



OFCOM'S SECOND PUBLIC SERVICE BROADCASTING REVIEW

Phase Two: Preparing for the Digital Future

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Executive Summary

stv makes this further Submission to Ofcom's PSB Review¹ against a backdrop of intense scrutiny of the broadcasting and production industry in Scotland, its current framework and health.

1. From its own research, Ofcom confirms the value the people of Scotland place on plurality of supply for regional news². They also want to see programmes that are made in a variety of different places in the UK, and they want to see their lives depicted on screen³.
2. Those research findings are set against the evidence of challenging economics for commercial broadcasters to maintain investment in regional news where there is a declining financial base to support it; and falling production levels of network production outside London and, in particular, in Scotland⁴.
3. The wide-ranging review and report of the Scottish Broadcasting Commission (SBC) (published in August 2008) calling for the establishment of a Scottish digital channel to provide audiences with a greater volume of high-quality Scottish programming; develop talent; innovate and take risks; and establish a trusted brand for Scottish content at home and abroad⁵.
4. Ofcom's Consultation Document seeks views on replacement models to maintain and strengthen public service content in the UK. ITV plc the majority shareholder in the Channel 3 Network (providing plurality of supply and competition to the BBC) claims the model is broken, and needs replaced⁶.

stv understands the challenges, and we recognise that the United Kingdom has entered the most difficult economic climate of recent times. However, we reject completely (with robust evidence in our favour presented in this Submission) that the system is broken, and needs radical reform.

It is our strong view that a federal Channel 3 model remains the best solution both for the people of Scotland and for strong UK PSB delivery. It provides (i) relevant local news (as well as local programming), and (ii) UK origination shared by all, consumed by all and contributing to the UK's sense of self in all its vibrant diversity. It delivers the benefit of optimal scale for delivery of a rich and varied PSB offering around the United Kingdom combined with provision of strong regional content and responsiveness to local/regional/national (in case of Scotland) audience needs. To give up on this, is to deny the UK its creative future at a time, more than ever, when there needs to be continuity, growth and innovation. As we are already demonstrating this can be delivered within a dynamic evolving system.

We have serious concerns about the current lack of collaboration prevailing within the Channel 3 network due to conflicting interests at operational level, and diverging

¹ Ofcom's Second Public Service Broadcasting Review. Phase Two: Preparing for the digital future

² Paragraph 5.8 of the Consultation Document

³ Paragraph 5.9 of above

⁴ Report of PACT published 24 November 2008 reinforcing falling levels of network production in Scotland in 2007 to augment Ofcom's own published figures.

⁵ <http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000483.pdf>

⁶ RTS Patron Breakfast 08 October 2008, speech by Michael Grade, Executive Chairman ITV plc. *"There is simply no point in trying to prolong the life of mechanisms whose economic foundations have been washed away. (.....) Since the system is broken, it must either be radically reformed or replaced completely"*.

agendas at management level. As the dominant shareholder within the Channel 3 network, ITV plc's claim that the current model is broken and needs to be replaced is self-serving. We argue that it should be discounted in favour of dynamic evolution which recognises where mechanisms are outdated and need to reflect operational reality, but that the system itself is fundamentally sound. It has an inherent dynamism and flexibility which favours evolution, and for that and the following reasons, our Submission is a confident and imaginative one:-

- 1. stv is now in a much stronger financial position:** We have taken dramatic steps over the past 18 months to rejuvenate and strengthen our business through the disposal of non-core assets, the reduction of debt and re-financing, all to position the business for growth, provide increasing amounts of Scottish programming to our audiences (by astute and appropriate network opt-outs) and deliver sustainable value to our shareholders.
- 2. stv has successfully launched its digital strategy:** We have made significant investments in new media, in both our people and our technology. stv's websites have seen growth of c400% measured by visitor numbers from January to November 2008. Our new video site, launched at the end June 2008, regularly sees traffic of 6,000 plus visitors per day. Around new media growth, we are on track to meet our City KPI of (i) 30,000 unique users per day by the end of 2008 (representing a 500% increase from the 6,000 users per day pre-launch), and (ii) 200,000 users per day by the end of 2010. Our growth is being driven by the combination of investment in advanced technology, and focus on relevant content (a range of specialist sites including local news for each of our four micro-regions at its heart, and a new breaking news site launched at the end of August 2008 covering local, national, UK and international news).
- 3. stv has consistently out performed the network slots where we have opted-out in favour of Scottish relevance:** Our programming has identified share and impact. See Appendix 2 (a) and (b) which demonstrate (i) that regional news from stv shows a rising share over the past three years, and (ii) our non-news regional programming consistently outperforms the network. We deliver plurality alongside the BBC. Our news outperforms them and we over-deliver against our regional non-news hours where we have found innovative commercial opportunities for funding.
- 4. stv is at the heart of the media sector in Scotland:** We are a producer broadcaster with a track record for Scottish produced public service content (see Appendix 2 (c)), contributing to the UK's position as a global leader in the creative economy. Ofcom recognises that diminution of UK-produced content will jeopardise this position⁷. We are committed to producing more UK-origination contributing to diversity in the supply chain, and promoting the creative hub of Scotland. We know the talent base that exists in Scotland, but we know that talent needs to be nurtured, and that crucially it needs access to markets. See Appendix 1 for the contribution we already make to promoting talent, skills and employment opportunities across multi-media platforms. The introduction of competitive funding to allocate to commissions from Scotland would be a positive step to address the London-centric commissioning bias, and we continue to lobby for the removal of regulatory barriers around the

⁷ Paragraph 2.47 of the Consultation Document

production business (in the form of lack of independent status at network level) to give it every chance to grow for the benefit of the whole community.

5. **stv is committed to regional news:** Due to the corporate transformation and operational re-structuring carried out by stv, we are confident that the period for which regional news obligations are sustainable is longer than previously asserted. We have submitted re-worked financial forecasts to Ofcom demonstrating this⁸. Where there is a shrinking financial base through declining ad revenues, investing in regional news is challenging for any broadcaster, but we know the hunger of our audiences for relevant local news, and we have continued to invest in it, and innovate with its delivery. stv delivers plurality in Scotland now, and we aim to continue to do so. However, over time, we reiterate the need for direct funding of regional news to address the future deficit. We believe that dual funding models are acceptable as recipients of state aid, and that European rules (and developments in them to address the changing times) recognise this along with delivery of PSB remits over multi-platforms⁹.
6. **stv is a trusted brand with a 50 year connection to the Scottish audience and community:** We run a business model imbued with an accountable, commercial ethos and with relevance and connection to our audiences at its core. stv is a brand with resonance at local and at national level, and the people of Scotland have an appetite for relevant non-news content of high quality. Unlike news, non news programming has potential for commercial exploitation. We are exploring a variety of innovative ways to bring non news content to our audiences – sponsorship; ad funding; co-production; pre-sales – all of which can secure money for production. Our digital platforms extend the life of original production and we will continue to explore further commercial opportunities on those new platforms.
7. **stv (along with UTV, our counterpart national licensee) rejects ITV plc’s claim that we are subsidised¹⁰:** We have rebutted strongly, through independent third party analysis, that our business model is dependant on one-sided subsidy flow from ITV plc. See **Annex 1** where we have included that work in full and our more detailed comments on this work under our answers to Ofcom Questions around **Section 5: Long-term: nations and regions.**
8. **stv is committed to being a commercial public service broadcaster, embracing a PSB remit across multi-platforms with a model for growth.** Our core broadcast model delivered through the stv brand underpins the growth of online services to our existing audience, and will enable us to meet the needs and requirements of new audiences, and new advertising markets. We have a formula on which to build a successful future. Technology is advancing, new business models are emerging, and there are new funding practices in mind. It is recognised that the PSB remit should now goes beyond the core broadcast platform¹¹. We are on a multiplex which delivers

⁸ Already provided **on a confidential basis** to Ofcom by way of information request 17 November 2008.

⁹ [Draft Communication from the Commission on the application of State aid rules to public service broadcasting;](#) Paragraph 73 “The Commission has ... no objection in principle to the choice of a dual funding scheme rather than a single funding scheme”.

¹⁰ Michael Grade from RTS speech (reference Footnote 6) “At present we are subsidising the Scottish and Ulster licensees to the tune of more than £25m per annum”

¹¹ Paragraph 51 of [Draft Communication from the Commission on the application of State aid rules to public service broadcasting;](#)

universality, yet lends itself equally to sub-regional opt-outs. Through further exploitation of digital technological advances and a symbiotic relationship with a core mainstream channel, we know there is scope to migrate our traditional audiences online, attract a new online audience to our brand, and access new advertising markets as we continue our role as a public service broadcaster but evolve into a publisher of content of reach and high quality to our audience in Scotland and beyond.

9. **If the model is not broken – the Channel 3 benefit flows demonstrates benefits to all, not one-sided subsidies (as our independent research confirms) – do not sweep it aside. Channel 3 has evolved over its history. That is a dynamic process and we believe it offers the best solution – a nationwide competitive system with scale which can provide strong regional content and responsiveness to regional audience needs.**

What is it about Scotland that makes PSB so important to maintain and strengthen?

Ofcom has recognised it is important for any PSB settlement to address the issues of Scotland, confirming the provision of news supply for the devolved nations is an essential requirement for any future model. Ofcom's own research demonstrates the value that the people of Scotland place on news from sources beyond the BBC¹².

Ofcom has recognised that the people in the devolved nations want to see their lives depicted on screen. There was a remarkable 70% response agreement (with responses **even higher** in the devolved nations) to the phase 1 survey asking whether it was important (for ITV1) to show programmes that "*are made in a variety of different parts of the UK*"¹³.

As a member of Channel 3, stv has been the commercial PSB broadcaster for Scotland since 1957, and as such, a strong Scottish brand for over 50 years. We agree with Ofcom's statement "*Channel 3 has a symbolic value in the devolved nations, beyond its PSB provision, and is seen to represent national identity in ways which other TV channels do not*"¹⁴.

