



Mobile Broadband Group
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Ofcom's Market Impact Assessment of the BBC's new on-demand proposals

Response from the Mobile Broadband Group

Background

1. The Mobile Broadband Group ("MBG", whose members are O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to comment on Ofcom's market impact assessment of the BBC's new on-demand proposals.
2. This is an extremely important exercise not only because of its scope but also because it is the first and the market is very interested to see how effective and robust the public value test process will be in practice. It will be a highly relevant factor in determining industry's confidence to invest in new content and delivery platforms. The market impact assessment is significant to the mobile operators, as they seek to service the evolving needs of their customers.
3. In the UK, there are 66.2 million active mobile subscriptions. The mobile sector has been '*the key driver for growth of the UK telecoms industry between 2001 and 2005*'.¹ Up to now the vast majority of revenues from mobile have been derived from basic voice calls and text messaging (£13.1 billion annually).
4. The first twenty years of mobile have seen it develop into a sophisticated and ubiquitous communications device. The next phase will see the mobile evolve into a complete multi-media communications, transaction processing and entertainment device. The mobile market affords a significant and vibrant opportunity for the creative economy. With the right conditions, mobile can be a key driver for growth in the entertainment market too.
5. Revenue streams from mobile other than voice and text will continue to grow strongly. In the last five years, consumer spending on mobile content (primarily premium rate services) has risen fast to about £1billion pounds per annum.
6. In July 2006, 13.2 million subscribers used their mobile phones for downloads and browsing the Internet². Mobile operators now have a significant share of the

¹ Ofcom: The Communications Market 2006, paras. 3.3.6 & 16

² The Mobile Data Association – Press release Sept 2006.

music download market. Comedy clips, sports clips, chat and search are also other popular categories.

7. At present, most content is supplied in a non-linear 'on demand' format. Mobile operators, though, are also increasingly supplying linear TV services either via 3G streaming or a broadcast technology.
8. The question is how will these nascent mobile markets be affected by the BBC's proposals.

Seven day catch up over the Internet and cable

9. The MBG notes that the seven day catch up service is being offered on a wholesale basis to the ntl/telewest cable service. We are concerned that this is effectively discriminatory and would like to see a similar offer being made to other platforms, including mobile.
10. The mobile sector, with its customer base of 66.2m, offers an enormously effective mechanism through which to distribute content to individuals on the move, at times that they would not otherwise have access to it. Research is revealing that mobile TV is complementary to domestic TV and thus presents the BBC with a huge opportunity for additional reach and to address the youth market that is increasingly diverting more time to activities other than TV.
11. The version of the 'catch-up' service on the Internet in the proposal is essentially a retail offering, where the customer has to do the entire search and the mobile operator does not have the opportunity to add any value to the customer's experience in terms of ease of access. In fact the BBC imply in paragraph 14 that if the content can be accessed at all on a mobile, this is more of a happy accident than it being any serious attempt to address the mobile market.
12. The MBG feels strongly that the catch-up content should be offered to all digital wholesale TV platforms, including the mobile operators in the form of an unbundled³ wholesale offering.
13. With a wholesale feed, mobile operators would be able to make considerable improvements to the customer's viewing experience, in terms of ease of search, customer preferences and technical optimisation between the mobile network and the customer's handset⁴.
14. *The advantages of a wholesale feed can be summarised as follows:*
 - The service would be included within the mobile operator's portal. Mobile phones have more limited navigation and input functions than a PC. Portals are focused on delivering fast navigation to and within the portal.

³ By which is meant a wholesale feed that is unbundled by service and individual channel

⁴ Furthermore, mobile operators, because of their content code are also able to exercise some control over the availability of post watershed type material to customers under the age of 18. The BBC, in its memorandum, does not set out how it will deal with this aspect of offering on-demand content on-line. (Refers to: UK Code of Practice for the self regulation of new forms on content on mobile (published January 2004 and available at www.mobilebroadbandgroup.com/social.htm)

