Market shares and content supply

Calculating market shares

1. Paragraphs 4.59 to 4.65 of our main report set out our views on market shares. This appendix sets out our detailed calculations.

2. In order to estimate market shares by volume, we measured the number of views received in the month of June 2008. In line with our market definition, we excluded views of: films; adult content; music; user-generated content; short-form content; DVDs; linear TV; and content recorded on PVRs. On the same basis, we included views of open, closed, catch-up and archive VOD when determining shares in each different sector of the market. The data does not allow us to distinguish between views of UK and non-UK content. To the extent that non-UK content is not a good substitute for UK content, the market shares will tend to underestimate the market power of BBCW/BBC, ITV and C4.

3. In the following four tables, we consider four different ways in which to view the VOD content market. First, we examine retailer market shares for *(a)* open VOD services, and *(b)* open plus closed VOD services. Second, we look at the parties' share of content views. We do so first for open VOD, and then for open plus closed VOD services.

4. Table 1 sets out the retailer viewing shares of open VOD services.

TABLE 1 **Retailers' share of open VOD content views, June 2008**

per cent

	Total views	*Archive views (30+)*	*Catch-up views*
iTunes	[✂]	[✂]	[✂]
Sky Player	[✂]	[✂]	[✂]
BBC iPlayer	[✂]	[✂]	[✂]
4OD	[✂]	[✂]	[✂]
Ch4.com	[✂]	[✂]	[✂]
ITV.com	[✂]	[✂]	[✂]
Five Download	[✂]	[✂]	[✂]
Joost	[✂]	[✂]	[✂]
Total	100	100	100

Source: CC analysis.

Notes:
1. In assembling these market shares, certain simplifying assumptions were made where the precise information was unavailable. These were as follows: [✂] it has since been relaunched as Demand Five with additional content; *(b)* Tiscali (no viewing information available) we therefore extrapolated from the number of Tiscali subscribers using the views per subscriber ratio of other closed VOD providers; and *(c)* Tiscali and Sky Player (no information on the split between catch-up and archive views) is therefore assumed to be 50/50.
2. Annex 1 contains the viewing figures from which the percentages in Tables 1 to 4 are drawn.
3. Shares rounded to the nearest whole number and hence may not total 100 in every case.

5. The parties account for [✂] per cent of archive views. Together they account for nearly [✂] per cent of catch-up views and BBC iPlayer accounts for [✂].

6. In Table 2 we repeat this methodology for the provision of VOD through either open or closed VOD services.

TABLE 2 **Retailers' share of open and closed VOD content views, June 2008**

per cent

	Total views	*Archive views (30+)*	*Catch-up views*
iTunes	[✂]	[✂]	[✂]
Sky Payer	[✂]	[✂]	[✂]
BBC iPlayer	[✂]	[✂]	[✂]
4OD	[✂]	[✂]	[✂]
Ch4.com	[✂]	[✂]	[✂]
ITV.com	[✂]	[✂]	[✂]
Five Download	[✂]	[✂]	[✂]
Joost	[✂]	[✂]	[✂]
Virgin Media	[✂]	[✂]	[✂]
BT Vision	[✂]	[✂]	[✂]
Tiscali	[✂]	[✂]	[✂]
Sky Anytime	[✂]	[✂]	[✂]
Total open VOD	[✂]	[✂]	[✂]
Total closed VOD	[✂]	[✂]	[✂]
Total VOD	100	100	100

Source: CC analysis.

7. These figures illustrate at a high level some important differences in the way VOD is viewed at present. In particular, the vast majority of archive views occur on closed VOD services, [✂]. As a result, the majority of archive viewing, [✂] per cent, is accounted for by closed VOD retailers and the parties' websites account for [✂] per cent of archive views.

8. In catch-up, however, the picture is different. [✂] open VOD retailers, at [✂] per cent, account for the majority of views.

9. However, we noted that a retailer-based approach took no account of the fact that a large proportion of the content viewed with different retailers is supplied by broad-casters that are themselves also competing retailers. For instance, many of the views of content on iTunes will be views of C4C programmes that C4C is currently making available via the iTunes store. As a result, it will be extremely difficult to draw any meaningful comparison between the relative strength of iTunes and C4C from these shares.