We are a devolved nation, 10 years old, but with a 500 year history of separate legal; education and religious systems. Health, education, transport and justice are all devolved matters for the Scottish Parliament. Democracy for a devolved nation requires relevant and comprehensive coverage, and that does not happen as a matter of course in the UK national news coverage.

Geographically, Scotland is a large varied land mass of lowlands and highlands, rural communities and urban conurbations, and islands to the west and north. The people of Scotland have a strong national sense of Scottishness, and strong local connections to their area. The nation has a many diverse economic sectors - oil industry, farming, fishing, tourism, light industry and technology, and a heavy reliance on the financial sector for jobs and opportunities.

There is no question these are challenging financial times for Scotland, as they are for most countries around the world due to the credit crunch. The media sector in Scotland can continue to contribute to strengthening and, in fact, can inject growth into the Scottish economy in these times ahead. Scotland has artists recognised the world over for their talent on screen and off. We have internationally renowned writers, acclaimed theatre, and cities recognised as centres of excellence in creative fields, such as music, literature and new media technologies. Scotland is a nation of communities with a creative eco-system feeding into those centres -- an interwoven industry around film, broadcasting, the visual arts and new media, with stv providing a pivotal, strong commercial media enterprise at its core.

¹² Paragraph 2.72 and fig 25 on page 68 of Consultation Document

¹³ Paragraph 5.8 of above

¹⁴ Paragraph 5.9 of above

Against this backdrop we confirm stv's role and ambition for a digital Scotland

stv is committed to:

- Being a commercial PSB now, up to 2012 and digital switchover, and beyond.

To us that means:

- (1) Regional news delivery continuing to provide plurality and competition to the BBC;
- (2) Creation of strong Scottish content (be that for regional; network; or international audiences for the benefit of UK original programming and high quality online material extending PSB delivery to new platforms);
- (3) Running a business model imbued with an accountable, commercial ethos with relevance and connection to our audiences at its core; and
- (4) Remaining part of a Channel 3 network around the existing licence configuration, a network that delivers a rich and varied network schedule but recognises actual benefit flows to all its members. The system has flexibility to permit it to evolve; to give stv more flexibility within the schedule for Scottish programming (where it chooses to opt out beyond licence quotas); to resolve the Border TV anomaly; and to allow ITV plc a degree of rationalisation (be that in its regional news operations; the scaling down of its children's programming commitments; or its streamlining of licence holdings under one company, ITV Broadcasting Limited). **A strong Channel 3 service remains the best context for delivery of UK public service content - Nations' news, regional diversity, and compelling high quality UK original programming which can and will continue to create those moments of shared viewing experience which strengthen the nation and build community.**

Our Model within Channel 3

Regional news delivery

We deliver two main news programmes – *North Tonight* and *Scotland Today*. We have invested to exploit the potential of the DTT network and deliver sub-regional local opt-outs. We employ over 100 journalists and production staff operating from five cities across Scotland. We invest some £7m annually in our acclaimed news output. See **Appendix 2 (a)** which demonstrates stv's rising share over the past three years (up 15%) against falling shares in the ITV English regions (down 11%) and against BBC Scotland (down 15%).

Strong Scottish non-news content

We are ambitious for our brand and for our local content initiatives to deliver a schedule to our viewers which embraces multi-platform delivery; localness; popular network programming; and satisfies their appetite for regional content provided is entertaining and of high quality. As the holders of the two Regional Channel 3 licences, broadcasting wholly within Scotland, we do more than just deliver regional news. PSB is not just regional news. It is programming where the audience can see itself reflected in content for Scotland (“regional non-news programming”), and in content from Scotland (“regional network production”) contributing to creativity, innovation and diversity in UK original production. We remain committed to growing network production from the Nations to promote creativity and innovation. The two co-exist – regional programming and regional production. If there are no nursery slopes, the UK will sooner or later, and probably sooner, fall from its position as a global leader in the creative economy – a position which Ofcom already recognises is in jeopardy¹⁵.

Ambitions

Within the Channel 3 network, stv retains sovereignty over its output. Whilst licence quotas for non-news programming should reflect the economic value of the licence and reduce, stv will take proactive decisions in 2009 to create a relevant schedule for Scotland containing increased levels of Scottish non-news content. We will deliver a schedule for Scots which combines rich and varied network offerings with engaging Scottish content. We will take strategic scheduling decisions where to opt out of the network and we will seek new and innovative ways to fund high quality Scottish programming.

A sustainable model for the digital future

We are regaining our position as Scotland’s broadcaster of choice, a central component of Scotland’s digital future. That is our vision. The route to achieve it is to strengthen the relationship with our audiences, and the mechanism is through crafted public KPIs embedded at the heart of our business model - see **Appendix 4**. These are shared with the City. They serve as benchmarks for performance and for accountability. They must drive revenue – we are a commercial broadcaster – but more intrinsically they define how we will operate as a business, and how we measure the contributions from our staff. They provide a clear route map to our growth plans and a dashboard to measure our progress. They run through our business to deliver the vision of broadcaster of choice for Scotland. And in so doing, we deliver PSB, and we will continue to do so through:-.

- Strong focus on our audiences and their needs in a digital world;
- Increasing leverage of our existing businesses – *Five Thirty Show* is a good example, and we are in the process of re-purposing our news for the online environment supported by the benefits of economies of scale;
- Operating within a Channel 3 system which provides a rich and varied network schedule but where there is a recognition of benefit flows to all members;

¹⁵ Paragraph 2.47 of Consultation Document

- Public funding playing a role in the future for regional news delivery;
- Access to a competitive funding pot, or contribution in kind for delivering content in the Nations and regions;
- A Digital Network. We have already explored with Ofcom in Phase One our views for delivering a second digital channel for Scotland with online support, a focus on localness, and for innovation. We welcome the SBC Report and its aspirations for Scotland, including the call for a new Channel, but stv has to play a central role in its delivery. The reasons being – we are committed to those aspirations and are already delivering them, as our Submission bears out. Further, it is a practical reality for sustainability that no new channel can stand alone if it is to have mass impact. That is fully recognised amongst PSB broadcasters today (BBC, Channel 4, ITV1). Any new channel needs committed and concerted cross-promotion to it from an existing main channel. We do not agree with the proposition that any new network should be set up on a “not for profit” basis as a means to ensure proper and appropriate allocation of public monies¹⁶. That proposition is out of synch with continental European developments¹⁷, and moreover the mere fact that a recipient is a “not for profit” body would not of itself neutralise state aid concerns, and indeed could aggravate them if such a body was set up in competition with existing players. Clearly, stv’s pivotal role at the heart of the new channel is only logical. We have an established news operation and investment across Scotland that already offers plurality, and potential for further growth. There is simply no reason to duplicate infrastructure, and incur unnecessary additional costs;
- Building on sovereignty by taking more control over our destiny through relevant and appropriate means;
- Continued contribution to the creative industries in Scotland through sustaining a talent and skills base and employment opportunities (see **Appendix 1**);
- Content creation imbued with high production values and compliance standards, and we will explore partnerships at all levels and negotiate commercial deals where they have commercial sense and are aligned to our objectives (for example, we have forged a partnership with the People’s Postcode Lottery which brought a high value entertainment show to the peak-time schedule *Postcode Challenge*, and a format which united communities around Scotland).
- An accountable licence regime to deliver performance and value to the audience to achieve reach and impact across multi-platforms and at local level.

¹⁶ SBC has stated Report “*We believe the new network should be set up on a not-for-profit basis. This would ensure that the maximum percentage of public money invested ends up paying for content rather than going to the bottom line with the highest degree of transparency and accountability under the governance of a board of trustees*”.

¹⁷ Paragraph 73 draft EC Communication . “*The Commission has ... no objection in principle to the choice of a dual funding scheme rather than a single funding scheme*”. [Draft Communication from the Commission on the application of State aid rules to public service broadcasting](#)

stv is building a digital Scotland now, delivering

- Plurality.
- Training.
- Employment of 350 people (up to 1,000 a year including freelancers).
- Regional News delivered through four sub-regional opt-outs.
- Creative Hub.
- Content/online aspirations and growth.
- £30m invested annually into Scottish economy.
- *Taggart* is the longest running television crime franchise on UK television. Over its 25 year run, on an annual basis, it has delivered between £5 and £10m into the sector's economy, all of it spent in Scotland.
- Connections with our audience with lively Scottish content (which entertains and can showcase Scotland (eg *Spirit of Scotland* (an annual broadcast of awards and recognition of contribution and excellence)) as we will seek opportunities to increase our output across integrated services on broadcast platform and broadband platforms.
- Innovation through embracing technological advances such as DTT sub-regional news opt-outs, and city tv initiatives on broadband.

Ofcom's Review is to make recommendations on maintaining and strengthening public service content for the future benefit of society. This surely points towards finding ways to promote and stimulate creativity, innovation and diversity, to secure plurality of news supply in the Nation, and to lend support to creative hubs outside London to facilitate access to markets. Evolution is the route, and the future. There are no certainties, but we regard evolution as a dynamic flexible process, offering the best means for the UK to plot its path towards digital switchover and to arrive there with sustainable and adaptable models.

In conclusion - our "asks"

- Recognise the key role of evolution, and continue to entrust the commercial PSB remit in Scotland to stv through a licence system that recognises and promotes multi-platform delivery. As we demonstrate above, stv licences are delivering far more than simply regional news and can continue to do so.
- On future structure, we think it is most appropriate to stay with the current configuration of Channel 3 licences as it delivers the benefit of optimal scale through the ITV network combined with national broadcaster provision of strong regional content and responsiveness to regional audience needs. The current system has flexibility in it, and already permits and facilitates differentiation. That is a hugely significant point. Therefore, to maintain and strengthen the structure, let it differentiate smartly.
- Recognise and pay due regard to competition law. No existing player has a right to continue existing, but it does have a right not to be subjected to disproportionate regulatory action, and have its business model undermined by unfair competitive practices through abuse of a dominant position.
- We do think that the networking arrangements need to be reviewed, and particularly their transfer pricing principles, but that is not a call for full scale radical review – instead we ask that they recognise and uphold a fundamental

- Future intervention to support the system through (i) direct funding for regional news provided there is transparency and proportionality to avoid unfair cross – subsidisation to commercial services, and robust accountability; and (ii) access to competitive funding with a Nations and regions focus for content creation.

