



F T I®

**Competitive Impact Assessment of Bitesize, Learning
Zone Broadband and Learning Portal: a report for the
BBC Trust**

Final Report

Non-Confidential Version

8 March 2010

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1 Introduction

On 31 March 2009, the British Educational Suppliers Association (“BESA”), supported by the Publishers Association, submitted a Fair Trading complaint to the BBC Trust in respect of a number of the BBC’s educational activities¹. The relevant BBC activities were²:

- BBC Bitesize – the online revision aid (<http://www.bbc.co.uk/schools/bitesize/>);
- Learning Zone Broadband – the television clip archive (<http://www.bbc.co.uk/learningzone/clips/>); and
- The Learning Portal – the gateway to the BBC’s online learning activities (<http://www.bbc.co.uk/learning/>)³.

In response, following a period of enquiry and information gathering, the BBC Trust considered in June 2009 that it had sufficient information to proceed with its investigation. BESA’s submission raised four main areas of complaint, two of which were partially upheld by the subsequent BBC Trust Finance and Compliance Committee’s (“the Committee”) Fair Trading Appeal Investigation, published 8 October 2009⁴, namely that:

- the BBC Executive failed to conduct appropriate Competitive Impact Principle (“CIP”) assessments with regard to investment in Bitesize, Learning Zone Broadband and the Learning Portal since 2007, amounting to a breach of the Competitive Impact Principle; and
- the BBC did not engage sufficiently with the wider industry concerning its new service developments.

In respect of the first finding, the Committee determined that the BBC Trust conduct an assessment of the potential competitive impacts (and whether such impacts can be minimised) of BBC Bitesize, Learning Zone Broadband and the Learning Portal, covering developments to these offerings since June 2007, and the way in which they deliver against the BBC’s Public Purposes (a “Competitive Impact Assessment” or CIA, described in more detail below). In respect of the second, the BBC Executive is required to provide proposals to the Committee for improving the level of engagement with the wider industry and is to consider setting out future

¹ <http://www.besa.org.uk/besa/documents/view.jsp?item=1331>

² These are provided on BBC Online and fall within the ambit of the BBC Online service licence. In the remainder of this report these are referred to collectively as the relevant BBC educational activities.

³ The Learning Portal links consists of access to five additional learning gateways with the following uniform resource locators (“URLs”): <http://www.bbc.co.uk/schools/>; <http://www.bbc.co.uk/schools/students/>; <http://www.bbc.co.uk/learning/adults/>; <http://www.bbc.co.uk/learning/teachers/> and <http://www.bbc.co.uk/schools/parents/>. These link to learning material on BBC Online (especially BBC Bitesize) and other resources, both on BBC Online and the world wide web in general, which have relevant learning content.

⁴ http://www.bbc.co.uk/bbctrust/assets/files/pdf/appeals/fair_trading/besa.pdf

investment plans for each online learning element of the bbc.co.uk service within the Statement of Programme Policy that they publish each year.

FTI Consulting UK (“FTI”) was retained by the BBC Trust to conduct the Competitive Impact Assessment in respect of changes to the relevant BBC educational activities from 29 June 2007 (the date at which current fair trading regime came into force). The date of the Fair Trading Appeal Investigation, 30 September 2009, is assumed to be the end point of the period of assessment as, since then, no further increases in investment in the activities have been permitted. We refer to this period as the assessment period in this report.

BESA also alleged that the BBC's formal learning service is not distinctive. The Trust declined to come to a separate finding regarding this allegation. It instead concluded that this was more appropriately determined through the review of BESA's allegations in the context of the implementation of the Competitive Impact Principle.

We were asked to examine specifically the impact of the BBC's activities on the market. The Trust does not believe that market impact is necessarily caused either by distinctiveness or by a lack of distinctiveness.

A learning activity provided by the BBC could be so distinctive as to attract almost all potential users (both school teachers and students) at the expense of other services, and so have considerable market impact. Equally, a learning activity that is no different to anything else on the market may have limited appeal to those who use such products and so consequently have little or no competitive impact.

