

**Consultation: Renewal of the Channel 3 and Channel 5 licences - Proposed methodology for a review of the financial terms of the Channel 3 and Channel 5 licences**

**ITV plc response**

ITV welcomes the opportunity to respond to Ofcom's consultation.

**Ofcom's overall approach**

Overall we believe Ofcom is taking a sensible and proportionate approach to its duties. In particular, we note that Ofcom has in place a well-established methodology, based on extensive previous consultation. We see no reason for Ofcom to vary significantly from that given it allows Ofcom to consider all relevant factors. It also aligns with the approach adopted by Ofcom in its recent section 229 report, on which the Secretary of State based her decision not to block renewal of the C3/C5 licences.

In the decade since the last relicensing exercise, the value of PSB benefits has declined dramatically whilst the cost of meeting PSB obligations has risen. Given this, it is highly unlikely that an alternative bidder - with none of ITV's existing infrastructure and expertise - could make the licences work better or at lower cost. Ofcom is therefore right to seek to minimise the demands of the process for determining the financial terms associated with already-challenging PSB licences.

We have only a few comments on the detail of Ofcom's proposed approach, as set out below.

**Identity of other bidders**

We agree that other bidders for the C3 licences would most likely be other broadcasters (though there appears to have been no appetite in the wider sector to push for an auction). We do not believe that global streamers would be interested in securing PSB licences. It is notable that the likes of Netflix are concerned about the Government's proposals to apply more broadcast-like content standards regulation to streaming services, and so it is unlikely they would welcome the even more significant regulation that would come with PSB status. They have not to date launched non-PSB channels in the UK when that remains an option for them.

**Obligations and benefits**

We agree with Ofcom's summary of the obligations and benefits of the C3 licences, which we note aligns with the approach taken in Ofcom section 229 report.

**Value of DTT spectrum**

[REDACTED]

**Code of Practice**

In relation to paragraph 2.67, we continue to disagree with Ofcom's assertion that there is no cost associated with the PSB obligation to have in place a regulated Code of Practice for commissioning from qualifying independent producers. [REDACTED] – in this context it's noticeable

that no non-PSB applies such terms, indeed the approach of Netflix and Amazon to acquiring rights is almost precisely the opposite to the approach required under the Terms of Trade regime.

### **Long-term future of DTT spectrum**

In relation to paragraph 2.85, we note that decisions taken at the World Radio Conference pose a credible risk to the future allocation of spectrum to DTT in the UK. We have repeatedly sought Ofcom's assurance that DTT spectrum is guaranteed to the end of the licence period but Ofcom has been explicit that it cannot offer such a guarantee. Indeed, Ofcom made sure that the recently renewed DTT multiplex licences could be terminated in 2030. [X]

[X]

### **Uncertainty around future legal and regulatory framework**

[X] we agree with Ofcom's proposed approach to dealing with this uncertainty for the purposes of the hypothetical auction.

In relation to potential changes to the legal framework, we note that the Government has not allocated a legislative slot for the draft Media Bill, [X]. Even if it had, so much of the substance of the new regime will be set out in secondary legislation and Ofcom guidance in any event. The net result is that the timetable for the Bill is uncertain and, even if it does proceed in the coming months, the exact nature of the resulting regime in key areas of relevance to PSB is still a considerable while away (years not months) from being fully settled. Again, this is a significant unknown for the purposes of an hypothetical auction.

### **Setting fees**

Finally, we note that Ofcom regards £10,000 per licence as a 'nominal' fee but suggest that Ofcom needs to look again at this given the significant annual cost that represents across multiple licences and the unattractive nature of the licences in their current form to any new entrant.