We provide our answers to Ofcom's specific questions below.

QUESTIONS/ANSWERS UNDER KEY SECTIONS IDENTIFIED BY OFCOM

Section 4: Models

- 1) *Do you agree that public service provision and funding beyond the BBC is an important part of any future system?*

stv on Question 1:

Yes –

Public service provision beyond the BBC is critical. This is particularly true of the devolved Nation of Scotland where (i) plurality of news provision is essential for democracy, and (ii) Scotland's creative industries have the capabilities and potential to contribute to production of original UK programming, all in the interests of innovation and creativity derived from pools beyond the metropolis of London. Ofcom's own research confirms that viewers in the Nations value plurality beyond the BBC¹⁸, and hence reject the BBC as sole provider.

As for funding, there cannot be a system going forward into the digital world which delivers £2.3bn (through the BBC licence fee) of public monies into it but fails to deliver plurality, and competition to deliver innovation and creativity.

In a fully digital world of 2012 and beyond, plurality and innovation will be at threat if, as forecast, there is a smaller financial base for commercial public service broadcasters to draw on. Therefore, funding has to be considered as a key element to maintain and strengthen public service content of the future – certainly in the medium to longer term.

It is in line with European developments for the PSB remit to be extended to recognise that it can be multi-platform; that dual funding models can exist; and that commercial broadcasters may both make a profit and build up reserves¹⁹.

- 2) *Which of the three refined models do you think is most appropriate?*

Summary for background, and ease of cross reference:-

Model 1: Evolution

- **ITV1 could become a network of nations-based licences, or a single UK licence, with obligations only for UK origination, UK and international news, and potentially news for the devolved nations and the English regions, for which new funding is likely to be required.**
- **C4 would have an extended remit to innovate and provide distinctive public service content across platforms, with additional funding.**

¹⁸ Paragraph 2.72 – Consultation Document

¹⁹ Source: [Draft Communication from the Commission on the application of State aid rules to public service broadcasting](#); see also Commission press release [IP/08/1626](#) and [MEMO/08/671](#)

- GMTV goes, as does Teletext.

Model 2: BBC/Channel 4 plus limited competitive funding. C4 supported this model.

- C3 licensees would have no ongoing public service benefits or obligations, but could compete for funding to provide nations and regional news, alongside others.
- Their licences would be auctioned or the spectrum rights and other regulatory assets transferred directly to BBC and C4 to enhance their public service propositions.
- Competition for new funding could be introduced for Nations, regions and local news.

Model 3: Broad competitive funding

- BBC would remain the cornerstone of provision.
- Funding opening up to a wider pool of providers.
- C4 could retain its PSB status and existing regulatory assets, but would be required to bid for additional funds.
- Current C3 licensees could also bid for funding, alongside others, if they wished to continue to contribute to public service content provision.

stv on Question 2):

Model 1 is appropriate for Scotland and for the United Kingdom.

stv supports Model 1 – Evolution but rejects outright Ofcom’s proposed prescription of how that evolution would appear. Design and directionality as Ofcom proposes (in the form of a network of nations-licences, or a single UK licence) would run counter to the benefits of allowing the existing system to evolve. Channel 3 has flexibility within it. The Networking Arrangements are subject to annual review, and that must be enforced rigorously to ensure that the arrangements are optimal at any given time of the industry. It is, however, already a basic principle of the NWA that they should reflect operational reality and therefore they can - and should - evolve. Evolution is the means to maintain and strengthen PSB in Scotland in the digital age because:

- **stv has a relevance in the Nation of Scotland.**
- **It knows its audience, and is meeting democratic needs of society in its news provision with ambition and vision to enhance its offering in the digital age. “Channel 3 has a symbolic value in the devolved nations, beyond its PSB provision and is seen to represent national identity in ways which other TV channels do not”²⁰.**

²⁰ Paragraph 5.8 of Consultation Document

- See Appendix 2 (a) for how stv news has performed against BBC Scotland and the ITV plc news programmes in England and Wales over the last three years since 2006. The two graphs tell a clear story: stv has grown 15% in audience share, the others are down by more than 10%.
- See Appendix 2(b) for non news programming statistics and demonstration of relevance.
- stv incubates talent and promotes training and employment opportunities (see Appendix 1)
- 60% of Scottish television viewers would choose stv if they could only access one channel²¹;
- 81% see stv as an essential source of information and entertainment²².

The existing licence regime has established and delivered PSB for over 50 years. stv anticipates that it can continue to do so although ultimately news delivery will need public intervention through direct funding. That alone is not reason enough to tear up a federal system which provides plurality, remains the highest rated commercial network, and which stv advocates as “local at the point of delivery”. A federal Channel 3 model remains the best solution both for the people of Scotland and for strong UK PSB delivery, as it delivers the benefit of maximum scale through the ITV network, combined with national broadcaster provision of strong regional content and responsiveness to regional audience needs.

There is no reason to devise a new model of a “network of nations-based licences”. There is already flexibility in the system to allow the Border TV anomaly to be addressed²³ (assuming ITV plc’s willingness to agree a commercial deal) and stv sets out again its proposals at answer to Section 7: Matters for short-term regulatory decision. stv licences in Scotland are already operated under single ownership and uniform branding at optimal viability to deliver a service to the nation of Scotland without the need for a single pan Scotland licence. On ITV plc’s part, they have already taken steps to rationalise ownership of licences under one company to further streamline administration.

As to any suggestion of a single UK licence (or ITV’s call for a single UK brand) that would simply not deliver plurality for Scotland. No London-centric operation will have any resonance in Scotland to provide plurality which stv’s Scotland based brand can provide. In the case of Scotland, ITV plc has shown little interest in working with stv to support Scotland’s needs.

It is also very difficult to understand that any such proposition could meet public policy objectives and comply with the regulatory framework in place (following merger of Carlton and Granada and the Undertakings which went in place), or conform with Ofcom’s duties to further the interests of citizens

²¹ Source: Viewers from George St Research, May 2008

²² Source: Viewers from George Street Research, May 2008

²³ Section 14 (3) of the 1990 Broadcasting Act granting (now) Ofcom discretion to direct service provision from outwith the licensed area

around the UK; promote competition; encourage investment and innovation in relevant markets and take into account the different interests of persons in different parts of UK, as well as its duties to maintain a Channel 3 network (which has at its core a federal system)²⁴. It would go no way to maintaining and strengthening PSB in Scotland.

Under evolution, C4 should not be the exclusive recipient of any extended remit to innovate and provide distinctive public service content across platforms with additional funding. At European level, it is clear that the European Commission recognises the needs for updating the definition of the public service remit to take the market developments of convergence/digitisation and the diversification of distribution platforms into account²⁵. Further, it is not just “not for profit” bodies who can be recipients of lawful state aid. Indeed it could be classed as anti-competitive if they were to be the sole recipients especially in light of European developments to recognise extended PSB remits, and permissibility of “dual funding models”.

As for GMTV and the breakfast licence, there is no convincing evidence to move away from the status quo. GMTV is profitable, retains PSB obligations, and contributes to PSB delivery with strong editorial which has regionality at its core. It would be an inappropriate intervention to extinguish the licence for no clear reason. Like the ITV regional Channel 3 network, GMTV, the national Channel 3 licence, is majority owned by ITV plc. Effective regulation is not about espousing the wishes of the majority to re-configure a system in its own interests.

stv rejects Model 2 (BBC + C4 only and access to limited competitive funding for the latter). Even supporters of this model acknowledged that without Channel 3, this model would struggle to provide national and regional programming with the level and reach that it has today²⁶ and, therefore, it cannot be classed as a model which could be recommended to best maintain and strengthen PSB in the future. Given that this model contemplates auctioning the C3 licences and the transfer of regulatory assets to BBC and C4, it is difficult to see how this could be classed as compatible state aid which did not distort competition as it snuffed out Channel 3.

Further, the Nations would not be served by the introduction of competition for new funding requiring the establishment of new models having to acquire reach and impact. Any action to do so in the face of recognition that in the Scotland, stv already has a symbolic presence and recognised reach and impact, could not be reasonable action of a regulator or proportionate intervention.

stv rejects Model 3 (broad competitive funding beyond just C4). It removes PSB status from existing Channel 3 players, at a time when stv plays a significant and currently sustainable part in the whole eco-system of UK broadcasting. Evolution has to be classed as the big idea, embracing as it does developments at European level which recognise the need to permit the widening of the definition of the public service remit to take account of market

²⁴ Broadcasting Act 1990 (s14 (1)) and Communications Act 2003 at s 3.

²⁵ Source: [Draft Communication from the Commission on the application of State aid rules to public service broadcasting](#); see also Commission press release [IP/08/1626](#) and [MEMO/08/671](#).

²⁶ Paragraph 2.69 of Consultation Document

developments of convergence/digitisation and the diversification of distribution platforms. Anything else is reactionary and anti-competitive.

- 3) *Do you agree that in any future model Channel 4 should have an extended remit to innovate and provide distinctive UK content across platforms? If so, should it receive additional funding directly, or should it have to compete for funding?*

Summary for ease of reference:-

Under Model 1, C4 gets an extended remit to innovate across platforms + additional funding;

Under Model 2, (BBC + C4 only), C 4 gets additional funding + possible transfer of assets (whatever that means);

Under Model 3, (broad competitive funding), C4 could retain its existing PSB status along with its existing regulatory assets, but would be required to bid for any additional funds alongside other providers.

stv answer on Question 3):

It is right and in line with industry developments that PSBs should have extended remits across platforms. PSB delivery transcends platforms. If we confine it to terrestrial TV, in future it will reach an ever decreasing viewership. Furthermore, by positioning new commercial services that sit well with local public service content, there will be an evolving commercial viability of doing this. That is an important consideration where state funding has to be applied carefully as it is an allocation of public funds. However, any argument for C4 to have an extended remit to innovate and provide distinctive PSB content across platforms also applies to stv, and would be in line with continental European developments and trends around state funding rules as they apply to public service broadcasters. There needs to be a level playing field, not one set of rules devised exclusively for Channel 4. The current review of the 2001 Broadcasting Commission (guidelines on state aid rules applying to public service broadcasting) contemplates (i) flexibility for identified PSBs to build up reserves to help them deliver on their public service mission (were they to receive state funding), (ii) recognition that the PSB remit can extend online to multi-platform delivery, and (iii) recognition that dual funding models are in principle acceptable²⁷.

