

Competition Commission  
Victoria House  
Southampton Row  
London WC1B 4AD

30 July 2008

Dear Sirs:

**Anticipated Joint Venture between BBC Worldwide Ltd, Channel 4 Television Corporation and ITV PLC relating to the Video on Demand Sector: Project Kangaroo**

In response to your views regarding the impact that Project Kangaroo would have on competition in the marketplace, please find the following:

Presently, the Video on Demand market is in its infancy though the long term expectation is for a significant business to be developed. Customers will always seek new and interesting ways to find consumer content, but will want the solutions to be easy to use and at reasonable pricing levels. Once consumers form habits and patterns, it is difficult to change those accepted methods of consumption. Hence the transition to on-line VOD is currently witnessing a slow start; but that will change over time.

In our current business model for VOD, we have aggregated a number of non-exclusive rights from various content owners including both local producers and distributors, as well as Hollywood Studios. Acquiring these rights and preparing these assets has been costly, not to mention building the platform and infrastructure necessary to deliver this content to the end consumer.

Our business model is based on the concept of serving as a business-to-business player who offers content and platform services to multiple brands and web partners who have on-line traffic, but not necessarily the capability to deliver a VOD offering on their own. Our partners are able to capture their own consumers by developing ways of "delighting" their consumer and building brand loyalty to their service.

The proposed Kangaroo JV represents a lessening of competition in the industry on many levels:

Content

As this entity will be vertically integrated, controlling the rights it offers, it has a publicly funded advantage over normal operators. The constituent partners can easily provide more favourable terms to the JV than to the industry at large allowing them to charge the consumer a premium. To overcome this advantage is difficult as it's not simply a matter of ensuring prices are consistent (which will be hard to ensure given the impact of MGs on the smaller players, not to mention the impossibility of making the pricing meaningfully market-based if the content owners own Kangaroo), but it's also a matter of timing: in terms of when rights are made available, how easily it is to obtain those rights and speed to market. The JV partners will clearly have an opportunity to keep control over many of these variables and punish the consumer by limiting the opportunity of the competition to the JV in the marketplace.

### Destination

As suggested previously, consumers are creatures of habit. Once a pattern is set (or in this case, a preferred destination for finding content is established), it is difficult to move consumers to a new provider. With the combined might of the JV partners, Kangaroo will be able to get an early jump on establishing its brand and delivery mechanism; effectively limiting the opportunity for others to come into the marketplace. The cost of getting consumers familiar with other services will become too expensive, resulting in higher prices for the consumer if a model is to work. Having the Kangaroo JV in the market at this early stage allows the JV to “shut out” the competition.

### TV is the starting point

It has been demonstrated the television content (short form, advertising funded, time shifting) is what consumers are willing to experiment with as they explore these new distribution platforms. The content currently controlled by the three JV partners represents the majority of this type of content available in the UK marketplace. By banding together these three entities, Kangaroo will have the key pieces necessary to quickly build up an unassailable business. This will unnaturally limit the consumers' choice in the marketplace.

### Upstream Impacts

In addition to negatively impacting those companies that would chose to enter the distribution market to give consumers more choice, Kangaroo can potentially erode the production business as it becomes one of the only outlets in the UK for content distribution. In the current paradigm, producers can offer their content to three different TV programmers for distribution to the consumer. With only one buyer, the producers will have limited opportunities to have their shows distributed, resulting in one group controlling all that can be seen.

The situation is best compared to iTunes' dominance of the music download business, which leaves the music houses with no serious alternatives.

As this is an emerging distribution platform with a tremendous amount of promise, it would be a shame to have one company control what the consumer can see, when they can see it, and how much they will pay. The internet offers the promise of freedom and many players having the opportunity to reach an audience with much less friction than ever before. Thus there is no need for three players of such size to join together. It is the consumer that will suffer ultimately if this is allowed to progress.

Thanks in advance for your attention. I would welcome the chance to discuss further if I can be of assistance.

**Howard Kiedaisch**

Chief Executive Officer  
**Arts Alliance Media**