the industry. Many of those we understand will be recouped in relatively few years once simul-casting is switched off. So it does come back, obviously, to economics, but the benefits of DTT alongside the other two platforms, both of which have additional benefits, are overwhelming. I would support Chris's view that digital terrestrial as Greg has outlined in the initial stage is fine, but there should be some flexibility towards upgradeability and interoperability of sets.

Finally, it is absolutely outrageous that anybody could be considering the death of a technology in perhaps seven weeks' time, depending on what happens with the ITC in six weeks. That's absolutely outrageous from a consumer's and a citizen's point of view.

*Response: Wilf Stevenson*
Quite an interesting consensus seems to be emerging around the idea that DTT can become the way we get television in the future to be the same as we had it in the past, and that the government should think hard about how that might be facilitated. But that mustn't be at the expense of consumer choice and certainty in the marketplace, and it must not interfere with what Adam was saying about the general drive in the new bill concerned with creating a different type of approach and understanding of where the principles in governing this area come from. They come from a different form of economics than we are used to.

But if that is the case then the BBC has got to be very clear about why it is doing this. Following from what Patricia said, it seems possible that the industry could get together and do what it wants to do on its own anyway. In other words, if we could get the groups together now to do that, and make the bid that seems to be an option, then that could happen without any further interference from government. That seems a rather attractive prospect for legislators who are already busy trying to move forward on a more complex set of fronts at the moment.

*Response: Adam Singer*
To say this again another way: a larger percentage of households have elected to take multichannel television in this country than actually elect a government. Look at it from that point of view. Multichannel television already works: it's a success. The consumer has already voted. Almost 50% have got it, and that 50% are under 50. From here on in it's generational, and as somebody who is over 50 I am out of the picture, too.

As for the death of technology, this is absolutely normal, as anybody who invested in a telex machine the day before the fax came out discovered. It's a normal thing.

On confusion, the consumers are not that confused: half have already taken up.

My last point is that if you look at the music industry you see a very clear split. With the exception of Sony, those who create music do not invest, by and large, in the hardware that reproduces it. You would have far more clarity in the television market if those who owned content didn't also own the means of distribution. Then you could have competition between platforms specifically outlining exactly what they are about.

*Response: Greg Dyke*
Just to answer one or two of the points. Most of these boxes will be upgradeable. And there is no point in having upgradeable if there are no pay channels, and those could come later. In the discussions that we were having with ITV Digital, our problem was that we couldn't stipulate no upgradeable and it was very difficult for us. Anyway, most boxes would be upgradeable – I think it's £5 in the cost of the box.





I personally would have no problem at all with Sky running Sky Light in this thing. Everybody else panics about it – I would have no qualms at all. Sky is the dominant platform anyway, so what does it change? What is wrong for the consumer with that? If Sky ran six pay channels on it, so what? However, I am told by everybody in Rome that this is too difficult in competition terms and the rest of it – we have been down that route. We have no problem with the small pay element now.

However, that's not what's going to drive it, and this is coming back to the point Jocelyn's been making about the consumer. What will drive this is the ability to get more television at a one off capital cost of £100 or less. That's what will drive it, and no-one has tried to sell digital television in that way so far. It's only been sold as pay effectively, and Jocelyn is dead right about the confusion. Again, the research we have done shows complete confusion because people do not know the difference between digital and pay – they think they are the same thing.

Finally Lord McNally's point – the reason why I volunteered to do this here today was precisely the point he is making. This ought to be in the debate that goes on in the next three months. And the debate ought to be a serious debate. It isn't just about business and economics; it is also a public policy point which asks what is the best thing to do with this platform that is in the best interests of our society in general.

I started off by saying the three main political parties support analogue switch-off – that's our democratic process. If our democratic process says all our political parties want this, if that's what we are going to aim for, then it's okay to say: you need to go down this route to achieve it, or you won't achieve it.

Now it doesn't necessarily mean it's going to be achieved. As I said before, all political parties believe in a car industry, but we haven't got much of a one left because the economics in the market didn't do it. We believe this takes you a significant jump down the route to analogue switch-off. We thought long and hard before saying anything because the problem of the BBC is that we are immediately accused of trying to get more territory. And I will say it again: we do not wish to do any more channels as a public service venture than we do today. Who fills the other channels is an interesting discussion, but we do not want to fill them as channels paid for by the licence fee. We think the licence fee is spread enough, it shouldn't be spread further.

**Seminar 4**

# Analogue switch-off

A seminar held on 19th June 2002 at
**11 Downing Street, London**

Edited by Tony Pilch

## Introduction

## Wilf Stevenson

Welcome to the fourth seminar in our series on broadcasting. We are at the exact point in the cycle which will allow us to have a free and open discussion about various issues to do with DTT, while the bids for the ITV Digital licences are being considered. We felt all along that in this series we should look at the long-term future in all broadcasting areas, not neglecting the read across to communications and other issues. I am very pleased to have such a strong audience today and also to have such a strong speaking line-up, and the Institute is very grateful.





## Stephen Timms MP

Minister of State, DTI

It is almost exactly two years since I opened a Smith Institute seminar here on Broadcasting for Digital Citizenship, and I am very pleased to be back on the digital case now at the DTI. I had been at the DFES for a year, where there has been good progress in exploiting technology to raise standards in schools, and also in equipping young people with the skills to be digital citizens. It is working well. In April I was visiting a primary school in Derby. They showed me their ITC suite, which they said was being used by all the children in the school from the four-year-olds up, but that they had had a problem recently because some of the four-year-olds had been using these PCs to hack into the school's administrative system, and had started to change some of the data on the system which wasn't supposed to be changed!

There is absolutely no doubt that we are raising a generation of digital citizens who are going to be making very heavy demands on bandwidth and access and on the capacity of their networks. That is one of the reasons for us to continue to be optimistic about the prospects for digital and for broadband at a time when the markets are much less certain than they were. And we can in particular be optimistic about the prospects for digital TV where we do have, by some considerable margin, the biggest penetration in the world.