C4 may be a “not for profit” organisation, but continental European developments recognise that funding can flow to “dual funded” models. Not for profit is by no means a pre-requisite, and to confine it to such undertakings could be anti-competitive.

- 4) *Do you think ITV1, Five and Teletext should continue to have public service obligations after 2014? Where ITV1 has an ongoing role, do you agree that*

²⁷ [*Draft Communication from the Commission on the application of State aid rules to public service broadcasting*](#)

the Channel 3 licensing structure should be simplified, if so what form of licensing would be most appropriate?

stv answer on Question 4):

stv is committed to being a PSB as part of a Channel 3 network which has flexibility for change.

We think the issue for the current review is to determine PSB up to and including DSO. Get there with something rather than get there with nothing.

ITV1 – yes very likely it should continue to have public service obligations but let the system evolve. Do not prescribe nations licences, and absolutely not one UK-wide licence. There simply cannot be one UK wide licence. This would not serve the interests of viewers, of Scotland, of the UK, or of public service content. Furthermore, it would be run counter to Ofcom’s duties and its own audience research, against our own experience and objective research (see Appendix 3), and against the current social and political momentum.

After 2014? Let evolutionary process take its course. We are in 2008, and the pace of change is too fast to dictate the post 2014 landscape now. We call on Ofcom to recommend and facilitate the continuation of stv as a relevant commercial PSB within Channel 3. PSB will never be resurrected beyond 2014 if any prospects for sustainability are removed from it now.

5) *What role should competition for funding play in future? In which areas of content? What comments do you have on our description of how this might work in practice?*

Summary for background:-

Descriptions are at 1.28, 1.30 and 1.41. Fig 22, page 61 ie under Models 2 and 3, competitive funding is introduced. In Model 3, C4 has to compete too for additional funds. Under Model 2, it receives an asset transfer (undefined) + additional funds.

stv answer on Question 5):-

stv thinks that over time, evolution needs direct funding for News, and that there should be competitive funding for UK origination from the Nations and regions. That would render such production more attractive to London commissioners and hence offset the bias towards commissioning from so-called trusted and proximate sources in London.

The mantra of commissioning on merit will continue to resound, but all broadcasters are going to pass on the economic pressures to pitching producers, and network production from the Nations and regions needs to be stimulated not further undermined in the harsh economic times ahead. It is for Ofcom to recommend means of strengthening PSB, and competitive funding is clearly one of them, with a particular focus on Nations and regions content.

Section 5: Long-term: nations and regions

- 1) *Do you agree with our findings that nations and regions news continues to have an important role and that additional funding should be provided to sustain it?*

stv answer on Question 1):-

Does it have an important role?

Yes – the evidence speaks for that:-

- 1) On audience share, reach and impact – see Appendix 2 (a) + (b) ;
- 2) Ofcom’s own research highlights the Nations reject sole provision by the BBC²⁸.
- 3) Extracts from third party research carried out for stv – see Appendix 3.

Does it need funding?

stv is committed to regional news: Due to the corporate transformation and operational re-structuring carried out by stv, we are confident that the period for which regional news obligations are sustainable is longer than previously asserted. We have submitted re-worked financial forecasts to Ofcom demonstrating this²⁹. Where there is a shrinking financial base through declining ad revenues, investing in regional news is challenging for any broadcaster, but we know the hunger of our audiences for relevant local news, and we have continued to invest in it, and innovate with its delivery. stv delivers plurality in Scotland now, and we aim to continue to do so. However, overtime, we reiterate the need for direct funding of regional news to address the future deficit. We believe that dual funding models are acceptable as recipients of state aid, and that European rules (and developments in them to address the changing times) recognise this along with delivery of PSB remits over multi-platforms³⁰.

- 2) *Which of the three refined models do you think is most appropriate in the devolved nations?*

stv answer on Question 2):

There is no question. It is evolution. All complex systems evolve and Broadcasting is clearly a complex system. To introduce design and directionality would be misguided and fail, and lead to the destruction of the model already evolving.

- no better system in Scotland.
- stv focused entirely on Scottish interests.

²⁸ Paragraph 2.72 of Consultation Document

²⁹ Already provided **on a confidential basis** to Ofcom by way of information request 17 November 2008.

³⁰ [Draft Communication from the Commission on the application of State aid rules to public service broadcasting;](#)

- C3 network schedule continues to provide high audiences and this reach and impact remains most appropriate context for nations news.
- Work on digital Scotland is already underway at stv. PSB will be available online.
- The federal system that produces this is not broken but needs adjustment. The independent assessment we have carried out is evidence of this. See Annex 1 – ITV plc and ITV Network: Analysis of Benefit flows.

ITV plc has made unsubstantiated accusations. ITV plc is implicitly saying that stv only exists as subsidy junkies. They are implicitly saying that stv should be paying more for our network content. For our part, we have responded and have now published a piece of independent comprehensive work, and we want a properly informed debate. We are talking about a regulatory system for the future of PSB in Scotland.

Channel 3 is a federal system, and over time that federal system has evolved and should continue to evolve. Over its 50+ year history there have been many factors at play to shape the way it looks today - consolidation, business strategies, evolution. Over time, the relative strength and weaknesses of the regional identities have emerged – you could plot a spectrum graph going from weak regional identity eg Anglia, Midlands to strong (Granada, London) to essentially national broadcasters eg Wales, Scotland, N Ireland. Its strength lies in its ability to evolve, to differentiate and permit rationalisation.

We recognise the need for change, and removal of barriers to growth, but not for dismantling of models which have growth potential – as we have set out clearly in the front end of this Submission.

ITV plc controls our main revenue flows, and can dictate the value of the Scottish offering to advertisers. Our own regional advertising revenues are up, but our national revenues are controlled by ITV plc Sales team with conflicting incentives around whose shares to promote. We know there is more value to be tapped into in Scotland, but we are locked into a system which does not release it. ITV plc's is very publicly in favour of the dismantling of CRR. CRR is depressing the monies of stv too, but over and above that barrier, there is the barrier to growth we face as we have a sales agent – ITV plc – with conflicting incentives.

Paragraph 5.27 – “In a scenario of nations based licences, the Scottish part of the Border region would be incorporated within an all-Scotland service”

stv - We do not need nations-based licences to accommodate Border TV. Section 14 (3) of the Broadcasting Act could facilitate stv's supply of news to the Scottish part.

Paragraph 5.29 – “in the refined Evolution model, providers in the devolved nations would be directly funded in order to maintain an ongoing role in nations news”

stv - In fact do not need it right now, but what about funding for UK origination from the Nations?

Paragraph 5.9 - “Channel 3 has a symbolic value in the devolved nations, beyond its PSB provision, and is seen to represent national identity in ways which other TV channels do not”

stv - And yet, in the face of this Ofcom contemplates design and directionality?

Paragraph 5.14 - “ITV plc has signalled its wish to end what it regards as its subsidy of the network schedule in the devolved nations. Economic analysis suggests the non-ITV plc licensees could already be in deficit if ITV plc sought and obtained a higher contribution from them to network schedule costs. However, the other licensees argue that any subsidy does in fact run in the other direction”

stv – There is no subsidy to the non-ITV plc licensees, and the independent assessment which we commissioned shows that. See Annex 1. Its key findings include:

- It is estimated that the transfer of value from the federal ITV network to ITV plc is in excess of £227m per annum;
- This benefit arises from the ability ITV plc has to use ITV1 network programming such as Coronation Street and Emmerdale on its digital channels ITV2, 3, 4 and itv.com at virtually no cost. The independent research we have undertaken has identified a conservative market value for this material of £111m per annum;
- Benefit also arises from ITV plc being able to enjoy on-air promotion for its digital channels, with presenters inviting viewers to "turn over to ITV2" or "click onto itv.com" etc. Every week, hundreds of such references are included within network programmes transmitted across the entire UK, yet stv, UTV and Channel TV receive no benefit from ITV's digital channels. The independent research undertaken has identified a media value of this on-air promotion of c£100m per annum.

The Channel 3 system does not pass subsidies to the non ITV plc licensees. There are benefit flows to all members and principally to ITV plc in its operation of its licences alongside its non-PSB digital channels. There is no reason to devise an Affiliate model which Ofcom's own modelling³¹ demonstrates does not work.

Paragraph 4.50 - If there are to be a set of nations licences “the terms of the networking arrangements between the licensees would need to be reviewed and might look different from today. The contribution to the NPB paid by each licensee would need to reflect the revenue-earning potential of the licence, the regulatory benefits and obligations attached to the licence and the benefit that each licensee derives from membership of a UK-wide network. Licences would be for 24-hour services with no separate breakfast licence. News below nations level could be provided either by regional Channel 3 services, as at present, or possibly at a more local level with additional public funding”.

We reject Ofcom's proposals on how an evolutionary system would look (nations licences, (or one UK-wide licence)). We do not consider that

³¹ Annex 12 of the Consultation Document

evolution. That is disproportionate intervention in the markets aimed at introducing design and directionality resulting in the destruction of the business model of stv. We need benefits preserved indeed the reflection of the need to contribute in line with revenue-earning potential.

