

15 July 2010

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Dear Nicholas,

BBC Trust Content Syndication Consultation

We welcome the BBC Trust's clarification of the BBC's content syndication policy. As the consultation notes, this is clearly an important issue in light of the success of iPlayer and the increasing number of different platforms that may seek access to the BBC's content.

One issue that we would like to raise is the concern that certain aspects of the proposals may potentially risk restricting competition, particularly in relation to the development of bespoke versions of iPlayer.

The Trust's principle of having standard iPlayer software available for manufacturers to build into their products appears a sensible and efficient starting point. Where development of bespoke versions is necessary, the Trust has set out a clear guiding principle for the BBC to use – that of value for money. This is an important and entirely legitimate objective, but we consider that account should also be taken of the potential impact of the different options on competition.

The main proposal put forward for prioritising non-standard software development is potential audience reach or, as expressed by the Executive, minimum size thresholds. While clearly a relevant criterion, minimum size thresholds, if strictly applied, may deter entry by innovative smaller operators – that may not be able to deliver a substantial audience in the short term – and may risk competitive foreclosure. We therefore consider that it would be appropriate to consider alternative criteria – which go beyond 'value for money' and 'minimum size thresholds' – to ensure that broader competition issues are addressed explicitly as part of the review.

The consultation comes at an important time and could have far-reaching implications for the distribution of BBC content and, potentially, for competition in the delivery of both BBC content and related content and services. We would encourage the Trust to explore the potential competition concerns highlighted above and would be pleased to discuss those further with the Trust.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stuart McIntosh'. The signature is fluid and cursive, with the first name 'Stuart' being more prominent than the last name 'McIntosh'.

Stuart McIntosh