The fall of ITV Digital obviously has been a major disappointment that has raised a whole host of new uncertainties, but it is important to see it as the failure of a company, rather than as the failure of a technology. Those who were sceptical about the digital terrestrial platform do need to note in particular the fact that the ITC has received these six bids for the licences that ITV Digital has handed back. We are looking forward to the decision about those in early July. So the level of interest in the platform remains very buoyant, and rightly so.

Chris Smith set out very clearly in 1999 that the two criteria for the analogue-to-digital switchover were first of all accessibility – that everybody who can currently receive the main public service broadcasting channels in analogue form must be able to receive them digitally; and second, affordability – switching to digital must be affordable for the vast majority of people. Those criteria remain right in our view, and we continue to believe that, on that basis, analogue terrestrial transmission could be switched off in favour of digital between 2006 and 2010.

We set out last December the digital action plan as a road map for the partnership between industry, consumers, government – all the people involved – about how we take all of this forward. We are continuing to develop that plan with contributions from others.

It's very clear that delivering the content that will engage and enthuse potential users of digital TV is one of the key challenges. We have got a great content industry in the UK, and we do lead lots of new cross-sector relationships and alliances: games companies talking to mobile phone providers; broadcasters talking to web designers in order to make sure that they have the content that will enthuse the new generation of people who will be demanding digital TV. So I am looking forward immensely to having a hand in the development of digital television in the next few months, and to working with the industry in helping to deliver the ambitious objectives that, my guess is, every single one of us shares.





## Barry Cox
Deputy Chairman, Channel 4 Television

I should make clear from the start that while I am speaking from the perspective of the chairman of the Digital TV Stakeholders Group, this is very definitely a personal view and not that of the government, or of Channel 4, or any other stakeholder.

I want to start on an optimistic note. Far too many people have written off digital terrestrial in recent weeks. As the applications for the former licences show, there are plenty of serious people and organisations who clearly think otherwise. I myself take the view that the collapse of ITV Digital and the current uncertainties are only temporary, though unwelcome, setbacks. Indeed, both industry and government are taking advantage of the opportunities provided by this hiatus to use what we have learned from the past three years to improve the digital environment. This morning I want to argue that it is still possible to start switchover, though probably not complete it within the target timetable of 2006-2010.

There are two things that the government has to be able to say to UK citizens before switchover: first, that nearly everyone will have a choice of at least two ways to go digital, and that means getting the public service broadcasters to replicate in terrestrial most of the current analogue transmission network; second, that however many analogue TV sets and VCRs you have in your home – and there are probably about a hundred million of them around the country – and wherever they are, you can convert them to digital at a reasonable price. In this respect the development of the low-cost adaptors such as the Pace and Grundig receivers now coming on to the market has been essential.

While there are matters affecting satellite and cable digital that need sorting out, the big issues concern the terrestrial platform. I'll concentrate on those this morning.

### Overcoming the problems of DTT
Obviously the collapse of ITV Digital has, as Stephen Timms has said, damaged confidence in terrestrial digital television, and indeed in the whole

idea of switching analogue off. Restoring confidence among both industry and consumers is therefore an urgent task. It is good news that there have been four sets of applicants for the former ITV Digital licences, though I don't envy the ITC's task of deciding between the very different approaches adopted by the bidders.

Once the new licensee or licensees are known we can start serious work on overcoming the problems that DTT has encountered. I'll put these into three categories: first is getting the government to make the decisions we need to complete the action plan; second is finding the optimum solution for the technical problems we have discovered in the past few years; the third category is getting even greater co-operation between broadcasters, receiver manufacturers and retailers so that we can make free-to-air digital television work.

### Decisions for government

I said I believe the government needs to make sure that pretty well everyone in the country has a choice between at least terrestrial and satellite digital services. Near universal coverage is already available from satellite; however the government has still to determine what coverage it wants from terrestrial public service networks, and then to persuade those broadcasters to build it.

The first step is for the government to decide how much of the current analogue spectrum – 46 UHF channels – it wants to take back from broadcasting at switchover. Very helpfully, the government earlier this month said it wanted a minimum of 14 channels cleared, and specifically that seven of these would be from the top and middle of the UHF band. This interim decision will enable the regulators and the broadcasters to get on and complete a comprehensive frequency plan for switchover.

We also need to know whether the BBC, ITV and Channel 4 will have to provide DTT equivalent of their current universal analogue coverage, or whether a minority of people will have to get these services from satellite TV after switchover.

This is a complex issue because you can reach around 95% of the population from around 120 terrestrial transmitters, but you need to build another 700 or so to reach the remainder. On the face of it, this doesn't make it sound worthwhile, given that satellite can probably reach most of them already. However, at the moment, DTT looks the easiest and cheapest way of reaching the second, third, fourth etc., sets in people's homes, and this argues for the widest possible DTT coverage.





The situation is complicated further by the proposals in the Cave report on spectrum pricing to make broadcasters pay for their use of spectrum. The government hasn't announced its reaction to this idea yet, but it has made it clear in a recent statement that spectrum pricing would not be applied to any licences issued by the ITC in the current round before their renewal in 2014. This threat is a particular concern to the BBC and Channel 4 since they don't pay anything at the moment. Obviously they are not going to welcome the idea of subsidising a universal DTT transmission network if they are also going to be charged for using the spectrum.

Proposals in the Communications Bill add yet more complications. People who have satellite television, but don't subscribe to the pay TV services, need special cards to get the free channels. These have to be encrypted, even though they are free-to-air, because the content rights holders don't want their content being made available free to people in other countries covered by the Astra satellites. At the moment the BBC pays for these cards with a contribution from Channel 4, and the Communications Bill envisages that this arrangement will continue beyond switchover. But this is not how the broadcasters see it, particularly if there are going to be a significant number of households in this category. We can therefore expect some serious arguments about this.