10. Tables 3 and 4 show the share of viewing of content that is provided by the parties.[1]

TABLE 3 **Content share of open VOD content views, June 2008**

per cent

	Total views	*Archive views (30+)*	*Catch-up views*
Parties	[✂]	[✂]	[✂]
Non-JV	[✂]	[✂]	[✂]
BBC iPlayer	[✂]	[✂]	[✂]
Total	100.0	100.0	100.0

Source: CC analysis.

[1]This content is provided either on the party's own website or through its wholesale deal with third-party retailers. In either case, the parties hold the relevant VOD rights to the content.

TABLE 4 **Content share of open and closed VOD content views, June 2008**

per cent

	Total views	*Archive views (30+)*	*Catch-up views*
Parties	[✂]	[✂]	[✂]
Non-JV	[✂]	[✂]	[✂]
BBC iPlayer	[✂]	[✂]	[✂]
Total	100.0	100.0	100.0

Source: CC analysis.

11. We note that content sourced from the parties accounts for [✂] per cent of total VOD views. If we exclude the PSB VOD that is not yet commercial (ie the content on BBC iPlayer[2]), the parties together account for [✂] per cent of total views. With regard to shares of catch-up content, if we exclude the [✂] per cent BBC share, the parties' content together accounts for [✂] per cent of catch-up content.

12. The share of views of archive content on open VOD services is similar. However, on total VOD the picture in June 2008 was [✂] we note that at that point in this nascent market the BBC and ITV archive was largely unavailable via open VOD retailers.

The parties' analysis

13. In their submission on market shares, the parties focused on the shares of:

    (a) transactional revenue; and

    (b) advertising revenue (display advertising and total Internet advertising).

14. On this basis, they forecast that the JV will, in 2011, have a market share of [✂] per cent of transactional VOD, [✂] per cent of video and non-video advertising, and [✂] per cent of Internet advertising (see paragraphs 36 to 41 on advertising market shares). ITV told us that the reason for providing shares based on revenue was because the market was nascent and revenue share figures allowed it to forecast the position once the market was more developed. ITV therefore cautioned against drawing a firm conclusion from VOD viewing based on the current state of the market.

15. We note, however, that looking separately at market shares based on advertising and transactional revenue will underestimate the strength of the parties' retail service since no weight is given to content funded by advertising revenue.

16. Furthermore, any revenue shares which seek to compare revenue from advertising-funded business models with revenue from transaction-based business models are likely to underestimate the market share of advertising-funded retailers due to the different competitive constraints that they face in the advertising market. For example, a stronger constraint would limit the revenue from advertising (since customers can purchase online advertising from a range of different sources) without providing any information on the relative strength or market power of the UK TV VOD content providers in their negotiations with end-consumers or wholesale customers.

[2]This content is non-commercial while it is in the catch-up window but will become commercial when it is acquired by BBCW (or another VOD retailer).

17. We therefore do not think that these revenue measurements provide a good indication of market strength (see paragraph 4.65 of the main report).

18. The parties also submitted an analysis of their share of revenue from TV DVDs. The analysis showed that the parties held [✂] per cent of the revenue earned on TV DVDs. The parties considered this to be a useful proxy for market share. We note that the majority of the remaining providers are US studios. Therefore to the extent that US content is not a good substitute for UK TV VOD content, this will underestimate the parties' market share.

19. The parties also submitted a 'waterfall' analysis to illustrate why shares of the linear TV market are not appropriate when examining performance in the VOD market. We describe this analysis in greater detail in Appendix F (paragraphs 18 to 27). The parties, however, told us that this analysis did not equate to shares in the VOD market.

Shares of archive capacity

20. Another way to view the relative strength of competitors is to look at the shares of available content that they control. The parties have access (ie hold some form of right) to an archive that stretches back many years in the case of the BBC (including [✂] hours of content[3]), ITV ([✂] hours of content) and C4 ([✂] hours of content). On the basis of this information, we estimate that between them BBCW, ITV and C4C hold between [✂] and [✂] hours of content, with the BBC owning a similar number of hours.[4] We recognize that the parties have not as yet digitized all of this archive. In contrast, Five and Sky have relatively few years of archive.

Advantages in gaining VOD rights to content broadcast by the JV

21. We are not in a position to ascertain the rights position on the thousands of hours in the archive of the parties, or to speculate on the rights positions that may emerge in future negotiations. However, as noted in paragraph 4.100, the linear broadcaster of content has an advantageous position when negotiating for VOD rights to it. This was confirmed by one of the parties ([✂]).