Our approach was therefore to consider what impact the BBC has actually had on the market and how this impact occurred. While an understanding of the characteristics of the services offered and how these compare with other offerings is useful, they are not the defining factors in assessing market impact. They instead help to inform consideration of what changes might be made to the BBC's activities to minimise any negative market impacts.

1.1 Our approach to applying the Competitive Impact Principle

The BBC Trust requires the BBC, whilst always ensuring the fulfilment of its Public Purposes and taking into account its other obligations in the Charter and the Agreement, to endeavour to minimise its negative competitive impacts on the wider market. This requirement is known as the “Competitive Impact Principle”. BBC staff should consider the requirements of the CIP when undertaking Public Service Activities. Advice should be sought (in advance) and with reasonable notice from the Fair Trading department if any of the following criteria are met:

- There is a potential significant risk that the BBC's actions could raise concerns.
- The proposed activity is expected to be significant in scale (e.g. in terms of take-up, expenditure, size compared to others etc.).
- There is a potential significant risk that the BBC's actions could harm third party businesses or the interests of consumers.

A CIP assessment is therefore applied before the BBC begins areas of new activity.

The CIP is described in Chapter 1 of the BBC Fair Trading Guidelines⁵. Detail on the process is set out in the BBC Executive's paper, "Management controls for the assessment of potential competitive impact of BBC Online (prospective and retrospective)"⁶. The BBC Trust's "Statement of Policy on Competitive Impact: competitive impact framework" requires a proportionate assessment by the BBC.⁷ A CIA is the application of the Competitive Impact Principle to a change to BBC public service outputs.

We have conducted this study in accordance with the CIP as far as is feasible. The approach taken was to use the same framework, as set out in the relevant guidelines and internal BBC papers, to assess the impact of changes in the activities over time. An important aspect of the CIP is that it should be applied in a proportionate way. The Fair Trading Guidelines and BBC Trust policy both state that CIAs may vary in terms of depth of analysis and evidence required as the BBC adopts a proportionate approach to each assessment, taking into account the size and scale of the activity concerned, and the particular circumstances and context.

The approach essentially comprises the consideration of incremental changes to activities and the resulting incremental changes to their competitive impact. The focus is not to undertake a fully fledged analysis of whether a BBC activity is harming competition (which would be the focus, for example, of an investigation under antitrust laws). Rather, the analysis focuses on ensuring that the BBC activity, consistent with achieving Public Purposes, is undertaken in such a way as to minimise any potential negative impacts on competition.

⁵ http://www.bbc.co.uk/info/policies/fairtrading/pdf/fairtrading_guidelines_010409.pdf

⁶ We note that while we have followed the processes, we are external to the BBC. Consequently our approach may differ to what the BBC may follow in practice, particularly as we have been asked to consider the key issues raised by the Fair Trading complaint with a fresh perspective. These factors in conjunction with the Fair Trading Guidelines statement that CIPs may vary imply that this report, while adding to the evidence base of Competitive Impact Assessments, should not set a precedent for the way that future Competitive Impact Assessments are conducted.

⁷ See BBC Trust June 2007 Statement of Policy, available at http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/fair_trading/competitive_impact_statement.pdf

Our work combined desk research and a review of relevant documents submitted to the Fair Trading investigation, a number of face-to-face and telephone interviews and analysis⁸. This work was principally conducted during the period 4 January 2010 to 31 January 2010 and, consistent with the approach usually taken in conducting CIAs, is a high level review of available information rather than a detailed competition analysis based on primary research and in depth empirical analysis. We emphasise that this approach is consistent with BBC Fair Trading process for conducting a CIA as described thus far.