Another feature in the Communications Bill affects ITV and Channel 4, and that is: what will happen to their licences in 2014? At the moment the bill allows for the possibility of non-renewal. This, too, reduces the enthusiasm of those broadcasters for paying to build an extensive DTT network if they have only very uncertain prospects of being in business a couple of years after they have finished building it.

So there are some tricky negotiations on these proposals to be done over the next few months.

### Overcoming technical problems

On the assumption that we do successfully overcome these obstacles, the government could be in a position to announce a timetable for switchover early in 2004. Of course, being in a position to do something doesn't mean you are actually going to do it, and I suspect that whatever is announced at that point will stop short – for perfectly good reasons – of a firm commitment to a precise switchover date.

One feature of the collapse of ITV Digital was the way it drew attention to a range of technical problems with DTT. These were primarily associated with the low-powered signals permitted by the ITC, low-powered to prevent interference with analogue reception, both here and in neighbouring countries. ITV Digital found it difficult to achieve the core coverage predicted in the original ITC plan. The poor state of people's existing aerials meant that, even if people did get the DTT signal, it was subject to all kinds of interference. Indeed, in many cases people would actually need new aerials. This has been a major problem in selling DTT. What was meant to be easy "plug and play" has turned out to be full of uncertainty and confusion – "plug and pray", as the cynics have it. We are actively pursuing several ways of improving the situation.

First, an equalisation programme was instigated to improve core coverage, and the power levels have been increased at a small number of transmitters. Both of these programmes can be significantly enhanced if the broadcasters are willing to pay for the changes. Second, the BBC has been advocating changing the characteristics of the DTT signal to deliver a more robust reception. Trials conducted in the past few weeks have largely confirmed the value of this proposal, though it does mean a reduction in the number of services it is possible to carry on each digital multiplex. It looks as though this will now happen, because three of the four bidders for multiplexes B, C and D are advocating this.

It also looks likely that a different change in the signal character from what is called 2K to 8K will be introduced – this time proposed by the receiver manufacturers. This, however, will probably take a few years, since many of the existing DTT receivers are 2K only, and therefore such a change will have to be phased in carefully.





One thing the current technical trials have shown is that the biggest single way to improve DTT will be to get people to install better-quality aerials and down leads. Indeed, the benefits of this seem such that I personally believe the industry, and perhaps even the government, should urgently consider creating a minimum standard for new aerial installation.

All of the proposals I have just listed would significantly improve DTT reception. None-the-less it remains true that until switchover there will be people who will be unable to get a DTT signal. It is urgent, therefore, that we create a system of customer information which provides very accurate data on whether or not you can get a terrestrial signal. Indeed, this should be part of a wider operation that tells you all the ways in which you can get digital television, depending on where you live, so that you can make informed decisions as to what to get and be confident that whatever you choose will work. This is particularly necessary now that we are moving to a world in which we expect an increasing number of people to switch to digital purely to get the additional free-to-air services. Hitherto, the pay TV operators have controlled the whole operation and have taken responsibility for dealing with customer problems. In a free-to-air environment, responsibility is shared between the broadcasters, the manufacturers and the retailers. Fortunately, one consequence of the collapse of ITV Digital is that all the parties are now much more acutely aware of the need to work together, and I am confident we will create a much better system of customer support and information.

The same thing applies to the issues of testing new software applications and upgrading existing software. Digital television is a converged environment: the digital receiver is as much a computer as a television set. Receivers have to be updated over air or through cable. This imposes a whole new set of obligations on both broadcasters and receiver manufacturers. In the pay television world, the broadcaster could enforce a solution. In a free-to-air world, we have to co-operate and agree the right procedures, and again I think we are on the way to achieving this.

Finally, having got a coherent story to tell, and accurate information and support systems to back it up, we will need to send clear and comprehensible messages to the public. Government and industry will shortly be getting a detailed proposal for co-ordinated action on this. It will cost money. This autumn will be a test of how seriously both partners are prepared to back their spoken aspirations with cash.

### The growth of digital

It is a distinctive feature of the digital story so far that it has been driven by broadcasters and government with their own reasons for wanting the switch, rather than by consumers eager for a new product or service. I think it will remain the case for some time yet that there will be no overwhelming single inducement, no killer application, that will turn consumers and viewers on to digital in huge numbers. There are developments which make it much more likely that we will see a steady stream of people choosing digital for the relatively modest initial benefits.

First, I think the terrestrial broadcasters are learning how to support their mainstream traditional programmes with interesting secondary features on digital channels. The BBC with Wimbledon, ITV with *Pop Idol* and Channel 4 with *Big Brother* are the obvious examples. This process will accelerate and the new content will begin to play a part in persuading people to buy digital equipment.

The second development is the arrival of set-top adaptors at affordable prices. These not only offer you the chance to go digital without going into pay at the same time, but also offer an easy opportunity to upgrade the big wide-screen analogue sets that have become so popular in the past couple of years, largely thanks to the arrival of DVD. For existing digital viewers they can provide a useful second digital set.

At some point, a few years away I regret to say, the price differential on integrated digital TVs will be reduced significantly. We will know that the digital revolution has truly arrived when people go into the high street shops and don't even think of looking for an analogue set. So for a few years we can let the market take its course. At some point government and industry will have to think about what to do about those who have refused to buy digital, but there is little need for the government to adopt a policy to deal with this right now, or indeed for some time yet.



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### Conclusion

Is 2010 still possible? The short answer to this question is "yes" in the sense that government and industry can do what they need to do to make switchover before 2010 possible. As I said, the government must establish the framework for terrestrial switchover in terms of allocating the necessary frequencies and deciding its pricing policy and the role of satellite TV. It should do all of this certainly by early next year, perhaps by the end of this one.