Market shares by the parties' capacity of content with VOD value

22. We identified two ways to assess the amount of content broadcast by the parties that has value as VOD. In the first estimate, we have information on the degree of control which UKVOD has over that content. In the second estimate, we do not have that information available. However, the second estimate is more comprehensive and we therefore use this to compare the parties' capacity with the estimated capacity of third-party suppliers.

Estimate 1: List-based

23. One way to measure the parties' capacity is [✂].[5,6,7]

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[3]However, we recognize that a portion of this will not be of significant commercial value.
[4][✂]
[5][✂]
[6][✂]
[7][✂]

24. [✂][8]

TABLE 5 [✂]

[✂]

Source: [✂]

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25. We recognize that some UK content broadcast by linear channels other than those operated by the BBC, ITV and C4C will also have value as VOD. However, the number of hours of this content that has been purchased by third parties appears to be limited to [✂] or so hours of content listed in Table 6 as being provided to [✂].[9] In addition, linear TV channels, such as Five and Sky One among others, provide some UK programming that might have value as VOD content.

26. We note that the quality of the content currently supplied would appear to be different from that provided by the parties (eg [✂]).

Estimate 2: The parties' high level estimates

27. The parties provided information on the proportion of each genre of content that they broadcast which they considered had value as VOD content. Annex 2 shows C4C's assessment. When applied to the hours of these genres that are broadcast each week on C4, E4 and More4, this would imply that [✂] per cent of these [✂] hours of content has value as catch-up VOD and [✂] per cent has value as archive VOD.[10] The equivalent figures for ITV are [✂] per cent of catch-up and [✂] per cent of archive.

28. The parties also provided estimates of the number of hours of VOD content that is valuable, as a proportion of their total catalogue. ITV suggested that [✂] per cent of its [✂] hour archive had value as VOD content. C4C's estimate was [✂] per cent. BBCW suggested [✂] per cent of its catalogue. [✂]

TABLE 6 **JV parties' catalogue of UK content and its VOD value**

Party	*Catalogue (hours)*	*Digitized (hours)*	*Cleared rights (hours)*	*'VODable' percentage*	*VODable hours*
C4	[✂]	[✂]	[✂]	[✂]	[✂]
ITV	[✂]	[✂]	[✂]	[✂]	[✂]
BBC/BBCW	[✂]	[✂]	[✂]	[✂]	[✂]
UKVOD	[✂]	[✂]	[✂]	[✂]	[✂]
	[✂]	[✂]	[✂]	[✂]	[✂]
Other providers	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: CC analysis.

[✂]

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[8] [✂]
[9] [✂]
[10] C4C told us that this assessment, as contained in its response to questions posed by the CC, did not accord with its current practice in relation to 4OD. It told us that it currently made approximately [✂] hours of content available each week.

29. We estimate that third-party producers have approximately 5,000 hours of VOD content with some value.[11] This content is likely to be of less value than that of the parties since it consists of older content[12] and content from niche TV channels (eg [✂]). This estimate is based on the following:

(a) [✂] have approximately [✂] hours of UK TV VOD content not provided by the parties (we do not have information on the origin of content from other retailers). There appears to be considerable overlap between this content. We estimate that there are [✂] hours of content that was not broadcast by the parties.

(b) [✂] produce [✂] their own content, some of which may be suitable for VOD which they currently do not supply to third-party retailers.

(c) In addition, producers hold a limited number of rights to content broadcast on the BBC, ITV and C4C's linear channels that have value as VOD. We know from production companies that [✂]. Since there are six to ten major third-party producers, we estimate that there may be [✂] hours of content that was broadcast by the parties but that is held by production companies.[13]

30. It is likely that there is some overlap between these estimated hours since they are drawn from both the production and the retail level. Nevertheless, taking account of these various estimates, we found that third-party producers might have around 5,000 hours of content with value as VOD.

31. We note that these figures relate to the stock of valuable VOD content that is controlled by third-party producers. We recognize that over time this will be added to by new content (including content becoming available, for example, after the expiry of a hold-back period). However, the parties will also benefit from a flow of new content and therefore we do not expect this flow substantially to alter the relative capacity positions of the parties in the foreseeable future.

