

## Open letter about a report by Ofcom to the Secretary of State under s.229 of the Communications Act 2003

Section 229 of the Communications Act ('the Act') places a duty on Ofcom to submit a report to the Secretary of State by June 2012 in anticipation of a new licensing round.

In the s.229 report, we are required to assess the capacity of existing Channel 3 and Channel 5 licence holders to "contribute to the fulfilment of the purposes of public service television broadcasting... at a cost... that is commercially sustainable." If, following our assessment, we consider the Secretary of State should exercise his powers either to prevent renewal or to remove any of the current public service obligations specified in the Act, we must include a recommendation to that effect. The Secretary of State requested advice from Ofcom earlier in the year about the scope of his powers and this is available on our website.<sup>1</sup>

Over the next few months we will be looking to develop our views on these matters. In order to help us with our assessment, we would ask you to provide responses to the following questions:

1. Taking into account the existing public service obligations placed on Channel 3 & Channel 5 licensees and the current regulatory assets associated with those licences,
  - a) please outline the level of public service obligations which you consider existing licensees will be able to provide in the next licence period on a commercially sustainable basis. Existing licensees should respond with particular reference to each licence that they currently hold and;
  - b) please explain how the levels of public service obligations set out in (a) above would differ from current obligations.
2. Please explain how you consider the level of obligations outlined in your response to question 1 would contribute to the fulfilment of the purposes of public service broadcasting set out in 264(4) of the Act.

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<sup>1</sup> See <http://stakeholders.ofcom.org.uk/broadcasting/tv/licensing-c3-c5/>

3. Please explain what effect, if any, you consider other factors could have on the value of regulatory assets associated with Channel 3 and Channel 5 licences. Your response should take account of, but not be limited to:
- a) the proposed introduction of Administered Incentive Pricing ('AIP');
  - b) the prominence which public service channels receive on electronic programme guides under current legislation;
  - c) capacity reserved for public service channels on DTT multiplexes; and
  - d) any other intangible assets including brand benefits deriving from PSB status.

The deadline for submissions, which should be sent via email to Anthony Szykaruk ([anthony.szykaruk@ofcom.org.uk](mailto:anthony.szykaruk@ofcom.org.uk)), is 5pm on 4 November 2011.

A handwritten signature in black ink, appearing to read 'C Woolard', with a stylized flourish at the end.

**Christopher Woolard**