Broadcasters must finance building the networks; manufacturers must make the receivers in large numbers; and both must co-operate extensively in the promotion and support of an open horizontal market. We can build the rest of the terrestrial network in three to six years, and we could therefore begin to switch off region by region from 2006 if the government so determined – and complete the job within four years. However, the target of 95% take-up is unlikely to have been reached in any region by the end of 2006, which makes it more a theoretical than real possibility, but we can worry about that in a couple of years' time. We in government and industry should concentrate on what we have to do on our side of the fence. The consumers will catch up with us in their own good time.

*Wilf Stevenson*

Thank you very much. You made a good case for the need for the industry and, indeed, all players to co-operate, and really made it very clear that unless there is co-operation, there is a lot more uncertainty around than you would have preferred. Carolyn, your company's recent bid for DTT was predicated on a novel co-operative partnership – something I doubt anybody in the room would have thought possible a couple of years ago – does this herald a new BBC approach?

## Carolyn Fairbairn
Director, Strategy and Distribution, BBC

We think it does. We agree very strongly with Barry that digital switchover is both achievable and important, but it is going to be very important to get to first base. First base involves a viable DTT platform – not just for first sets but also for second sets, particularly portable television sets.

As we all know, we are now at a critical point in DTT's history. And it is absolutely fundamental to get this right. I want to spend a few minutes explaining the BBC's thoughts, after being involved in this market for many years, on what is absolutely essential to happen for DTT now to survive.

### BBC's proposal
First of all I will quickly outline the proposal contained in our bid last week. The proposal is fundamentally a very simple one. It is 24 free-to-view services available to the majority of consumers in the UK by buying one of these affordable set-top boxes, taking it home, plugging it in, and ten minutes later receiving 24 free services. The technology – along the lines that Barry described – would be by and large fixed. The recent trials have been extremely encouraging on what can be achieved. It will be a clear consumer proposition designed to cut through the confusion. I don't think we can underestimate how tremendously dazed and confused consumers are. This would be easy to use and a fresh start.

### The target market
Who is the target market? It is the 15 million people who have currently not got digital television. As Wilf alluded to at the beginning, the research is actually fairly consistent on what consumers are saying about digital television: 35%, according to research we commissioned a little while ago, say they don't want it ever; and a further 51% say they don't want it now. Many of these people are confused, they are mistrustful, they think that digital television equals pay television. Speaking to Barry's final point there, unless we start with the consumer and we understand what is going on for people considering going into digital television, this whole thing will fail again. So that's the fundamental proposition: simplicity, free-to-view services.





### The product
We also think it is a very exciting product. We can bring real interactivity to DTT for the first time. We know from the experience on satellite that interactivity is a very powerful thing for consumers. Interactive Wimbledon last year was very good; and the recent interactive World Cup coverage, for the first time on all three platforms, reached a similar standard.

We think we can offer radio services. Digital radio services are quite hard for audiences to receive at the moment because there aren't affordable digital radios on the market. And finally, of course, we offer a range of new channels. There would be 19 new channels in a range of genres brought to people from high-quality, respected and trusted brands in movies, in kids, in history, in news, and of course the range of BBC services. So it's a really exciting but very simple product.

We also think it is absolutely critical that the line-up of channels is fundamentally driven by consumer demand, and not by existing channels trying to protect their own interests. So the proposition we are putting forward has no controls placed by either the BBC or Sky – one of our partners in the bid – to control the channel line-up. Sky will have only three channels on the platform, which is actually fewer than they had on ITV Digital. The total number of channels offered by Sky and BBC will be less than 50% of channels on the platform. Also quite critically, and not as well understood: we are not proposing any new BBC channels. This is about getting existing BBC channels out to potentially millions more people. There must be the best possible line-up for consumers – that is absolutely critical.

### Sky's involvement
Let me address directly why Sky is involved. I know it has raised eyebrows around the place. They bring skills in managing digital platforms. Let's face it, DTT is in crisis; it's not just got a few local problems, it's in meltdown. Unless it has the best of what the existing digital players in the market have to bring, it simply won't succeed. We thought long and hard about it, but we thought that by bringing the best of what the BBC has in terms of content together with Sky's remarkable track record in running a digital platform successfully, we would give this platform the best chance of success.

I have a final point on what is needed to make DTT succeed. One of the most disastrous things that could now happen would be an ITV Digital 2 – another high-profile financial collapse. That is why financial stability is critical to whatever happens now to DTT. The proposal that we are putting forward is backed by three operators who can fund it for 12 years – that is critical – and there is no pay operator to go bust.

Conclusion

So just to summarise: we really do think this is a last chance for DTT, an absolutely last chance – we won't get another one. If DTT now fails again, it will be very difficult to achieve analogue switch-off. Many of the kinds of things that Barry talked about could happen only after you have got a viable DTT platform, which really is first base. Without DTT, analogue switch-off recedes far into the future. So what we are proposing is a very simple free-to-view proposition, backed by people with proven track records in digital. It is open and competitive, trying to get the best line-up for consumers. It is fundamentally simple, and a fresh start for DTT.

*Wilf Stevenson*

You will detect a slightly different approach from the two wings of the argument, as it were. One seemed to put consumers very much in the centre of the debate, and argued from where they were to what benefit they would get from DTT solutions. While Barry's argument was that consumers will follow whatever those in authority might propose – I'm sure that's a caricature of what he is saying.

We are still stuck on this figure of 95%, which is a problem for all concerned. How do you get over that? There are clearly requirements from all parties involved in this to co-operate but also to concede a little in order to achieve the greater good, and that is always a tricky one. And the roles that everyone has been expected to play are both philanthropic and public policy oriented, rather than commercially oriented – given recent experience it is a bit difficult to see how that will happen. These are minor problems, perhaps.





## Discussion

*Peter Bottomley MP, All-Party Media Group*

When will Lord Reith's house in Westminster have digital terrestrial reception? Lord Reith's house doesn't even have analogue reception. When we start talking about the rural areas and the rest, we should start thinking about some of the inner-city areas where you rely on cable or on satellite.