While adopting this approach and adhering to these principles insofar as is possible, it should be noted that our approach has, in practice and, by necessity, differed from the approach applied to a BBC Fair Trading CIA in number of ways. Most obviously, this exercise is being undertaken retrospectively rather than prospectively. That is, the changes are being considered following, rather than prior to, the proposed changes to the relevant BBC educational activities. Another difference is that the CIA process usually entails consideration of one specific change rather than covering a period of over two years following a formal complaint procedure.

Application of the CIP requires that a '3-step' test is followed:

- (1) Consider how the activity fulfils the BBC's Public Purposes.
- (2) Consider the impact on competition in the markets in which the activity operates.
- (3) Consider whether any negative impact on competition can be minimised by redesigning the activity without significantly compromising the Public Purposes or any of the BBC's other regulatory obligations.

Importantly, the BBC Fair Trading Guidelines state that the BBC is not required by the CIP to eradicate all potential negative impacts of its Public Service Activities. The focus is on minimising any negative competitive impacts as long as this does not compromise achieving the Public Purposes. While positive competitive impacts may be identified, these are not the focus of the CIA. Moreover, the CIA also does not consider trade-offs or balancing of the effects (i.e. competitive effects and public value effects) identified.

The findings of this study will feed into the process by which the Trust's Finance and Compliance Committee determines whether the BBC Executive's failure to conduct its own Competitive Impact Assessment since 2007 had any substantive effect.

⁸ Details of the evidence base gathered are contained in Appendix 2.

In addressing the scope of the study⁹, we assessed, inter alia, the nature of the investments in the relevant BBC educational activities, including the increases in expenditure, whether the market impacts of the investments could have been anticipated and the steps BBC Executive could have taken to mitigate against these impacts. In respect of this latter point, we considered the circumstances prevailing at that time, although we note that because this exercise is retrospective, the information we have access to at the time of conducting our work is de facto superior to the information available historically; as previously stated, the CIA is usually applied prospectively rather than retrospectively.

1.2 Report Structure

The remainder of this report is structured in two parts as follows:

PART I: Context and market impact of relevant activities

- In Section 2 we provide a description of the relevant BBC educational activities and how they have evolved over time and how they deliver against the Public Purposes, together with the wider context, setting out an overview of the educational software sector in terms of services, providers, size and key trends and developments. We also consider the relevant market on which to base our assessment¹⁰ of potential competitive impacts.
- Section 3 considers how, in principle, the relevant BBC educational activities as a whole could negatively impact on competition and provides our high level assessment of the available evidence of the current market impact of the relevant BBC educational activities on the commercial educational sector.

PART II: Competitive impact assessment of developments to relevant activities since 2007

- We apply the Competitive Impact Principle to the changes during the assessment period in the relevant BBC educational activities in Section 4, covering how they deliver against the Public Purposes, whether there are any negative competitive impacts and the extent to which any such negative impact could have been mitigated.
- In Section 5 we provide the conclusions of our work and summarise what impacts there may have been as a result of the BBC Executive's failure to undertake a CIA on the developments to the relevant BBC educational activities over the assessment period.

⁹ The scope of the study is set out in the terms of reference for the study, which are contained in Appendix 1.

¹⁰ Note that while we refer to the "relevant" market for the purposes of the CIA, the exercise is not a formal competition exercise and therefore does not require a formal market definition exercise such as one that would be undertaken by a competition authority.

