



'A Communications Review for the Digital Age'
QVC UK response to Jeremy Hunt's 16 May 2011 letter

Introduction

QVC welcomes the opportunity to submit a response to the Government's review of the communications sector and we applaud this early consultation. Echoing our colleagues and fellow members at the Commercial Broadcasters Association (COBA), we are particularly pleased that Government has chosen to conduct this review through a "growth" lens, alongside the consideration of wider public interest aspects. We believe that independent broadcasters like ourselves can offer much to the growth agenda, creating significant economic value for the UK.

Who are QVC?

Economic Growth: QVC is an innovative company, one of Britain's best retailers and broadcasters and part of a growing global industry. Launched in 1993, QVC has become one of the UK's leading multi-channel retailers – bringing a unique blend of easy, engaging and inspiring shopping to over 85% of UK homes (over 23 million homes). The channel broadcasts 24 hours a day, seven days a week, with live programming from 9am to 2am. QVC UK's net revenue was £387.2m in 2010 (an increase of 5.3% over 2009). QVCUK.com has over 15,000 products in stock at any one time and adds 250 new products each week. It has over 3.7 million user sessions per month.

QVC UK is part of a successful and growing worldwide communications company with channels in the US, Japan, Germany, Italy as well as the UK. Its programming is distributed to approximately 195 million homes worldwide. In 2009 QVC's worldwide turnover was US\$ 8.1Bn.

Employment: QVC employs 2,000 people in the U.K - 550 at headquarters in Battersea London and 1,450 in Knowsley, Liverpool. QVC is the largest private sector employer in Knowsley.

Consumer choice: Our average customer shops with QVC 14 times a year. QVC are a UK leader in consumer rights. Our market leading 30 day money back guarantee is an example of our customer care. QVC focuses on building trust and credibility with the customer and aim to exceed her expectation at every turn, by making shopping convenient and fun. As a result, 95% of our business is based on repeat purchase. Furthermore, as an important alternative 'shop window' to the high street we foster growth and provide access to market for new innovative, British companies.

A communications infrastructure that provides the foundations for growth: QVC response

QVC would like to begin to feed into your communications review under the above theme and in doing so to highlight a major problem for us and our fellow independent broadcasters. In question is how channels are allocated channel numbers under the DMOL management of the Digital Terrestrial Television (DTT) platform. We wish to put this under-appreciated matter on the agenda and open a constructive and helpful dialogue with the Department for Culture, Media and Sport (DCMS) in the hope that a fair solution can be put in place.

A broadcaster's channel number has an economic value. A broadcaster's channel position affects its business revenue. Therefore channel allocation is a fundamental economic issue for the future of every broadcaster.

In short the current policy and practice used to allocate logical channel numbers on the DTT platform unfairly disadvantages independent broadcasters (i.e. those broadcasters who are not public service broadcasters or which are owned by one) and, if not addressed, threatens the success and the diversity of our DTT platform.

DTT Platform: Importance of clear regulation rather than deregulation

It is clear from the consultation that the Government aspires to deregulate the communications market where it is appropriate to do so. Whilst we would agree with this principle, deregulation is not appropriate in relation to channel number allocation on the DTT platform. This is an area where clearer regulation is necessary.

DTT Multiplex Operators Limited ("DMOL") is the platform management company owned by the DTT Multiplex Operators. It provides technical management and co-ordination of the DTT Platform. Ofcom has implemented specific regulation relating to the provision of channel numbers within EPGs (across all broadcasting platforms including cable and satellite) in the form of a Code of Practice on Electronic Programme Guides ("EPG Code"); the EPG Code include rules to ensure the EPG provider acts in a fair, reasonable and non discriminatory manner.

However, when we have spoken to Ofcom about DMOL's channel number allocation policy, Ofcom itself seems unclear whether they have powers to act in this regard or whether DMOL, the body allocating channel numbers, is actually "regulatable" under the current Communications Act.

QVC does not take this position that DMOL is "unregulatable" under the current Communications Act. However, in principle or in practice we should not have an "unregulatable body" allocating channel numbers on the default method of viewing television for millions of UK viewers.

In contrast, the Sky platform's regulation is clear in this area and all parties know where they stand. This model should be the benchmark. If a Sky platform customer feels that Sky is proposing to act unfairly, there is a method of recourse to Ofcom for a broadcaster customer without the expense of an expensive competition law action.

We must ensure that Ofcom's regulatory framework is able to cope with the future communications issues, but also that it is empowered to deal with current ones. Deregulation should not lead to a situation where the regulator itself is not sure where it stands as regards an organisation within its remit. If Government is to deregulate it should take care that it is in areas where it is appropriate to do so.

The need for a review of channel allocation on DTT

We believe a new approach to channel allocation for the DTT platform will encourage growth, protect investment and will benefit the public interest through further channel choice and variety. DTT has been a huge success. UK DTT is, with the obvious proviso of the licence fee, largely free at the point of use and simple to use. Digital Terrestrial has become the default way in which we watch TV in the UK. It is a great British success story which has put us in a leading position in the world.

QVC is currently positioned on channel 16 on DTT. We have invested heavily in this channel number for over a decade and use it in our marketing and branding. Our viewers know by memory where to

find us. And yet we are constantly being threatened by potential channel reallocation, with little justification. A forced move would cost us millions in lost revenue and would negatively impact the future of the company and of our staff.

The Public Service Broadcasters (PSBs) control the body that allocates valuable channel numbering, whilst also being channel operators themselves. Thus they have incentives to act in their own favour. We wish to avoid a situation where there may, at certain times on certain issues, be a conflict of interest between leading employees at the PSBs and their roles within DMOL.

If treated unfairly in the matter of channel number allocation, independent channels appear to have no recourse, except for an expensive competition law complaint. And this complaint can only come after the damage has already occurred. **Therefore, a proper analysis of the channel allocation mechanism and the parties involved should form a part of the Government's review.**

Conclusion

QVC is pleased to take part in this wide-ranging review of the regulatory regime for the UK communications sector. Like the Secretary of State, our ambition is to ensure the UK broadcast market remains amongst the most dynamic and successful in the world.

For QVC, channel allocation on the DTT platform is not just about economic fairness, business certainty, encouragement of investment and legal principle; it is about the importance of a broad and diverse UK television market.

We believe that DCMS may not be fully aware of the implications of the current DMOL channel allocation system and the lack of transparency that surrounds it. Many other independent broadcasters share our views.

We believe the process you are undertaking provides an ideal opportunity to review the channel allocation mechanism. We wish to put the issue on your radar for future discussion and we would like an opportunity to present more detailed evidence and suggest solutions.

Amber Foster
General Counsel & Head of Government Affairs