This reminds me of 1971, at the time of decimilisation, when someone wrote a letter saying: "It's very difficult for the elderly. We won't live for ever – why not wait till we are all dead?"

*Andrew Miller MP*

Carolyn's absolutely right about consumers. Many of the surveys don't show the real problem, which can be seen very clearly if you put yourself in the place of the consumer and go into the high street shops. In each of the shops – if you are lucky – you can find a salesperson who is an expert on a particular platform, but nobody can give you a comprehensive picture of what is available in the area you want, what choices you have, what prices you will have to pay and so on.

So if there is to be co-operation in the industry, I would focus on that point. Then you would create a greater public understanding, a greater awareness, and then maybe Barry's side of the argument will take over. The consumers are not stupid; they are just poorly informed by you the industry.

*Professor Steven Barnett, University of Westminster*

Can I ask two questions on ITV Digital? It's critical to ask whether it was the company or the technology that failed. I'm concerned that the platform itself may be fundamentally flawed.

The first question is on reception, which Barry touched on. My understanding is that 60% coverage can be achieved without adjusting aerials. You can get another 20% if you can persuade people to do something with their aerials; and you have still got 20% of the population who won't be able to receive DTT unless they receive it by satellite. Barry seemed to be saying that you could reach 95% without touching a satellite, so I would quite like some clarification on that. How exactly are we going to persuade 20% of the population to get the aerial installers in, which is not itself a very easy task?

The other question is on interactivity. My understanding is that Sky's digital satellite technology is far superior to anything that you can currently get on cable. Is Sky really prepared to give away their edge in interactive expertise and make DTT as good an interactive platform as digital satellite is now? That would seem to be giving away a pretty good market advantage.

*Response: Barry Cox*
In response to the question about reception, when we use the current analogue transmitters to send digital signals at the kind of power analogue signals are used at, there will be no problem. Our problem is getting there. Interestingly, in Berlin, they are going to switch over in six months' time. They can do this because, by and large, they have cable, although I am curious about what happens to the second and third sets. They have got a very powerful digital signal, so in some sense that will happen overnight. We have chosen quite rightly to run things in parallel so that people can proceed at their own pace.

However, we cannot achieve universal DTT coverage, even if we want to, and that is still an issue. Most people would expect at least 95% for the public service broadcasters by DTT, but we can't do that using the current approach. There would be a number of people – and I don't think it's quite as high as Steve says – who will not get digital until switchover happens. They will have to have the equipment in their house before it happens, which is the case in Germany. It's not a large number, but there's no point in pretending that there isn't an issue here. So it isn't a flawed technology; it's a perfectly good technology once you can pump the signal out at the right power.

On the aerials question, if we all spent money on equipping people with new aerials to replace their 20-year-old aerials and rotten down leads, then we could solve the problem. That would be the radical approach: industry would club together and do it. I don't think it will happen like that, but we have got to address it.





Coincidentally, on the consumers point, Andrew Miller was right about information: it is one of the key things that we have learnt, and all credit to Michael Starks and the BBC who have spent several months getting on top of this problem. The kind of plan that Michael Starks is developing will do the job you describe because it is essential. His plan would have been in place had ITV Digital not gone under, and I hope will be resurrected when the new licensee is in place. Until people know far better than they do now what the choices are, how to get it and how to do it easily, then they are not going to buy. You are right that it is first base, and that's what I meant when I said we have to concentrate on getting that right now.

*Response: Carolyn Fairbairn*
Can I pick up on Steve's point on interactivity: will Sky really allow DTT ever to be as good as satellite? It is not Sky's expertise and interactivity as such that has made satellite so good: it's simply bandwidth, simply spectrum. Turning the platform free-to-view will create the spectrums that you need on DTT to provide interactivity. So, for example, the current World Cup interactivity is by and large as good on DTT as on satellite because we have got the spectrum for it. So there is absolutely no reason why DTT can't be as good as satellite in the future.

*Tim Lord, Former Head of Regulatory Affairs, ITV Digital*
I want to start off with a point that Barry glossed over, which is a very important point for the whole industry. He said completely accurately that Sky's coverage is 100%. We did a lot of research at ITV Digital on their potential reception on satellite. Looking at things such as line-of-sight problems, multiple dwelling units, the cost of wiring premises and conservation areas, we actually thought that the economically realistic reception area for satellite was between 60% and 70%. That becomes very important when you think about analogue switch-off and anything to do with a universally available BBC service. You can't deliver it with just satellite and cable, and that really strengthens Barry's point about the importance of DTT – not just for second sets and VCRs, but actually for universal availability. I don't know whether that is accepted yet – Sky obviously knows the answer to that better than anyone – but there is a difference between coverage and reception, and we should be aware of it.

My other point is on, as Steve said, the important question of why ITV Digital failed. There are three or four possible answers. One is to do with technology. One is to do with the bidding for rights, or just management behaviour. And you have got to keep in mind the one that the OFT is still investigating, which is that BSkyB's financial interests were best protected by having digital terrestrial fail and ITV Digital fail.

It is unfortunate that we will have to wait so long to find out whether that is indeed the case; and it is a shame that the OFT will take years to reach its final conclusion on that issue; but you are not going to make good decisions if you just ignore that possibility. It is entirely plausible that BSkyB's strategic and financial interests are best served by restricting the growth of pay television to satellite, a platform which it controls, and maintaining no direct competition in premium sports and movies – markets of which it essentially has 100% control. That should still be on the list.

I really do have to comment on the BBC's view of consumers and their choices. Of ITV Digital subscribers, 50% were premium subscribers as well as basic subscribers. They knew exactly what they were doing. It is difficult to imagine why consumers, when they are choosing between three different platforms, wouldn't choose a platform which at least gives them the choice of eventually upgrading to premium sports and movies: 50% of the subscribers did in an environment where ITV Digital didn't even make money from selling those services. So it's really odd to have a platform which doesn't offer that when it's simply a matter of allocating the capacity to those services that are for most consumers very valuable.