We do not agree that there needs to be a re-configuration as there are no convincing arguments for this route. There is no subsidy at play. stv is committed to growing its business focused on Scotland. Our right to continue to use Network material needs protected, not from regulatory intervention, but from aggressive majority player “spinning” the subsidy line. stv will continue to invest in network programming, but we need the same access as ITV plc to programming (and new media rights) taken on behalf of us all. We may have a 6% ownership share in ITV Network Limited, but we own the schedule in Scotland, and we have contributed to the goodwill in the ITV schedule over the 50+ years of its existence.

In summary, PSB for Scotland requires a model which recognises

- 1) Continuation of a federal UK system which delivers network offerings which are local at the point of delivery with sovereignty of national licensees over their own schedules at its core.
- 2) Fair, reasonable and transparent access to new media rights.
- 3) Value of the schedule to stv needs also to take into account the value of it to the ITV plc digital channels.

That model already exists in the form of Channel 3.

- 3) *Do you agree with our analysis of the future potential for local content services?*

Summary inserted for background & ease of reference. Comment inserted by stv:-

The analysis is to be found at paragraphs 3.18, 3.86, 3.106.6 and 5.72 – 5.76. To quote/paraphrase:-

3.18 – is about the local online market - “the range of content provided by online communities and users will continue to grow, complementing increasingly sophisticated local information services (.....). However, too early in terms of the market’s development to say at what level (in terms of the nature and extent of their content offer) these local services will become commercially sustainable”.

stv - We agree but we have ambition. Localness is part of a PSB remit. We are strong supporters of delivering it – be that online or on DTT.

stv, through online development that started in July 2006, has already built services that extend our PSB remit into the online space. Appendix 5 (first screenshot) shows the depth of online news content we already offer. This includes not just our flagship bulletins in stv central and stv north, but also our micro-region bulletins in Glasgow, Edinburgh, Dundee and Aberdeen. Our plans in 2009 include the launch of new city tv sites that will provide more local granularity and put local news at the heart of the offering but also bring in local news, entertainment (what’s on in the local area etc) and a host of other local services eg online classified job, home, car sites providing our viewers and advertisers with a comprehensive local offering with public service content at

the heart of it. Adding these other commercial services around the public service content will strengthen the commercial viability of expanding our PSB services into the online space. We aim also to develop local content and services on the mobile platform given that technological developments now allow users to receive locally tailored information to their handsets. These new online city sites will cover the major cities / regions initially and then look to become more granular in terms of large towns etc.

This is evolution at work..... New services, new audiences, new advertising markets.

Furthermore, our online PSB offering is not however limited to news. The second graphic at Appendix 5 shows some examples of how we have expanded the distribution of local programming in to the online space. Examples are the *5.30 Show*, *The Merchant Navy*, *Conquer the Castle*, *Politics Now*, *High Times*, *Cracked* and *Postcode Challenge*. We have also recently streamed The First Minister's Questions sessions live to provide our audience with deeper access to topical political material.

Our online development not only adds depth to our existing public service content – it also, through our catch-up service, allows our viewers to consume it when they want it, where they want it.

The key point we would make is that the delivery of PSB obligations goes beyond just the terrestrial tv service and our viewers now expect to be able to consume our content when they want it, where they want it - on the device of their choosing. To fail to do this would limit the consumption of public service content to an ever decreasing viewership as new platform penetration – be that online, mobile etc – will only increase over time.

It is important to note that in this respect, the Channel 3 system is evolving beyond the Channel 3 broadcast network. We are in charge of shaping the online future for our public service content offering. It can be provided independently of ITV plc.

3.86 – the potential for local digital services to deliver public service purposes, on TV and over broadband, has long been recognised. The sector has remained less developed in UK than in most other European countries. DDR going to release interleaved spectrum.. development of next generation broadband will help boost the prospects for commercial local broadband services .. BBC has proposed to enhance its online local services to include video (subject to PVT) = opportunities,

stv - Indeed – and it is very important to recognise developments at European level. The PSB remit can be extended online and it should be through a formal act of entrustment. We are delighted that there is likely to be a competitive level playing field in light of Ofcom's MIA which considers that the BBC Local Video launch would damage the competition, and the BBC Trust's anticipated rejection of this launch.

3.106.6 – [stv vision!] there may be a new role for public service broadcasters to introduce audiences to a wider range of digital public service content through initiatives to enhance its discovery,

stv – we agree, and we concur with developments at European level (proposals that a PSB remit can extend online)

5.72 – main unresolved question may be whether funding models for local video content services are sufficient to exploit the opportunities now opening up on DTT and broadband.

5.73 – local television operations will have *limited* budgets for the creation of new content.

stv - Very true, and therefore, need to link to a sustainable channel with network content to give them a better chance of survival and drive reach and impact. Commercial public service broadcasters will develop new commercial services that sit well with local PSB content eg. the city site developments outline above. This will augment the commercial viability of PSB services and promote their sustainability.

5.74 – analysis suggests that online business models unlikely to prove commercially sustainable.

5.75 – Ofcom's Models 2 & 3 could see new competitive funding being used to secure local content services. Alternative sources might include regional development agencies and local authorities.

5.76 – a big issue is whether the BBC's proposals for local video services will go ahead..

stv - We are delighted that it seems the playing field will be kept level. Ofcom's market impact assessment was published 21 November 08. It concluded that the launch of BBC Local Video services would have significant negative impact on future innovation in online local news, sports and weather services by the commercial sector. We are very pleased and expect, therefore, that the BBC Trust will not approve the launch of this service when it publishes its Public Value Test. That is welcome news for the sector, and fuels our ambitions further.

Expanding online should be recognised within the PSB remit. It is a natural development for stv. At our instigation, we are now covering sub-regional split news bulletins, the most localised bulletins across Scotland (contrast BBC - 1 programme). We will develop this online (mirroring our sub-regional opt-outs) with more communities and locations. This is a natural adjunct to any Scottish digital channel.

We should also point out that the extraordinary market conditions make Ofcom's preferred route of selling local spectrum to highest bidder very challenging, not to mention calling into question the potential viability of burgeoning local TV players, none of whom have so far flourished under the RSL system.

The easy way to do this is to modify offline licence requirements to require online coverage/distribution of relevant PSB content. There are already non broadcast obligations to promote media literacy DSO. This is how a licence should develop – into a public service publisher one (and that is NOT straying into regulating the internet).

Section 6: Funding

- 1) *Do you agree with our assessment of each possible funding source, in terms of its scale, advantages and disadvantages?*

summary for background:-

The sources are at 6.2 and figs 34 and 35

- Regulatory assets;
- Licence fee;
- Industry levies; and
- Direct government funding

stv answer on 1)

Regulatory Assets

It is extremely important that the regulator aligns key interlinked elements of its regulatory policy. stv is very concerned about the timing and direction of Ofcom's Digital Dividend Review – the so called use of the digital dividend created by freeing up spectrum through digital switchover process. Access to scarce spectrum has been long recognised as a regulatory asset. It is acknowledged that spectrum is less scarce but it still has value.

There are three key points to make:

1. Any new digital channel in Scotland will need access to spectrum. Any new digital channel to have value and relevance needs to provide for community/citizen focused content – at least in part. Such local services generate broader social value but are not likely to be sustainable left to the operation of the markets. Access to spectrum may be a valuable commodity for such a channel and yet Ofcom has publicly rejected intervention into the market in favour of a market led approach³². Nonetheless Ofcom has an ongoing obligation to consider the issues faced by such services that generate broader social value in the context of this PSB Review³³.
2. Ofcom's current intention is to apply Administered Incentive Pricing (AIP) to spectrum used by the existing DTT multiplexes from 2014. Ofcom has to date rejected waiving AIP for PSBs as a means of

³² **Para 4.14** – Digital Dividend Statement on Ofcom's approach to the award of the digital dividend spectrum – <http://www.ofcom.org.uk/consult/condocs/ddr/statement/>

"A market led approach entails:

- Allowing spectrum to be traded between users;
- Liberalising spectrum by imposing as few constraints as possible on its use and removing existing restrictions limiting use to certain services or technologies; and
- Awarding spectrum through service and technology neutral auctions or, where spectrum is already licensed, introducing AIP to ensure that licence fees provide incentives to use spectrum efficiently by reflecting its value".

³³ **Para 7.125** – Digital Dividend Statement on Ofcom's approach to the award of the digital dividend spectrum – <http://www.ofcom.org.uk/consult/condocs/ddr/statement/>

"we have decided not to intervene (to provide an additional DTT multiplex for community/citizen focused content) .. but we believe it is important to consider the issues faced by such services that generate broader social value. We will do so in our second PSB review"

supporting PSB funding needs albeit that it does *“recognise the link between AIP and funding for public service broadcasting for the future”* [source: paragraph 6.36 Consultation Document]. However, Ofcom expands that it will *“consider carefully the potential effects on public service broadcasting output before introducing AIP, and examine policy or regulatory changes that may be appropriate to address or mitigate these”*. [source: said paragraph 6.36] We believe that access to spectrum at non market costs could be a valuable source of indirect funding for PSBs to sustain PSB of the future.

3. Ofcom makes the point in its Consultation Document *“because PSB funding is tied to a specific platform, incentives to use alternative delivery mechanisms are weakened. This could mean the reach and impact of public service programming becomes partly determined by the success of the DTT platform”* [source: paragraph 6.33]. On this point it is fundamental that the UK, and the UK regulator recognises developments within Europe. It is recognised at European level that public service broadcasters must be allowed a wider remit than the single broadcast platform in this new media digital age. The European Commission considers it is necessary to update its statement as to the definition of the public service remit to take the market developments of digitisation and the diversification of distribution platforms into account. That has the potential to remove hurdles around unlawful direct or indirect state aid to public service broadcasters with a public service multi-platform remit. The European Commission is consulting on its draft Communication on the application of state aid rules to public service broadcasting which embraces a widened multi-platform PSB remit, and which reiterates the call to member states to *“ensure that existing public service media organisations occupy a visible place in the new media landscape”* and to *“allow public service media organisations to develop in order to make their content accessible on a variety of platforms, notably in order to ensure the provision of high-quality and innovative content in the digital environment and to develop a whole range of new services including interactive facilities”*³⁴.