PART I: Context and market impact of relevant activities

2 The educational software sector and relevant BBC educational activities

2.1 Context: BBC formal learning services

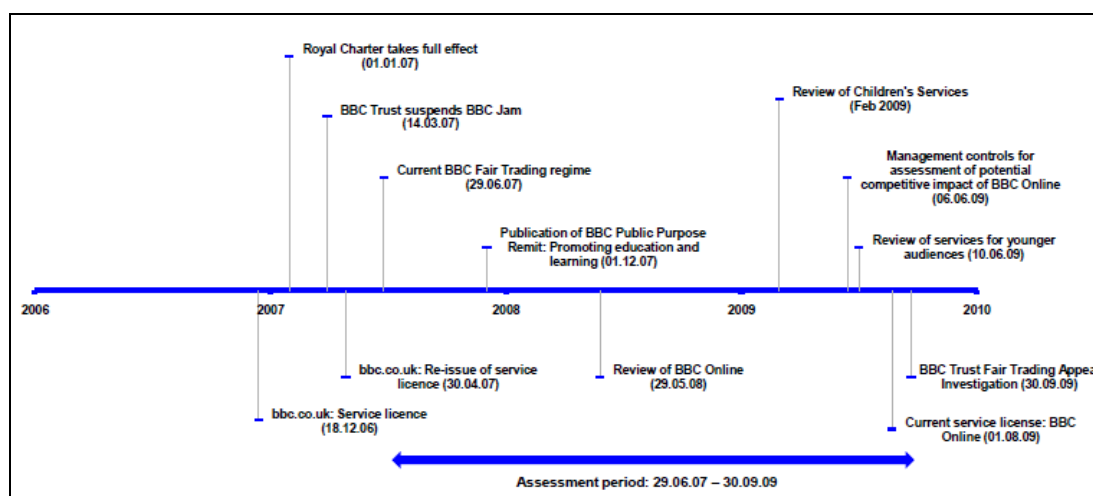
The BBC is obliged by its Charter (Article 4b) “to promote education and learning” – the second of its six Public Purposes. The Agreement that sits alongside the Charter states that in developing (and reviewing) this purpose, the BBC Trust must seek to ensure that the BBC (amongst other things):

- (a) stimulates interest in, and knowledge of, a full range of subjects and issues through content that is accessible and can encourage either formal or informal learning; and
- (b) provides specialist educational content and accompanying material to facilitate learning at all levels and for all ages, meeting the online needs of school-age children¹¹.

BBC formal learning activities contribute towards the fulfilment of the BBC’s second Public Purpose. We focus on the formal learning activities of relevance to this study – Bitesize, Learning Zone Broadband and the Learning Portal¹². While the assessment period commences on 29 June 2007, for context we also provide some background on how the activities have developed prior to this time. We first highlight the main regulatory events relevant to the development of the activities, as depicted in Figure 1.

¹¹ In respect of activities online, the service licence for BBC Online states that BBC Online “should be the BBC’s main platform for formal learning output”. In respect of formal learning services, the service licence states that, “BBC Online should provide formal learning resources aimed primarily at children. These may cover a broad range of subjects and skills. Key propositions include revision and recap for school children and a proposition to encourage teenagers’ skills development. There should also be resources to support parents and teachers, including those which make use of archive broadcast content.”

¹² Note that while the first two of these are distinct products, the latter is a facility that enables access (a gateway or navigational tool) to other services provided by BBC online rather than a distinct product per se.

Figure 1: Main regulatory events

Source: FTI analysis

2.1.1 The development of Bitesize

BBC Bitesize is the BBC's online re-cap and revision offering aimed at students. It covers each of the national curriculum key stages (Key Stage 1, 2, and 3, GCSE, TGAU, Scottish Standard Grade, and Scottish Highers) across a range of subjects. Bitesize was originally planned as a multi-media project to include broadcast services, online services and print materials. The broadcasting activity, covering 15 GCSE subjects, and the print materials were launched in January 1998, and the online element was launched in May 1998 with 8 GCSE subjects¹³.

In 2000, Key Stage 2 and 3 content was added along with 7 further GCSE subjects. Key Stage 1 content was planned for a March 2007 launch and added on 27 June 2007. Currently Bitesize covers 22 subjects at GCSE, 2 subjects at Key Stage 1 (Maths and Literacy), and 3 subjects at Key Stage 2 and Key Stage 3 (Maths, English and Science). There are separate sites for users located in Scotland, Wales and Northern Ireland. Teacher content was available for Key Stage 2 and Key Stage 3 until its removal in 2007 and 2009 respectively. The GCSE website was redesigned in 2001, 2003, and in 2008 and the GCSE materials were revised around three years ago as they had become outdated.