One last thing. The day on which Sky Sports 2 was launched on ITV Digital – it was withheld for some time for multiple reasons – we had 70,000 people phone up immediately to subscribe to Sky Sports 2. I want digital terrestrial to work, but I can't see how it works in an environment in which other platforms offer the premium channels and it doesn't.

*Chris Bryant, MP for Rhondda, Culture Select Committee*
I hate to be horribly parochial, but somewhere like the Rhondda does provide a set of challenges to government and to broadcasters. One of the problems is about money. A well-advertised, readily accessible free-to-air option, where





you just buy a piece of kit instead of committing yourself to a regular monthly bill, is a good idea. Though the only difference between Sky and the BBC is that you can go free-to-air with Sky for £169 or you can go free-to-air with the BBC without any opportunity of upgrading for £99.

The other problem of DTT is not about money, it's about geography, or in other words the roll-out. Because of the structure of decision-making in the past, it's been very difficult for anybody to have a real grasp of how roll-out happens. This is one of the issues that Barry didn't touch on, and I wonder how we can make sure that in the future, we do have a secure means of deciding how we are going to roll out into the more difficult areas.

Just one final question. Barry mentioned that Berlin is going to switch over next year. That is partly because they have had cable and so it is a slightly different situation, but could we envisage different parts of the country in the UK switching over at different points? If so, could Wales go first simply because it's got the highest connection rate and has some of the biggest problems? If you were to overcome the Welsh problems, then you might be able to solve the whole of the UK.

*Lord McNally*
I would like to push Barry a little on the points raised by Andrew Miller. Until they merged with the FEI, I was president of BREMA, the manufacturers' association, and in the past three years I have attended a number of industry meetings to talk about co-operation. Being there reminded me of advice I was given when I first started working for this industry. An old hand said, "Imagine you are working for a tank full of neurotic piranhas." Quite frankly the performance of the industry in co-operation and in selling the digital message – the free-to-air message – has been pathetic. I went to meetings where you could see the manoeuvring for market advantage, the short termism, this frank unwillingness to co-operate not just among the broadcasters, but among the retailers and the manufacturers. Barry says he is going to leave it to the market. The market is putting six million analogue sets a year on to it. It's like trying to empty a bath and leaving the taps running full.

I wonder who is going to take the leadership. He says it is all going to be better. I went to a Michael Starks presentation on co-operation and selling free-to-air over two years ago. Who is going to bang heads together? Who is going to take the leadership, because I don't see any around at the moment?

*Response: Carolyn Fairbairn*
What is becoming very clear is that there are segments to this market. There is a segment to the digital television market that wants pay television, and a lot of those people who have already got it are very happy with it and that is great. But there is a segment of people who don't want pay television and would probably never want pay television. Sky aren't stupid: they have a channel business and a platform business, and through their channel business they need to find a way of getting their channels to those people who will never want pay. That is a legitimate economic strategy. People can read other things into their motives, but actually it is entirely defensible and very sensible.

Can I also pick up on the points that were made by both Chris and Tim Lord from ITV Digital: why not offer pay, you may as well, people might want it and why wouldn't you offer pay? There are really important reasons. The first is that there are a lot of people in this segment who don't have digital yet who are actively put off by pay. What they said to us in research was: "Free-to-view television, that sounds great, but where's the catch? They must be going to try and sell me pay later on, and I really don't want it. It's just too good to be true." So there is a real association that people make between pay and digital. Our view is that unless you break that with a very simple, clear proposition, you will deter a lot of people.

The second reason is that there isn't actually such a thing as a free lunch. You can't cram both a really good free-to-air group of channels on to this platform and a compelling pay set. There just isn't enough room. One of the mistakes that was made with ITV Digital was to try and put too many channels on.

*Response: Barry Cox*
The BBC proposition clearly has merits, but don't let's kid ourselves about the consequences of it: the BBC will be even more powerful than it already is.

Is it true that light pay won't work? Two of those people who have the greatest experience in pay television are bidding otherwise. The cost base of this service is considerably lower than ITV Digital's – ITV Digital paid far too





much in every area – so there are reasons why it might work. Just let's at least put that on the table.

On Chris Bryant's point about geography, I would love Wales to be first, and if they are keen to do it, then let's go. The key point is that it will be rolled out region by region. We can't possibly do the country. That's why it is going to take three or four years. Even when we have built the network, we will have to go back and start region by region, rather in the way that ITV and BBC2 were rolled out years ago.

In response to Tom McNally's point about customer information, he is right about the meetings he went to: I've no doubt about that at all. My point is a simple one, which is that everybody has been burnt: the receiver manufacturers have been burnt; the broadcasters have been burnt; and people who have traditionally not co-operated know that if they don't co-operate now, then meltdown will happen. So it's not pie in the sky. I've sat in meetings over the past three months where people have been actively helping each other and wanting to make this work, and by the end of the year you will see a vast difference. The real problem is whether we can get the retailers on board. They are the hard ones because they have got a job to do; they don't want to spend 20 minutes with a customer trying to sell them something they are not going to make much of a margin on. That is why I go back to Andrew Miller's point: we have got to get very good information to customers before they get to the shops, let alone when they get in them. I cannot underestimate how important that is. If we can't co-operate on that, then we are dead.

*Lord McNally*
But are you in the lead on it?

*Response: Barry Cox*
I co-ordinate with it. I am not a tsar, alas. If I were a tsar, I could sort it out. You have got a wide range of commercial interests, but precisely because they have got commercial interests they see where their money is going to come from, or how much they are going to lose if they don't do this. I've got more faith in the commercial interests actually co-operating than you have, although I well understand your doubts.