The European Commission has always made it clear it is the role of each Member State to determine the definition of public service remit. Mindful of these developments at European level it is for the United Kingdom and Ofcom to assume their responsibilities and (i) extend the remit of the definition for the digital age, and (2) recognise the role of spectrum access at non market rates as a means of promoting and strengthening PSB of the future in the knowledge that the state aid rules are developing to permit it³⁵.

³⁴ http://ec.europa.eu/comm/competition/consultations/broadcasting_communication_en.pdf

Paragraph 18 – quoting Recommendations of the Committee of Ministers of the Council of Europe adopted in January 2007.

³⁵ http://ec.europa.eu/comm/competition/consultations/broadcasting_communication_en.pdf

Paragraph 51 – *“In order to guarantee the fundamental role of the public service media in the new digital environment, public service broadcasters may provide audio visual content in the form of linear services over new distribution platforms, provide special interest programmes, as well as media services that are not “programmes” in the traditional sense, such as on-line information services and non-linear or on-demand services, subject to appropriate safeguards”*.

stv believes it is a far more fruitful and ultimately more rewarding task to embrace the evolutionary path of a PSB to meet the challenges of the new media environment through recognising the need for flexibility and a fair level playing field between different actors (as the Competition Commissioner Neelie Kroes has said³⁶), rather than to take the ITV plc route which seems to maintain that the system is too inflexible and broken and must be replaced.

Direct funding

Direct funding needs robust accounting. stv for its part can readily provide transparency of our PSB cost base. We would also charge a market rate (as is demonstrated by our recent figures to Ofcom³⁷) where there is an income stream generated by our new media operations which has accessed news content.

- 2) What source or sources of funding do you think are most appropriate for the future provision of public service content beyond the BBC?

stv thinks that over time, evolution needs direct funding for News, and that there should be competitive funding for UK origination from the Nations and regions.

The DSO monies of the BBC would seem a logical source, and there is little doubt the BBC could generally use its resources more efficiently.

- 3) Which of the potential approaches to funding for Channel 4 do you favour?

Anything that applies to C4 could apply equally to other entitled recipients, as our answers at Section 1 (page 17) above highlights. The key factor is robust accountability where direct funding is allocated. As long as the recipient and the Member State complies with requirements on transparency and cross subsidisation (proportionality test), state aid will be compatible.

³⁶ Competition Commissioner Neelie Kroes *"I am pleased to submit the draft Broadcasting Communication for public consultation. My goal is to help stakeholders in the broadcasting sector to meet the challenges of the new media environment, allowing a high quality and modern public service, while at the same time maintaining a fair level playing field between the different actors"*

³⁷ stv financial forecasts submitted in confidence to Ofcom on 14 November 2008

Section 7 and annex 1: Matters for short-term regulatory decision

- 1) Do you agree that our proposals for 'tier 2' quotas affecting ITV plc, stv, UTV, Channel TV, Channel 4, Five and Teletext are appropriate, in the light of our analysis of the growing pressure on funding and audiences' priorities? If not, how should we amend them, and what evidence can you provide to support your alternative?

We focus on certain three key aspects of "tier 2 quotas"

Firstly, regional news

stv considers there is a more relevant solution for the Border TV anomaly than permitting 30 minutes of news from Gateshead, with a 12 minute opt out from Carlisle and 2/3 minute opt out for the Scottish border region.

Under the proposals we have tabled in the past, the Borders material could sit within our *Scotland Today* programme which would be transmitted in the Scottish part of Border's region. This would guarantee local Borders news at 1800 and 2230, presented within a wider Scottish news context that would be directly relevant to the Scottish Border audience. We believe it is workable within the context of the existing legislation. That would amount to 6 minutes of Border news within an edition of *Scotland Today*. However, we do need ITV plc to agree a commercial deal. For our part, we are ready, willing and able to provide this solution.

Secondly, non news regional programming

Nations – 1.5 hours. The obligation should reflect the economic value of the licence. In that regard, we agree with 1.5 hours per week but there should be recognition (and further diminution) in approach to DSO.

We have said consistently we will overdeliver. We are committed to over delivering and are thinking of innovative ways of making programmes at our own commercial risk. We are exploring a variety of new ways to bring non news content to our audiences – sponsorship; ad funding; co-production; pre-sales – all of which can secure money for production. Our digital platforms extend the life of original production and we will continue to explore further commercial opportunities on those new platforms.

Thirdly, network production

Ofcom is consulting on permitting ITV to reduce its quota from 50% by volume and value to 35% by volume and value. Ofcom makes statement at page 137 paragraph A1.43

"In practice, ITV has consistently struggled to deliver the higher quota, and the requirement itself has not consistently delivered the additional diversity in portrayal and representation that would be desirable to viewers. PSB broadcasters, including ITV, have tended to fulfil the quota through long-running series – including quiz and other studio-based programmes, such as

entertainment. These programmes effectively deliver the quota, without necessarily delivering nations/regions diversity on screen”.

Ofcom has said:-

“When the Phase 1 survey asked specifically about whether it is important for ITV1 to show programmes that “are made in a variety of different parts of the UK”, 70% agreed with responses higher in the devolved nations than in England” [paragraph 5.8]

stv - This is self evident. As is reflected in the fundamental principles underpinning policy and law within Europe, audio visual media services are as much cultural services as they are economic services, and their growing importance for societies, democracy – education and culture is well recognised³⁸.

In short, to allow ITV to reduce is a reward for failure. This statement from p137 (our highlighting) of the Consultation Document is one sided. There are industrial arguments to be made, not just cultural ones, and Ofcom should not maintain otherwise. Europe does not maintain otherwise³⁹.

We rebut this Ofcom logic re ITV OoL quota. Proposed short term regulatory change on C3 + C4 on OoL is inconsistent with strong desire to preserve PSB in the Nations, particularly given BBC direction of travel, and its very substantial new multi-million pound investment in Glasgow, and the Wales successes with dispersing network production.

It is not just about diversity, it is about maintaining a sustainable base so that Scottish producers can contribute innovation and creativity into UK original programming. With viable production centres promoting high production values, in the mix there will be some nations/regional diversity delivered but there will be viable production centres maintained regardless.

The SBC has called for quotas⁴⁰. stv agrees. It is essential to overcome the London-centric commissioning bias, and moreover, one of the key PSB purposes is to reflect and strengthen our cultural identity, and represent diversity of the UK, and all its communities.

The reason quotas are needed is that the UK is so centralised, and the reason they are justified is that Scotland has the ability to develop into a centre of excellence with support and access to markets precisely because it has a unique creative ecology – an interwoven creative industry around film, broadcasting, the visual arts and new media with cross sector initiatives to promote skills that can serve it, and nurture talent that can develop it. The end game should be that all players can compete effectively within a UK market

³⁸ Recital 2, AVMS (add hyperlink)

³⁹ Recital 6 *“Traditional audio visual media services – such as television – and emerging on-demand audiovisual media services offer significant employment opportunities in the Community, particularly in small and medium-sized enterprises, and stimulate economic growth and investment. Bearing in mind the importance of a level playing field and a true European market for audio visual media services, the basic principles of the internal market, such as free competition and equal treatment, should be respected in order to ensure transparency and predictability in markets for audio visual media services to achieve low barriers to entry”*

⁴⁰ Executive Summary, paragraph 32

<http://www.scottishbroadcastingcommission.gov.uk/Resource/Doc/4/0000483.pdf> “The Commission takes the view that quotas are necessary at this stage to encourage the UK public service broadcasters to engage with the supply side of the industry on a truly Pan-UK basis”

without heavy handed intervention. However, without the existence of strong creative clusters dispersed in key centres around the UK, we will never get there. stv concludes that effective intervention is essential to stimulate a creative cluster in Scotland - with a view to dismantling it, and letting the markets operate at some point in the future.

ITV should do more, Channel 4 should do more. We welcome recent pronouncements of the BBC that they will share resources and promote greater collaboration, but they remain untested prospects as yet. For C4, Ofcom proposes a quota of 3% for production from the devolved nations from 2010, combined with a quota of 35% for total out of London production, both from 2010. Ofcom recognises that in the longer term, this would need to be aligned with new funding arrangements for Channel 4. BBC should do more sooner, not in 2016. People will follow the work. There is no UK channel outside London.

stv is committed to relevance, to delivering high value production from Scotland. Every means at Ofcom's disposal should be taken to bring commitment to fruition in form of increased production from Scotland.

We will continue to lobby hard for the removal of regulatory barriers around the production business (in the form of lack of independent status at network level on grounds of no commissioning power or influence at that level) to give it every chance to grow for the benefit of the whole community.

It is about (i) PSB for and in Scotland (in the form of regional non-news programming), and (ii) production from Scotland for benefit of UK PSB (in form of strong UK origination). The two are inter-dependent. We already represent 50% of non BBC Network Production in Scotland. If we cannot grow, small independents will never grow, and diversity, creativity and innovation will be lost.

It is ever-enlightening to take one example of what one successful long-running production can achieve. *Taggart* is the longest running television crime franchise on UK television, and has been running for 25 years. At that time, it has employed over 2,000 freelance production staff. It has employed over 4,000 actors. Over 50 key Scottish writers have had an opportunity to write for a UK and international audience. On an annual basis it has delivered between £5m and £10m into the sector's economy, all of which is spent in Scotland. It has been sold to over 150 territories internationally, and has given Scotland and Scottish drama a worldwide reputation for excellence in all areas of the sector. It has consistently underpinned the industry in Scotland, touching all aspects of our creative culture. *Taggart* has been able to develop and sustain talent – on screen and behind camera – from writers, set designers, costume designers, producers, directors, researchers to specialised finance, legal and HR functions. Those individuals in turn contribute to other aspects of the creative industries including Scottish theatre, radio drama, Scottish film and education. *Taggart* has also played a regular role in new entrants' training schemes, working closely with Skillset and Scottish Screen. In turn, Scotland's contributes to the strength of UK origination which is a global leader in the creative sector. But *Taggart* is not enough.

end

Appendix 1

stv's contribution to the creative sector in Scotland – by way of diversity of opportunities created; geographic reach and financial contribution

Creative Media Industries in Scotland are one of six priority sectors in the Scottish Government's economic development strategy. The contribution from stv group is significant:

Employment:

- During 2007, in addition to our permanent headcount of 375 staff, we employed over 500 people from the freelance community. These freelancers filled a diverse range of roles within our Scottish based productions across both broadcasting and technical disciplines - high-end post production; commercial production; camera operators; sound and vision; graphic designers;
- In 2008 YTD, over 450 freelance staff have been engaged, contributing to building and retaining a strong, talented and vibrant freelance community in Scotland for the benefit of all in the creative sector including the independent production sector.
- Through the combination of its freelance base and its permanent staff, stv group employs c875 people annually directly and indirectly, and has contributed over c£30m directly in salaries and fee income.