The Bitesize website has evolved continuously during the past ten years – it has been updated on several occasions over time, in line with improvements in technology, as a response to curriculum

¹³ A letter dated 28 October 1998 from the DCMS formally confirmed the BBC's online service, which included formal educational content 'complementing the national curriculum', as a core public service for the purposes of the BBC being able to invest licence fee funds in that service.

changes or with the aim of improving ease of use. An interactive TV option using the “red button” facility was added but subsequently removed as usage was negligible.

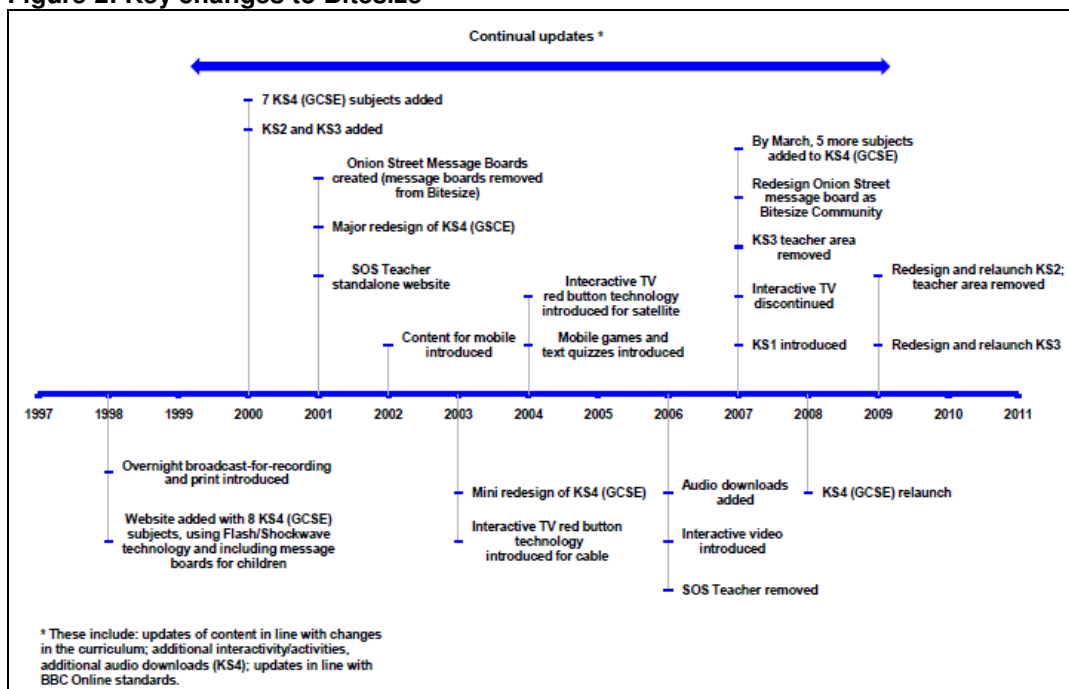
All BBC websites are refreshed periodically to meet specific design standards (e.g. navigation and accessibility standards). The Bitesize website is continually subject to both maintenance (such as ensuring links work, material is correct) and development (such as redesign or the addition of new content). For example, in summer 2008, Key Stages 2 and 3 were redesigned to give them the same look as other BBC Online products. All changes to Bitesize since April 2007 are based on BBC Learning’s 5 year plan.

Interactivity (enabled by Shockwave) was available when Bitesize launched online; changes in internet technology have made interactivity increasingly easier to integrate into the website and evolutions have kept in line with wider developments to BBC Online. BBC Learning, guided by BBC Future Media and Technology standards, tries to align its technology in line with trends in users’ take-up – Shockwave was replaced by Flash in 2001, for example, and upgrades to subsequent versions were added over time, again depending on user take-up. Such developments have been in line with those across bbc.co.uk. BBC audio downloads were made available in 2006; podcasts are not available.