*Sir Christopher Bland, Chairman, BT*
I doubt whether anybody – even Barry – really believes in analogue switch-off in 2006, and I would guess most of us tend to believe in 2010. That probably doesn't matter very much because it is not for us to decide. What is lacking is any compelling viewer proposition that will make people move to DTT. Although government has very limited powers in this respect, the one thing it could do, and it has been very slow to do for political reasons that one can understand, is to encourage the BBC to launch BBC3. If BBC3 is properly funded and an attractive service, then that would very significantly help to drive the take-up of new DTT – in a way in which none of the existing services will do.

*Nigel Walmsley, Carlton Communications Plc*
I just want to return to technology. DTT's success is essential if switchover is to take place, and the problems that ITV Digital encountered were fundamentally technological problems. As recently as three years ago the Radio Communications Agency and the ITC were predicting that their existing frequency plan would deliver up to 90% coverage of DTT. That was simply a delusive thought: that frequency planning could never have done that, as we have all learned to our cost.

I was encouraged by some of what Barry said with regard to improvements in frequency delivery – that there might be a little bit of progress on power levels, but 3DB increases in power levels and moving to 16 qualm distribution are not of themselves going to produce the impact and the technical coverage that DTT is going to need. The Europeans, in moving to a digital world, are using power levels five and ten times those that are in operation in the UK, which are roughly 100th of the analogue power levels. Unless we can see significant improvements in today's power levels, I fear that the otherwise rather encouraging set of initiatives that Barry described might end up being equally frustrated.

Is there any encouragement that Barry, from his conversations, can give us that there is more to come beyond the existing initiatives on the frequency planning and power front?



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*Derek Martin*
We buy a new television set every eight years. Chris Smith's speech was, I think, in 1998, so we could have switched off in 2006 if the government told the manufacturers only to produce digital televisions. Here we are in 2002, so the chances of 2010 are not realistic. My first question is: at what stage will we actually prescribe what manufacturers can make, as we did in 1936 when we told them they could only make television sets with 405 lines in?

My second question is: is there any economic advantage from the government to encourage you to do this? What is the economic advantage for going from analogue to digital?

*Ray Gallagher, Director of Public Affairs, British Sky Broadcasting Ltd*
I'll make two quick comments in response to what was raised before. First, Sky cannot refuse the supplies of its premium sports and news channels to any platform. As far as I am aware, not one of the DTT bidders has even requested any of those channels. Tim has of course mentioned the OFT. In December the OFT, for the first time, considered complaints against Sky to which we have responded, and we also look forward to a speedy resolution.

On the reception point, satellite reception is probably closer to 98% than 95% of the UK. There are of course landlord and planning restrictions on satellite dishes, and those restrictions need to be addressed. There needs to be a more deregulatory and non-discriminatory approach between the platform receptions. As with terrestrial aerials, satellite dishes should not be subject to owners' burdens.

The problems of wiring buildings and multiple dwelling units apply equally to DTT and to satellite. There are solutions that we hope are adopted such as what is called an IRS system – an integrated reception system. The more that can be incorporated in conversions and new developments, the more that will allow viewers the option of which box, which platform they plug in in each individual home. Some of the solutions for rewiring are more limited and would actually close off that consumer flexibility.

*Response: Wilf Stevenson*
Barry – your basic thesis is that you can make a migration from existing

systems to DTT, and that that will work because, by and large, people will move towards the idea that that's the way you get television. But several people are saying that, without killer content, you are never going to get through the initial resistance and the hard-to-get-at people without legislation or regulation so tyrannical that even the tsar would not be sufficient. Discuss.

*Response: Barry Cox*
Just before I do that I want to address Nigel's point about power levels. We do know, and I am sure you do, that we can go above the 3DB increases that are currently there. We haven't gone above them for entirely understandable reasons. The broadcasters, and in particular ITV Digital, didn't want to pay for those earlier this year until it was clear what was happening. Sometimes you get a bit circular, which is why I have emphasised the importance of getting the government's clear position on the framework in place, so that broadcasters can make the financial judgements as to whether it is worth their while to increase the power more than they are currently doing. I think it is, and I suspect they will for the reasons that you have given.

There are a clutch of issues around your points. There are bound to be people who are not going of their own accord to switch to digital at the point at which government, industry or whoever wants it to happen, and at that point there will be various options. If it is in the interests of the people who want to get their hands on the released spectrum to buy out the sitting tenants, then they can do that. If it's in the interest of government because it sees it in the wider public interest to start mandating either TV sets or aerials or whatever else that would need to be mandated to make it work, then we know they can do it. The history says they can do it.

The point is that it's not worth worrying now because we are miles away from that, and we will see evolving over the next few years the extent to which the market can make it work. I'm sure there will be an end point, but if it's only a few hundred thousand people, that's relatively easily solved; if it's a few million people, that's a lot harder. Other than recognising that there will be a problem at a certain point, I don't think there is anything else you need to do at this stage. That's why I say we have to sort out what we have to do. There will be contested things. None of them is obvious, which is the point I tried to make. There are subtle incremental things which will, I think, get people to do it – Carolyn has already given examples of the way some of the BBC research works. Let's see what happens over the next two years. The next key decision point for the government will be in 2004, when it has to decide whether it's now got all the technical and financial information it needs to lay out a timetable. Let's see whether the environment then shoves it back to 2012 or whatever.

*Response: Wilf Stevenson*
Who is actually driving this? Who is in charge of this? Who's got the vision and the commitment? It can't just be the government because it's too fractured out among the various competing commercial interests.

*Response: Barry Cox*
Obviously it can't be the government. We live in a liberal democracy. There is a large number of people who have got to agree. It's tough.

*Sir Christopher Bland*
Barry, you are not that liberal if you are prepared to mandate – which is a rather sinister word – 200,000 aerial holders or whole set owners, but not two million. The truth is you can do neither.

*Response: Barry Cox*
No, I don't agree with that. The government is able to set technical standards for things at a certain point, if it wants to. It may never want to, in which case we have got to live with this hybrid system for a long time.