32. While it is possible that there is further VOD content with some value that is available to producers beyond that which is included in existing deals,[14] we note in Appendix G (paragraphs 99 to 105) that [✂] producers and their potential wholesale customers have already examined the content that is available to them and concluded that it is insufficient to make a significant distribution deal feasible. As such, there appears to be no basis to assume that production companies have chosen not to license valuable VOD rights to a range of content in their catalogue.[15]

33. We can compare the parties' estimates that they have access to more than 50,000 hours of content with value as VOD (see Table 6) with our estimate of the hours of content with VOD value that can be accessed by third-party producers and third-party retailers.[16] We find that third-party producers have only a fraction of the hours of

[11] C4C told us that the new terms of trade agreed with PACT would result in more rights becoming available outside the parties. Nevertheless we note that as the commissioning broadcaster, the parties will continue to have an advantage in negotiations for the VOD rights to this content.
[12] For example, the content included in [✂] as submitted to the CC. We also note that older content may retain significant value and forms an important part of the rationale for this joint venture.
[13] Though we note that there is also a long tail of smaller third-party producers that might be expected to hold some further hours of content.
[14] For example, we know that [✂] a deal which will make [✂] hours of content available.
[15] Indeed, the speed with which [✂] has licensed the content to retailers after [✂] in March 2008 suggests that production companies are eager to exploit valuable VOD rights which they hold.
[16] The parties told us that this was a nascent market and, as such, some UK third-party producers have not yet chosen to utilize their VOD rights and agree deals with third-party retailers. The parties told us that this did not mean they would not be able to agree these deals in the near future.The parties also submitted that it would be meaningful to compare the number of hours that could currently be offered by the parties as VOD (ie the cleared rights column in Table 6) and a total for independent content that was based on an analysis of the extent of independent catalogues and the rights position over their productions. This would imply a figure of [✂] hours for the parties.

valuable VOD content that the parties have access to, and, in many cases, we believe that the quality of this content is different from that provided by the parties (eg [✂]).

34. We therefore found that the parties together have a large share of VOD content capacity. We note that there may be a lack of clarity with regard to the rights position of much of the valuable VOD content. As such, only the content on the ‘available plus wish’ list can be accurately described with certainty as both valuable for VOD and controlled by the JV. Nevertheless we noted that the parties had an advantageous position when negotiating for VOD rights to the content that they commission but for which they do not hold VOD rights (see paragraph 4.100).

Share of advertising market

35. We looked at market shares under different possible definitions of the relevant market in online advertising.

36. Table 7 shows the forecast revenue and market shares in online advertising for 2008. It shows that UKVOD expects its advertising sales to achieve [✂] per cent market share. [✂]

TABLE 7 **Online advertising market shares 2008 (forecast)**

	Forecast revenue 2008 £m	*Forecast revenue 2008 % of total*
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]

Source: [✂].

37. Table 8 shows revenue for online advertising forecast for 2008 to 2011. It shows revenue forecasts for individual segments of online advertising. It also shows total online advertising revenue for UKVOD, which is expected to [✂] million in the first year to [✂] in 2011.

TABLE 8 **Revenue forecasts for online advertising**

£ million

	2008	*2009*	*2010*	*2011*
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]
[✂]	[✂]	[✂]	[✂]	[✂]

Source: [✂].

38. Table 9 shows revenue forecasts for online advertising (and UKVOD total online advertising revenue) as a proportion of total online advertising. It shows that video is forecast to [✂] per cent of online advertising in 2008 to [✂] per cent in 2011 and that

display (ie static) advertising is expected to fall from [✄] to [✄] per cent, while other categories [✄] as a proportion of total online advertising.

39. Table 9 also shows UKVOD's forecast share of total online advertising revenue, which [✄] per cent in 2009 to [✄] per cent in 2011.

TABLE 9 **Revenue forecasts for online advertising**

	per cent of total online advertising			
	2008	*2009*	*2010*	*2011*
[✄]	[✄]	[✄]	[✄]	[✄]
[✄]	[✄]	[✄]	[✄]	[✄]
[✄]	[✄]	[✄]	[✄]	[✄]
[✄]	[✄]	[✄]	[✄]	[✄]
[✄]	[✄]	[✄]	[✄]	[✄]

Source: [✄].