While Bitesize is aimed at students at home, it is also used at school.

Figure 2 provides a summary of the key changes to Bitesize since its launch.

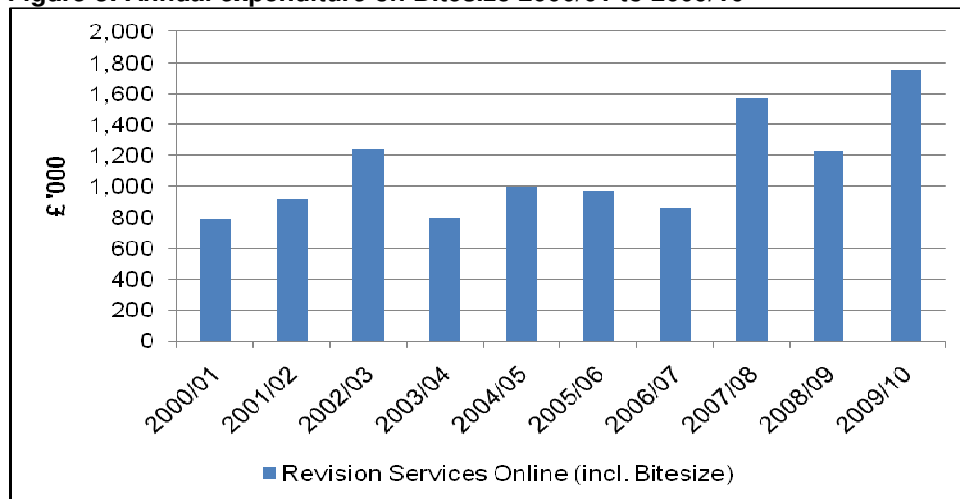
Figure 2: Key changes to Bitesize



Source: BBC Learning, FTI analysis

In Figure 3 we present the trend in expenditure on Bitesize during the period 2000/01 (1 April to 31 March) to 2008/09. On average, approximately 44% of this expenditure is spent externally.

Figure 3: Annual expenditure on Bitesize 2000/01 to 2009/10



Source: BBC Learning

As noted the assessment period is from 29 June 2007 to 30 September 2009. The key changes to Bitesize during this time are:

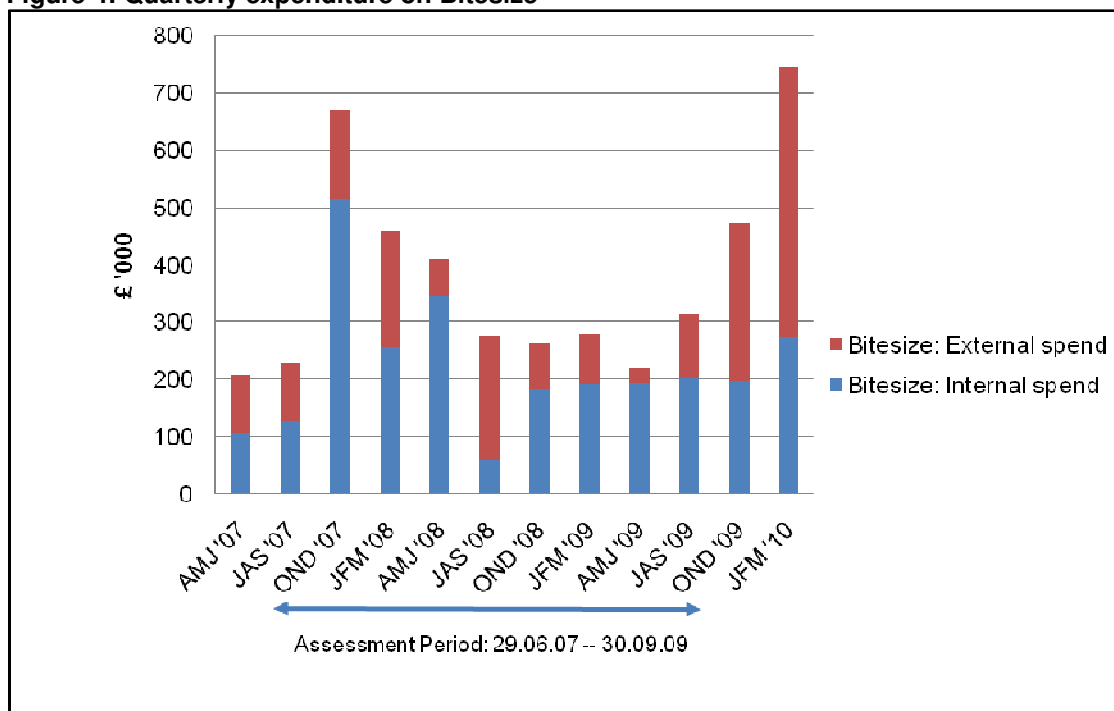
- Introduction of KS1¹⁴;
- Redesign and re-launch of GCSE site;
- Continued addition of video and interactive materials (as part of an ongoing process that commenced prior to the assessment period - and continued after it);
- Additional activities/interactives for GCSE;
- Re-design and re-launch of KS2 with additional audio streaming files, animation and games;
- Re-design and re-launch of KS3 with additional interactives;
- Updates to mobile quizzes; and
- Re-design of Onion Street as Bitesize Community.

