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Dear Nicholas,

Consultation on Canvas proposals

With increasing growth in on-demand services, the BBC Executive's 'Canvas' proposition is a timely application to develop a joint venture partnership to help enable delivery of internet protocol television. We believe that Canvas has the potential to be an exciting and innovative proposition which could offer a number of consumer benefits. In particular, we recognise that Canvas could improve the reach and availability of public service content. Partnering with commercial operators may also lead to efficiency benefits and could make a contribution to supporting investment in public service content and ensuring its availability across a wider range of digital platforms. We also welcome the potential for Canvas to help drive further growth in broadband take-up, an action identified for the BBC in the Government's Digital Britain interim report¹.

We recognise that the Trust has determined that Canvas is a non-service activity, and has decided not to adopt a full Public Value Test in assessing the application. As a consequence, we have no formal role to play in the Trust's assessment. However, at this stage, we thought it might be helpful to highlight a few high-level issues that we believe the Trust will wish to consider in detail in delivering its assessment of the proposals.

Canvas is described as "*creating a standards based open environment for internet connected television platforms in the UK*". The BBC's leading role in Freeview and active participation in the Digital Television Group are good examples of how benefits for service providers and economies of scale in the consumer equipment market is achievable through the use of fully open standards which have broad cross-industry support. The Canvas proposals cover a number of different areas and a clear framework in which to assess the

¹ http://www.culture.gov.uk/images/publications/digital_britain_interimreportjan09.pdf

market impact is helpful. For example, one way to categorise the various aspects of the proposals is with reference to the following five “layers” which may be affected:

- *standards*: We understand that the technical specification for Canvas will involve not only reference to open standards, but also identifying preferred technical solutions from specific vendors. The latter may have associated intellectual property rights (such as the chosen Digital Rights Management system) which could inhibit their use by third parties outside the Canvas consortium or potentially reduce competition. Encouraging effective collaboration between Canvas and third parties already developing fully open standards in these areas is likely to be beneficial for consumers;
- *platform*: The collection of individual standards into a single specification – as is likely under Canvas – may effectively result in the creation of a new ‘platform’. Resulting benefits are likely to be greatest if the Canvas specification is sufficiently flexible to enable it to be implemented by different delivery platform operators (whether free-to-air or pay) and equipment manufacturers, alongside other services to enable access by consumers to a wider range of services;
- *platform services*: The BBC Executive’s description of Canvas refers to navigational features enabling “personalisation, recommendations and localisation”, which appear to envisage a sophisticated user interface spanning both regulated and unregulated content. Platform services such as these – and any electronic programme guide – will need to be considered carefully to avoid the creation of a competitive bottleneck for third parties wishing to reach audiences via Canvas;
- *content services*: The Canvas proposition envisages delivery of a high quality experience for users. We recognise that it is necessary to have minimum standards for content providers in order to ensure such a quality user experience. However, such minimum standards should be justifiable, non-discriminatory, transparent and proportionate;
- *institutional arrangements*: The BBC Executive proposes to partner with broadcasters, manufacturers, technology providers, software providers and internet service providers to introduce the Canvas proposition. An inequitable approach to participation in the joint venture which favours certain participants may lead to potential harm for consumers as a result of market distortion. It is therefore important to ensure there are no unreasonable barriers inhibiting third parties participating in the joint venture and contributing towards future updates to the Canvas specification which may also help to support and foster innovation.

While the benefits of Canvas are potentially significant, we would encourage the BBC to continue to ensure its content is made available on a wide range of platforms, and to provide its services on a platform-neutral basis. In other words, it is important that commercially-led propositions which seek to compete with Canvas should not be unfairly prevented from accessing BBC content.

It is clear that the development of the Canvas proposition is still at an early stage and that many definitional questions need further consideration. We understand that issues relating to the compliance of Canvas with all relevant competition obligations will be considered within the Trust's assessment, including those arising from arrangements specific to the BBC (e.g. the Fair Trading Policy and the Competitive Impact Framework), and also those arising as a result of competition, merger and state aid law. In that regard we recognise that there may be a future role for the OFT and/or Ofcom to assess the arrangement under relevant merger or competition law.

I hope this letter offers a useful contribution to your current assessment. We think that the Canvas proposition has great potential to offer public value, increasing convenience and choice for consumers. These benefits are likely to be realised to the greatest extent by ensuring the risk of adverse impact on the market is minimised and that Canvas is as accessible and inclusive a proposition as possible.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter', written in a cursive style.

Peter Phillips

Partner, Strategy & Market Developments