40. Table 10 shows the forecast revenue market shares for UKVOD. These shares are calculated for different segments of online advertising—display advertising and total online advertising. UKVOD's share of display advertising is expected to grow from [✄] per cent in 2009 to nearly [✄] per cent in 2011.

TABLE 10 **UKVOD website online advertising market shares (total revenue from in-programming and run of site display as proportion of forecast revenue for relevant segment)**

	2008	*2009*	*2010*	*2011*
[✄]	[✄]	[✄]	[✄]	[✄]
[✄]	[✄]	[✄]	[✄]	[✄]

Source: [✄].

Market shares

TABLE 1 **Views in June 2008**

	Total views	*Archive views (30+)*	*Catch-up views*
Open VOD			
iTunes	[✂]	[✂]	[✂]
iTunes (JV)	[✂]	[✂]	[✂]
iTunes (non-JV)	[✂]	[✂]	[✂]
Sky Player	[✂]	[✂]	[✂]
BBC iPlayer	[✂]	[✂]	[✂]
4OD	[✂]	[✂]	[✂]
Ch4.com	[✂]	[✂]	[✂]
ITV.com	[✂]	[✂]	[✂]
Five Download	[✂]	[✂]	[✂]
Joost	[✂]	[✂]	[✂]
Total open VOD	[✂]	[✂]	[✂]
Closed VOD			
Virgin Media	[✂]	[✂]	[✂]
Virgin Media (JV)	[✂]	[✂]	[✂]
Virgin Media (iPlayer)	[✂]	[✂]	[✂]
Virgin Media (Non-JV)	[✂]	[✂]	[✂]
BT	[✂]	[✂]	[✂]
BT (JV)	[✂]	[✂]	[✂]
BT (BBC)	[✂]	[✂]	[✂]
BT (non-JV)	[✂]	[✂]	[✂]
Tiscali	[✂]	[✂]	[✂]
Tiscali (JV)	[✂]	[✂]	[✂]
Tiscali (BBC)	[✂]	[✂]	[✂]
Tiscali (non-JV)	[✂]	[✂]	[✂]
Sky Anytime	[✂]	[✂]	[✂]
Total closed VOD	[✂]	[✂]	[✂]
Total VOD (open & closed)	[✂]	[✂]	[✂]
Open VOD			
Parties	[✂]	[✂]	[✂]
Non-JV	[✂]	[✂]	[✂]
BBC	[✂]	[✂]	[✂]
Total	[✂]	[✂]	[✂]
Open & closed VOD			
Parties	[✂]	[✂]	[✂]
Non-JV	[✂]	[✂]	[✂]
BBC	[✂]	[✂]	[✂]
Total	[✂]	[✂]	[✂]

Source: CC analysis.

VOD value by genre

TABLE 1 **C4's view of the proportion of content produced within each genre that has VOD value**

	C4 view (%)	
Category	*Catch-up*	*Archive*
Drama	[✂]	[✂]
Soaps	[✂]	[✂]
Cinema films	[✂]	[✂]
TV films	[✂]	[✂]
Ent: Variety/MOR music/youth	[✂]	[✂]
Ent: Situation comedy and other comedy	[✂]	[✂]
Ent: Chat shows—general	[✂]	[✂]
Ent: Chat shows—audience participation/interviews	[✂]	[✂]
Ent: Quiz shows and panel games	[✂]	[✂]
Ent: Lottery show/updates	[✂]	[✂]
Ent: Animations, family shows, special events	[✂]	[✂]
Music	[✂]	[✂]
Arts	[✂]	[✂]
News/weather	[✂]	[✂]
Current affairs	[✂]	[✂]
Hobbies/leisure	[✂]	[✂]
Documentaries (natural history, science/medical, human interest, factual drama, history)	[✂]	[✂]
Documentaries: Factual entertainment	[✂]	[✂]
Religious: Acts of worship	[✂]	[✂]
Religious: Other	[✂]	[✂]
Sport	[✂]	[✂]
Children's: Drama stories, factual, cartoons, pre-school	[✂]	[✂]
Children's: Entertainment/quizzes	[✂]	[✂]
Party political broadcast	[✂]	[✂]
Education	[✂]	[✂]
Other	[✂]	[✂]

Source: C4C.