We note also that during this period:

- There were continued improvements to navigation and connectivity;
- The KS3 teacher area was removed from Bitesize; and
- The interactive TV facility was discontinued.

The expenditure associated with these changes, on a quarterly basis, is displayed in Figure 4 .

¹⁴ We note that the launch of KS1 (planned for launch in March 2007), occurred a number of days prior to the new Fair Trading Guidelines coming into effect. While strictly outside the period of assessment, we believe it is appropriate to consider this change given its close proximity to the new regime and the retrospective nature of this assessment.

Figure 4: Quarterly expenditure on Bitesize

Source: BBC Learning

BBC Learning states that all updates to Bitesize (and other formal learning websites) are driven by the requirement to deliver the Public Purposes¹⁵:

- A continued increase in student and teacher use of the internet for learning means that increasingly the BBC's formal learning activities need to be available online;
- Continued changes to the curriculum have required more and increasingly differentiated content in order to fulfil the requirements of the Public Purposes. Content is the core of fulfilment of the Public Purposes;
- A continued and rapid evolution of web technology requires the services to be up-to-date in look and feel, accessibility and ease of navigation in order to maintain reach; and
- Improvements in reach, quality and impact and promoting new technology are important BBC objectives.

Particularly, changes to improve the quality and the accessibility of the product are absolutely necessary, otherwise Bitesize would fail to deliver the Public Purposes – improved reach and accessibility, for example, are important elements of fulfilment of the public purposes. Moreover, as BBC technical and design standards also have changed, BBC Learning has to conform to

¹⁵ We discuss the Public Purposes in the next section.

these. Bitesize also promotes new technology to the schools demographic – young people that have used Bitesize are more likely to be internet proficient.

The main competitors to Bitesize are SAM Learning, MyMaths, Espresso, and S-cool at the secondary school level (i.e. Key Stage 3 and GCSE) and Sam Learning, Education City, and My Maths at the primary school level (i.e. Key Stage 1 and Key Stage 2). Further market context and trends are discussed in Section 2.3.

