

Free to retransmit: time for a new model for PSB content?



*What should the relationship be between public service broadcasters (PSBs) and distribution platforms such as Sky, and how can the existing model of sharing content best be reformed? In this post, **Tom Evens**, Senior Researcher at Ghent University and Visiting Fellow at LSE, reflects on the 2015 consultation paper issued by the UK Department for Culture, Media and Sport (DCMS).*

In March 2015, the UK Department for Culture, Media and Sport (DCMS) published a consultation paper titled '**The balance of payments between television platforms and public service broadcasters – options for deregulation**', which was designed to evaluate the existing regulatory framework governing the relationship between public service broadcasters (PSBs) and distribution platforms like Sky and Virgin Media. (Note that definitions of terms such as 'broadcasters' and 'platforms' can be found in the Department's consultation paper). This complex framework imposes various obligations on PSBs to offer their content to distribution platforms such as Virgin and Sky free of charge, and requires all UK terrestrial TV channels to make PSB content available to all of their customers.

Against the backdrop of the rapidly changing landscape for television broadcasting – which has seen **the arrival of new market players and VOD services** such as Netflix – the Ofcom consultation asked whether the current framework, which ensures that PSB content is prominently advertised and easily accessible to viewers (i.e. by means of favourably high placement in the **electronic programme guide (EPG)**), is still necessary, or whether the framework constrains investment in original UK content? A reading of the consultation suggests that DCMS was mainly seeking support for its intention to deregulate – at least partially – the relationships between PSB and distribution platforms. The Government anticipates that deregulation will encourage payments from platforms to broadcasters which will enable the latter to re-invest and commission original UK content.

Retransmission fever

One of the key issues driving the consultation is whether PSBs should continue to offer their services to platforms free of charge, or whether they should be able to negotiate retransmission fees from pay-TV platforms. Whereas **revenues of the leading UK pay-TV platforms continue to surge** thanks to an increase in the uptake of **quadruple play services**, PSBs' investment in original UK content **decreased by 17%** in real terms between 2008 and 2013. The combination of the anticipated cuts to the BBC's funding, together with the likelihood that ITV and Channel 4 will become attractive acquisition targets, may further reduce aggregate investment in original UK content. This would **adversely affect the UK's creative industries**.

The issue of retransmission fees has been high on the UK TV industry's agenda ever since US networks began to aggressively pursue payments from pay-TV operators at the end of the 2000s (with disputes starting around 2008/9). The **total revenue from retransmission fees** already accounts for a substantial part of the US broadcasting market's income, with fees **likely to exceed \$6 billion this year**. Ever since, European TV broadcasters have started to claim retransmission fees from distribution platforms in order to become less dependent on advertising, which is now a volatile and highly unpredictable market. However, negotiations have not always run smoothly, often ending up in **carriage disputes** and service interruptions, as the **recent dispute between Canal Digital and Discovery Networks** in the Nordic countries illustrates.

A matter of competition



In other European markets such as **Germany, Belgium and Denmark**, TV broadcasters have been able to negotiate considerable retransmission fees from platforms without a legal or regulatory obligation to do so. However, one needs to consider the relative market and bargaining power of TV broadcasters and platforms. It is highly uncertain whether ITV (which is partly owned by cable operator Virgin Media), Channel 4 and Channel 5 have sufficient leverage to command Sky to pay them substantial retransmission fees. If deregulation results in only negligible amounts of money flowing from platforms to broadcasters, then we should question whether deregulation is the best way to raise additional funding for investment in original UK content.

Research shows that when combined with a favourable regulatory regime, the **TV market structure plays a decisive role** in whether broadcasters can command retransmission fees effectively. The increase in a tendency to pay retransmission fees appears to be the result of both structural market changes and competitive entry in distribution: increased rivalry among platforms increases the value of the programming. Perhaps paradoxically, more competition in distribution has resulted in higher programming expenses for pay-TV operators: consider the record fees paid for the Premier League rights. Hence, deregulating the relationship between PSBs and distribution platforms calls for complementary measures, in order to create a more competitive balance between Sky, BT and Virgin and OTT platforms (such as Netflix, BBC iPlayer and ITV Hub) in order to help broadcasters build more leverage vis-à-vis pay-TV platforms.

A means to what end?

Given that this potential outcome of the negotiations is not guaranteed, it raises a question about the extent to which additional income from retransmission would be spent on programming rather than pocketed by the respective shareholders, who are mainly US-based conglomerates. A **2012 study by Mediatique** estimated that between 40 and 60% of the projected fees would be reinvested in UK-originated content, while the rest would be used for other purposes.

However, if it is a genuine concern that PSBs need to increase their investment in commissioning and producing original UK content, then other measures could be more effective in achieving this goal. For example, the UK Government could ensure that the BBC is properly funded by increasing its budget for independent production rather than expecting it to make substantial savings. In addition, a levy on pay-TV revenues, through which platforms help fund the promotion, development and protection of UK-originated content, would result in guaranteed income for PSBs and would probably be more effective as a means of supporting the UK creative industries than any new deregulatory system could be.

Finally, the Government should make sure that viewers are not worse off. Unsuccessful negotiations could result in blank screens and service interruptions as we have seen elsewhere in Europe, leaving viewers with less programming choice. Moreover, pay-TV platforms are likely to pass on increased programming costs to consumers – the aforementioned Mediatique study calculated that between 50% and 100% of these costs could be passed on to the public. As **Sky and BT have already raised retail prices** following the bidding war for the Premier League rights, this would lead to another price hike for UK TV viewers: surely a raw deal for the public that the Government should be looking to prevent.

This article gives the views of the author, and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics.

Please note that the introduction to this post originally stated that a response to the DCMS consultation paper would be forthcoming from Ofcom. In fact, Ofcom has already commented on this matter in its PSB Review.