- With more handsets being Internet enabled, the mobile operators are investing in technologies that enhance the browsing experience⁵. If the BBC adopts a technology that is widely deployed by networks and works with them, the viewer experience will be much enhanced.
 - The mobile operator can optimise a service within the portal for the formats, size and features of each phone. The user does not have to worry about the technological implementation to access a service.
15. The proposed BBC catch up service would have a much more positive effect if it could be offered within the mobile portal and we fear this is a missed opportunity. The BBC's content is widely demanded and is generally considered to be central to a TV content offering (imagine a TV package on any platform without any BBC channels). The availability of BBC content would encourage mobile customers to equip themselves with more capable devices and increasingly consume content on the move.
 16. The MBG notes in paragraph 12 (f) that *"in principle, BBC management is prepared to make BBC television content available to other mediated on-demand distribution methods subject to value for money and regulatory requirements"*.
 17. This is a very important statement and the MBG would like to see this process moving forward either simultaneously with the current offering or very soon thereafter. The BBC is a very significant creator and provider of content within the UK market and there is a risk of the market being seriously distorted if wholesale deals are offered to some parties but not to others.
 18. The MBG would urge Ofcom to look carefully at this aspect of the BBC's proposals and to make specific comments about it in their conclusions to their market impact assessment.
 19. The MBG would also urge the BBC to progress quickly with publishing a draft of the principles that might govern the future arrangements for making further wholesale deals (as foreshadowed in paragraph 12(f)). These should include terms that are fair, reasonable and non-discriminatory

Simulcast TV over the Internet

20. The MBG's comments on the simulcast aspect of the BBC's proposals are similar those made above for the catch up service.
21. The MBG would expect the availability of a simulcast BBC offering to have a positive effect on the market for mobile TV (although, as we highlight elsewhere, there is a missed opportunity because of the lack of a wholesale mobile offer and the requirement for multicast platforms). Indeed for the last 18 months operators have been trying to discuss with the BBC the possibility of offering simulcast services of BBC content over 3G. So far these discussions have not been successful. It is disappointing that these new proposals are being set out without any attempt to address the mobile aspect within a coherent framework.

⁵ For example, Opera Mini (www.opera.com/products/mobile/mini)

22. Linear (i.e. real time) mobile TV offers an exciting opportunity for the BBC to extend the reach of its content distribution into mobile and thus derive greater value for money from the licence payers' investment in new content.
23. Evidence from current mobile TV services and trials indicates that mobile TV viewing is complementary to domestic TV, with many people catching up on missed programming while they are on the move.
24. The memorandum is short on technical detail but seems to indicate that only multicast streaming will be used, perhaps for reasons of cost. However multicast mobile is only now being developed and there can be no certainty that it will be economic to implement it in networks, particularly when 3G networks, in the near future, will be enhanced with HSDPA⁶.
25. Mobile TV over current 3G technology is proven, and the specification of multicast will delay the service unnecessarily. The BBC should offer streamed content in a standard mobile format such as 3GP available to standard media players that are on all 3G devices. Restricting the offering to multicasting technology does not simplify the situation or serve the consumer interest.
26. The BBC should push forward with its simulcast offering by exploiting the existing opportunities in mobile. This would give the BBC would to a far wider mobile customer base.
27. As with the catch-up service, the MBG would urge the BBC to offer a wholesale service to the mobile operators, so that the customer experience can be optimised.
28. The mobile market has considerable potential, with the right mix of content and technical delivery. The BBC could considerably enhance the public value of these proposals to licence fee payers by making a serious attempt to address the mobile market.
29. The MBG would also ask Ofcom to take appropriate steps to ensure that the content market is not distorted unnecessarily by BBC simulcast content becoming available in a fixed environment and not in a mobile environment, when clearly the opportunity exists for it to be available in both.

Non DRM downloadable content

30. As with the catch up service and the simulcast service, the mobile operators would like there also to be an unbundled wholesale offering for the non DRM downloads, so that access to this type of content can be optimised for delivery over a mobile network.

Review

31. Finally, as this is the first MIA, we would suggest to Ofcom that a review is carried out in the near future to assess how the forecast market impact has turned out in practice. This will not only inform future impact assessments of a similar nature but will also give Ofcom the opportunity to consider whether any unforeseen

⁶ High Speed Downlink Packet Access

impacts have arisen that may need corrective action either on their part or by the BBC.

Summary

32. The proposals as they stand do not address properly the very large mobile market and the needs of licence payers that would like mobile TV.
33. With an unbundled wholesale offering the mobile operators can offer a much better service for customers than are outlined in the existing proposal.
34. The BBC can get immediate results by providing a feed for existing mobile technology, as well as future technologies.
35. The market should not be distorted with wholesale offerings to some and not to others.
36. The public value of these proposals would be much enhanced by addressing the mobile aspects more comprehensively.

If Ofcom or the BBC would like to discuss any of the comments in this response in more detail, we would be happy to meet.