Supporting new skills development:

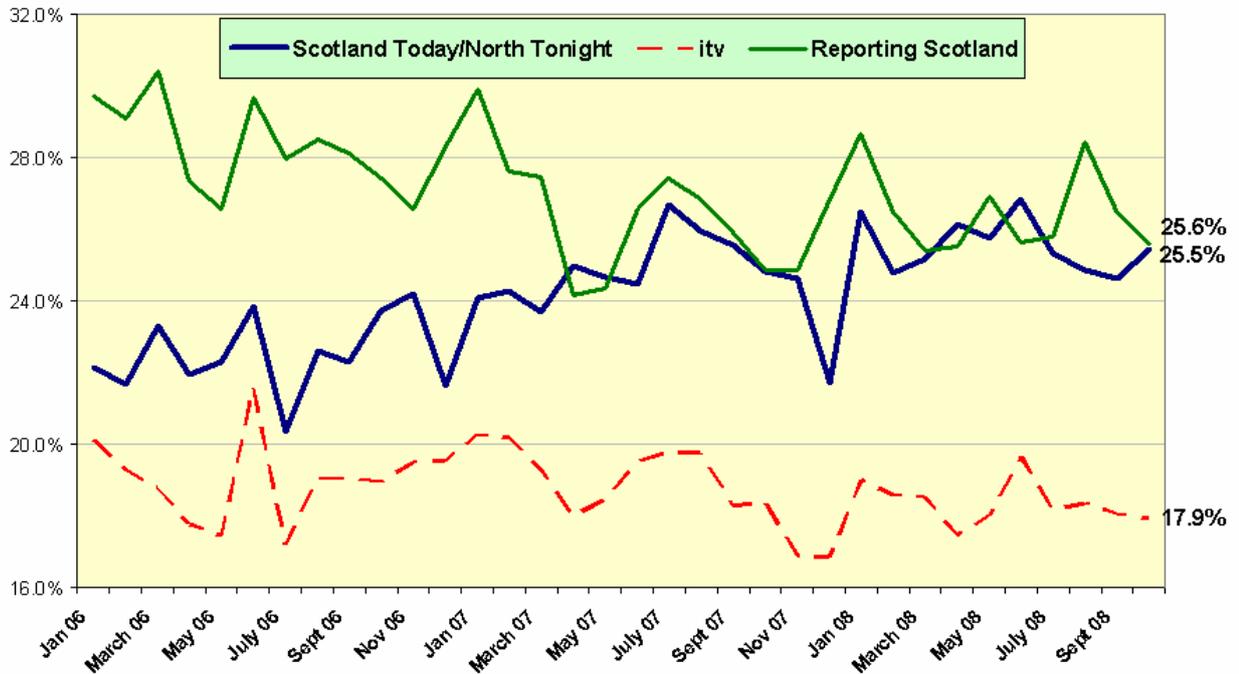
- Through the establishment of our digital strategy and growth of our online business, we have created 35 new roles in web development and digital content creation.
- Additionally, we have brought previously outsourced (and off-shore) web development functions in-house, creating opportunities to develop knowledge and strengthen technical skills and capabilities within the Scottish economy.

Education and training:

- stv group works in partnership with the education sector across Scotland to provide access and opportunities and support the development of future talent. During 2008, we have provided 45 supported places for students and graduates within Aberdeen and Glasgow.
- We are currently working with the Skillset Media Academy programme in Scotland to design business placements for graduates through the provision of structured internships in 2009 and the development of a programme of Continued Professional Development (CPD) opportunities for freelancers.

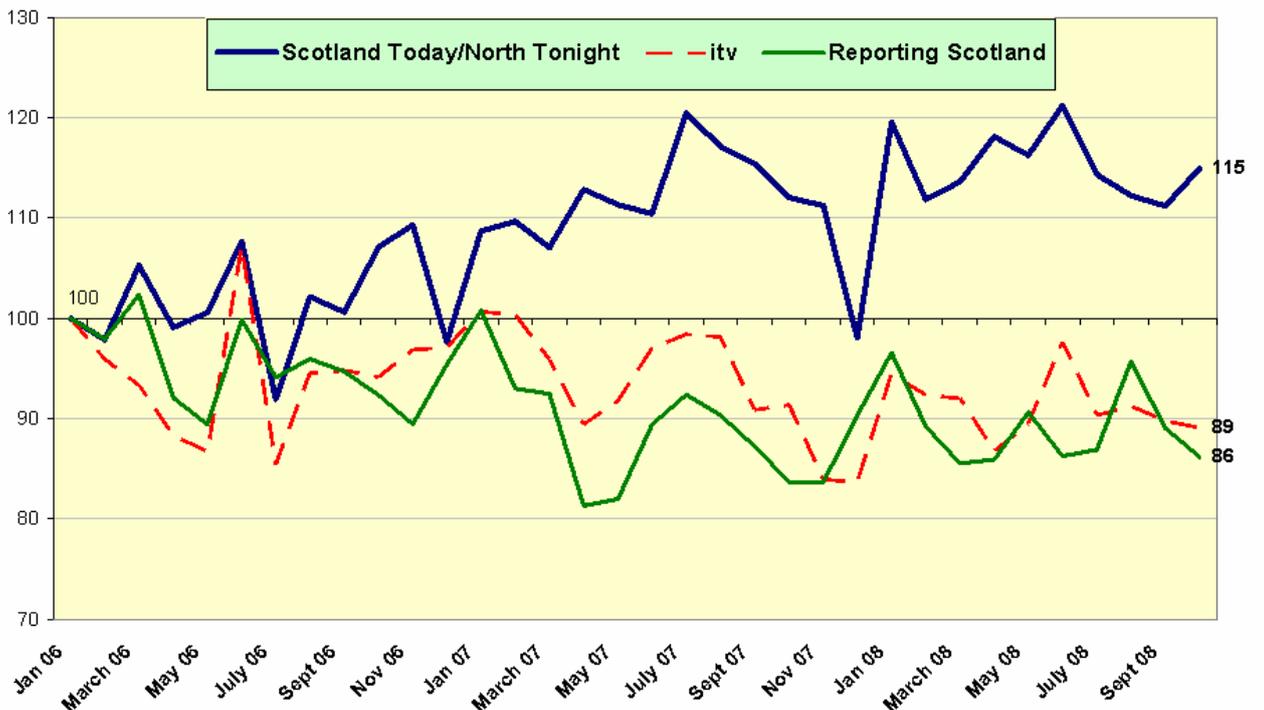
Appendix 2(a)
stv News Performance since 2006

Regional News Performance- Programme Share
 stv, itv (England & Wales) , BBC Reporting Scotland



Source : Barb Jan 2006 - Oct2008, excl Word Cup & Euro Championships

Regional News Performance
 Index using Jan'06 Share = 100



Source : Barb Jan 2006 - Oct2008, excl Word Cup & Euro Championships

Appendix 2(b) **Non news performance statistics**

Merchant Navy

stv's new fly-on-the-wall documentary *The Merchant Navy* has been a huge hit with viewers in its first two weeks.

The 6 part, ad funded, series, which went out at the Monday evenings at 8pm was watched by an average audience of 342,000 each and an audience share of 18%. Across each transmission it was an average of 3.5 share points above the ITV Network.

Online viewing figures have also been impressive, with some of the episodes being the most watched video on stv's website that week.

Tommy Burns – Celtic Bhoys

A tribute programme by stv to mark the passing of a Scottish football hero *Tommy Burns – Celtic Bhoys* was watched by over 337,000 viewers and had 19% share. This was 10 share points above the Network.

(The programme was transmitted at 22.30 on the 16 May 2008.)

Scotland Today / North Tonight

Across a week *Scotland Today / North Tonight* would be watched by over a million Scots (1,064,000) and reach a quarter (26%) of the adult population.

The main news bulletin *Scotland Today / North Tonight* is watched over 400,000 (402,000) viewers every night. With an average viewing share of 25.5% it regularly outperforms BBC1's 6 o'clock National News which has only 21.5% share of viewing.

Highlands

Highlands, a 6 part series of the Scottish Highlands which went out on an early Sunday evening slot which attracted an audiences share of 13.5% which was 4 share points higher than the network performance.

Bank of Scotland Fireworks

In conjunction with the Bank of Scotland, stv showed the fireworks celebration to officially close the Edinburgh Festival. The programme was transmitted on 31 August at 22.30 and had 172,000 viewers and 12% share.

Missing

The drama did well in Scotland with the two parter averaging an audience of 490,000 and 26% share. Both instalments outperformed the network share by 3 share points and the first transmission, and five share points on the second.

Against the ABC1 audience which Dramas target the programme averaged 26% share, the network equivalent was 19% - so again it was 7 share points up on Network.