*Mary McAnally, Director, SEEDA*
I'm speaking with my South East England Development Agency (SEEDA) hat on, and on behalf of the south. I am trying to get some of this figured out. Barry, one thing you could do immediately is get out this map of where the distribution is. Let's have it on the table. I know from running United's transmission for three ITV companies just how disadvantaged the south is, and this just gets swept under the carpet time and time again. There are people there, and they are probably Carolyn's refuseniks – the ones that don't want it. They would take what you call your simple set of channels, but they can't get it. So let's have a map. You can do it now Barry, and then we could all argue about it. No more fudge.

*George Kidd, Director, ICSTIS*
I've got a professional question which relates to premium rate charging, which is my business, and also a personal observation.

The observation first. I personally am very sympathetic to what Barry is saying, and the thought that was going through my mind politely was sewerage. I chose to live on the Isle of Mull, and I chose not to have mains drainage and sewerage. It may be that the government pays me compensation for not having it; it may be that that's life; it may be that it's swings and roundabouts. We are in the art of the possible, and the longer we worry about the difference between 95% and 98%, the more likely we will still be here in ten years worrying about the difference.

My professional question, if I can put it that way, perhaps to Carolyn and Sky and anybody else that's bidding, is about one of the interesting dynamics of Sky Digital: transactions and the reverse path. It need not be on pay channels, but the interactivity of game playing, and the revenue generation that comes with digital and interactive television, is very interesting and, for us, is a major regulatory issue. Will those same services, that same interactivity and that reverse path exist on DTT?

*Jocelyn Hay, Chair, Voice of The Listener and Viewer*
I just wanted to follow up George Kidd's point because I was at the ICSTIS seminar last week at which he reported that they had had 300,000 enquiries from people about the size of their telephone bills because of using interactive services. Does that actually include the BBC services? I'm not sure whether people pay for those interactive services in the same way as if they ring up and vote for *Pop Idol* or whatever.

I also agree with Barry over the necessity, in the public interest, for the digital terrestrial platform to succeed. There are many reasons why it should, and why, particularly if the political will is there, the build-out can give it a wider reach even than satellite or cable. But I would also endorse Lord McNally's point about the need for information. The consumers are totally confused. I was speaking to an audience of nearly 100 people in Dartford yesterday. None of them knew there was a Communications Bill, let alone had any intention of responding. They knew nothing about digital; they were totally confused. And I was absolutely furious when I got back to the office to find a very irate viewer from Bognor Regis who was ringing up because he couldn't find out from anybody else about reception, and he was complaining about his television reception. We need a public campaign, and the government has got to show a lead. They must knock heads together.

*Damian Tambini, Senior Research Fellow, IPPR*
It strikes me there are two trade-offs that we need to know more about. I am quite alarmed to hear one or two views that current power levels won't be sufficient to extend coverage as far as is necessary. I am also aware that if power levels are increased, that might entail reducing the number of channels. So there is a trade-off between power levels and the number of channels.

Do we have enough research on this? Presumably research was done when the original multiplexes were allocated. Is the research we have access to now up-to-date enough?

The second trade-off is that between the current interactive services we can offer and the number of channels. There are a lot of question marks over how the number of channels impacts on interactive services. I have a direct question to the BBC: could you run Interactive Beasts, which is one of your flagship interactive services, and still have 24 channels on DTT?

I personally think, and I'm with Barry, that interactive services could become a great driver. I also think that the Apax could become a leader in this particular aspect of TV production, and that's quite an important issue to address.

*Simon Albury, Chief Executive, RTS*
I have a question about the short term for Carolyn. Listening to her make her pitch reminded me of the ITV franchise wars of ten years ago. She made the very clear assertion that the BBC-Sky bid was the only bid that offered financial stability, so I wonder if she could tell us why each of the other bids is inherently financially unstable?

*Response: Carolyn Fairbairn*
To pick up on the return power point that George Kidd made first of all, this market should now become much more like the older market when you had

manufacturers producing a wide range of different set-top boxes. What we would really hope to see, and think we will see, are boxes on the market like this that will have return paths. There is absolutely no reason why consumers who want a return path cannot access interactive services via a return path on DTT. The BBC and others will be providing services as they do so on satellite already. We would actively encourage that.

To pick up on the trade-off points that Damian Tambini made: no, there is no trade-off between power levels and the number of channels. The trade-off actually is between something called a change of mode and the number of channels. So that is an issue.

Do we know enough? Absolutely. Do we know enough about exactly what the impact of different changes can be on DTT? The answer is no, because you have to do these tests live to be absolutely sure. But we know a lot more now than we did six weeks ago; and we are pretty confident that some dramatic changes can happen.

Could we run Beasts, for example, on the platform that we are offering? Yes. One of the things that we will do in the 24 channels is offer enough interactivity to offer those kinds of services to a very high standard.

On the financial stability of the other bids, two of the bids have a pay element – the ITV bid and the SDN bid. We have real concerns about the financial viability of a pay proposition, so without wanting to go into more detail about the backers of all the different bids, we feel the financial viability of the pay proposition is very dubious.

The problem with the viability of the Apax bid is that they have no mode change. There is now consensus around the need for this quite major technology change in DTT. The Apax bid contains nothing that will achieve that, so we would still be broadcasting between 40 and 50 channels. That's the short answer to your question.

On the cost of interactive services, telecoms operators will charge consumers for time online at the basic rate. However, many consumers now have a fixed price package, so then there would be no incremental cost for BBC services.





*Response: Barry Cox*

My final remark is an answer to Mary McAnally who is making the same point about information that has been running throughout today. Mary is absolutely right, there were maps available, and they were not given out in an open manner. That will, I am sure, change. Lots of improved information is around, or will be around, and that has to get to everybody who needs it, and it will. Indeed, just in the spirit of these events, I hereby make an offer. I am due for re-election in January. If we haven't got the system of information out there available, and if I haven't resigned because we haven't got it, I invite the MPs here to demand my resignation, and I won't stand.