Areas >>	Scotland			Network		Diff v Network	
	000s	TVR	Share	TVR	Share	TVR	Share
02/11/2008	531	12	27	10	24	1.9	3.2
09/11/2008	449	10	24	8	19	1.9	5.0
average	490	11	26	9	21	1.92	4.12

Appendix 2 (c)

stv Commissions Record – a snapshot

- **Taggart** – have been supplying Taggart to ITV1 for 25 years. Currently in production with 10 x 1 hr for 2009
- **Rebus** – have produced 14 x 2 hrs episodes for ITV1. No production for 2009
- **Goodbye Mr Chips** – 1 x 2 hrs – ITV1 2001
- **This is Your Life** – 1 x 1 hr ITV1 2007
- **Jack Osbourne/Adrenaline Junkie x 4** – have produced 4 series (6 x 1 hr) for ITV2. Currently in production with series 5 for 2009
- **DNA Stories** – 2 series (5 x 1 hr) for Sky Real Lives 2008
- **Club Reps** – 3 series (10 x 1 hr) for ITV1 and ITV2 2003 - 2005
- **How 2** – 10 series (13 x 30') for CITV. No production for 2009
- **Fun House** – 13 series (13 x 30') for CITV. No production for 2009
- **Extreme Celebrity Detox** – 1 x 1 hr for Five 2005
- **Secret History** – The Charge of the Light Brigade 1 x 1 hr C4 2003
- **Paul Merton's History of the Comedy Store** – 1 x 1 hr BBC1 2004
- **Highlands** – 3 x 1 hr UK History 2008
- **Yorkhill** – 3 series (10 x 30') Discovery UK 2006
- **Britain's Badlands** – 3 x 1 hr Brave 2008
- **25 Years of Taggart** – 1 x 1 hr UKTV Drama 2008
- **Take me to the Edge** – 6 x 1 hr Virgin 1 2008
- **Working Britney** – 1 x 1 hr E4 2008

Appendix 3

stv research

Earlier this year, stv conducted audience research into viewers' tastes and perceptions. This work was based on similar material undertaken around the time of Ofcom's previous PSB review in 2004/5. The work, carried out by George Street Research in Edinburgh, polled a representative sample of viewers throughout Scotland and found:-

- Viewing patterns remain similar to 2005 survey with people watching TV for general entertainment and news.
- stv retains a strong position as the most watched / preferred channel. stv brand recognition is high and has strengthened since 2005
- News, films, soaps, comedy and sport dominate both viewing and appeal/interest.
- People are broadly content with current level of news and current affairs coverage.
- Specific Scottish programming is currently watched by around 1 in 5 of people. High satisfaction levels with Scottish news and current affairs coverage
- stv has particular strength in programming specific to Scotland and regional news
- People are satisfied with stv coverage of news and current affairs. Satisfaction is particularly high amongst those who watch these programmes regularly
- Four out of five people (81%) see stv as an essential source of information and entertainment
- The vast majority of Scots believe that Scotland has a strong cultural identity and there is a clear desire for TV to reflect this
- Around half of people prefer a Scottish specific perspective to a UK perspective in news and current affairs.
- There appears to be a desire for more regional and local information on TV. This is where satisfaction levels are lowest and where television currently trails newspapers as a source of information.

Appendix 4

KPI Summary

VISION

Scotland's broadcaster of choice

To be Scotland's most influential, relevant, innovative and trusted media brand

STRATEGY

Strengthening the relationship with our audience and our advertisers

KPIs

Broadcasting

Increase regional advertising market share

Grow sponsorship

Increase margins through better cost and commercial management

Content

Grow produced hours

Exploit extensive content library

Grow rights exploitation business

Maintain composite margins at 10.0%

Ventures

Grow online daily visitors on stv.tv

Increase on-line advertising

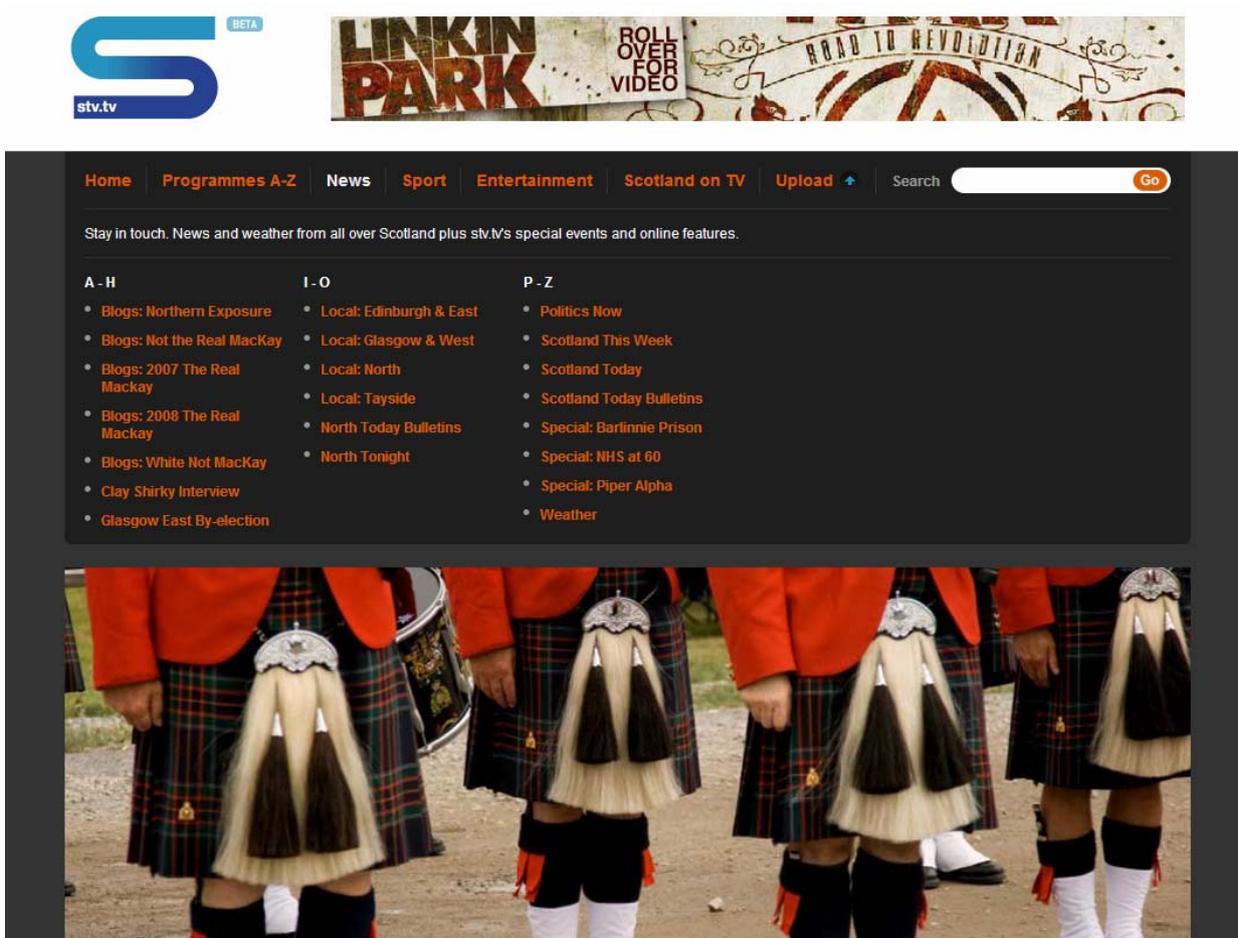
Focus on regional transaction based consumer opportunities

Target Scottish classified market

Improve operating margins

Appendix 5

Examples of stv's existing PSB delivery in the online space



The screenshot displays the stv.tv website interface. At the top left is the stv.tv logo, which includes a large blue 'S' with 'stv.tv' below it and a 'BETA' tag. To the right is a banner for 'LINKIN PARK' with the text 'ROLL OVER FOR VIDEO' and 'ROAD TO REVOLUTION'. Below the banner is a navigation menu with links for Home, Programmes A-Z, News, Sport, Entertainment, Scotland on TV, and Upload. A search bar is located to the right of the menu. Below the navigation menu is a section titled 'Stay in touch. News and weather from all over Scotland plus stv.tv's special events and online features.' This section contains three columns of program categories: A-H, I-O, and P-Z. Each column lists various programs and special events.

stv.tv BETA

LINKIN PARK ROLL OVER FOR VIDEO ROAD TO REVOLUTION

Home Programmes A-Z News Sport Entertainment Scotland on TV Upload Search Go

Stay in touch. News and weather from all over Scotland plus stv.tv's special events and online features.

A - H

- Blogs: Northern Exposure
- Blogs: Not the Real MacKay
- Blogs: 2007 The Real Mackay
- Blogs: 2008 The Real Mackay
- Blogs: White Not MacKay
- Clay Shirky Interview
- Glasgow East By-election

I - O

- Local: Edinburgh & East
- Local: Glasgow & West
- Local: North
- Local: Tayside
- North Today Bulletins
- North Tonight

P - Z

- Politics Now
- Scotland This Week
- Scotland Today
- Scotland Today Bulletins
- Special: Barlinnie Prison
- Special: NHS at 60
- Special: Piper Alpha
- Weather





- Home
- Programmes A-Z
- News
- Sport
- Entertainment
- Scotland on TV
- Upload
- Search

Catch up with programmes you've missed over the last 30 days and watch shows from stv's library. Please note many programmes have to be restricted to UK users only for rights reasons.

A - C

- All Star Family Fortunes
- Britannia High
- Champions League Weekly
- Comedy Classics
- Conquer the Castle
- Cops With Cameras
- Coronation Street
- Cracked

D - H

- Emmerdale
- Faith in the Frame
- Heartbeat
- Highlands
- High Times
- House Guest

I - O

- I'm A Celebrity... Get Me Out Of Here!
- Medics of the Glen
- Missing
- Motorsport UK
- Natural Born Sellers
- North Tonight
- Off the Page

P - S

- Place of Execution
- Politics Now
- Postcode Challenge
- Real Crime
- Scotland Today

T - Z

- Taggart
- Talking Pictures
- The Commander
- The Edge of the Land
- the five thirty show
- The Jeremy Kyle Show
- The Merchant Navy
- The Words of War
- The X Factor
- Tonight
- Weir's Way
- Wire in the Blood



ANNEX 1

ITV plc and ITV Network: Benefit Flows

See separate attachment

CONFIDENTIAL ANNEX