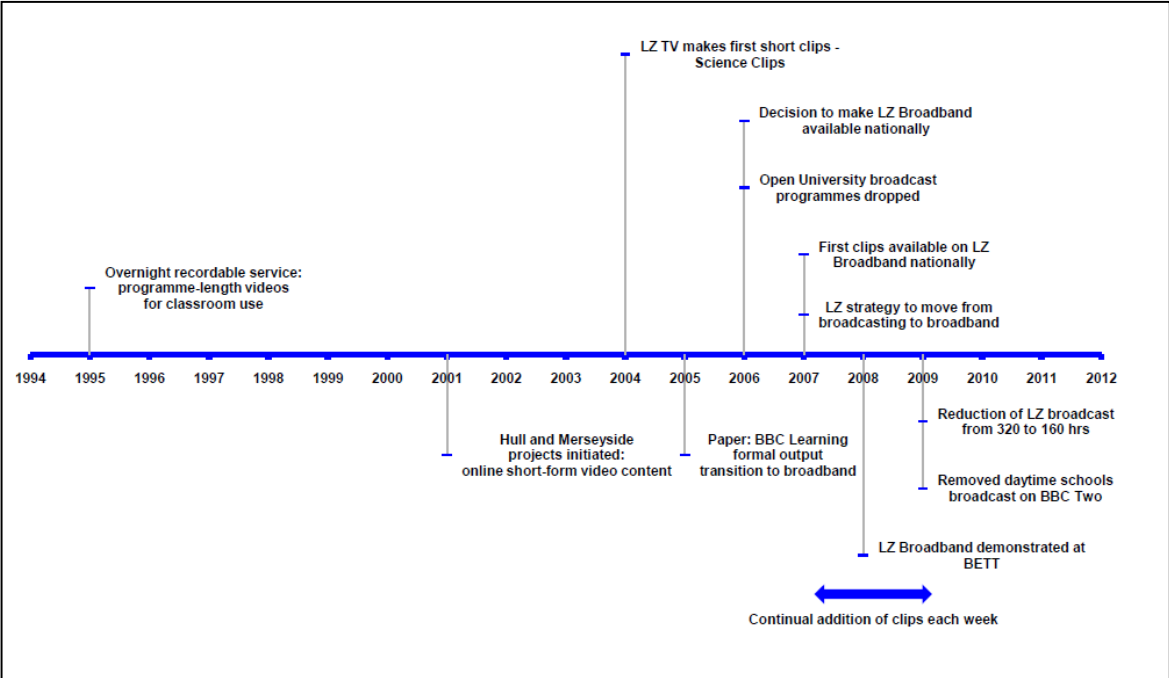
2.1.2 The development of Learning Zone Broadband

The Learning Zone was launched as an overnight broadcast facility in the mid-1990s, comprising a number of educational programmes including Open University (OU) broadcasts, programmes for secondary schools, formal education programmes, and language programmes. It was intended for recording and use in the classroom and at home. Programmes were designed with ‘stop points’ to ease incorporation into lesson planning, as a precursor to ‘clips’. Learning Zone short-form clips were introduced in 2001 to schools participating in a pilot in Hull using interactive TV. Research conducted on behalf of BBC Learning indicated that teachers desired short-form clips for use in lessons and following developments in technology, short-form content online was piloted in schools in Hull and Merseyside. The first programme for broadcast in clip form – Science Clips – was produced in 2004.

In January 2006, the development of Learning Zone Broadband was set out in a BBC Executive strategy document “LearnXpress Clips”. The library of available clips was demonstrated to the (then) Department for Education and Skills (“DfES”), the British Education Communication Technology Agency (“BECTA”), the Qualifications and Curriculum Development Agency (“QCA”), the Further Education Sector and a number of commercial companies. At the end of May 2007, the online clips used in the Hull and Merseyside pilots were made available nationally and the platform was demonstrated at the British Education and Training Technology (“BETT”) Exhibition in January 2008.

By the end of 2009, around 5,000 clips were available on the site. Owing to the strategic shift from broadcast to broadband, school programmes, language programmes and OU broadcasts have been impacted, with a commensurate gradual decline in broadcast hours and in original productions for broadcast. The evolution of Learning Zone Broadband is one of gradual development, with the continual addition of clips once rights have been cleared and the material has been pedagogically tagged. In Figure 5 we summarise the key changes to Learning Zone Broadband over time.

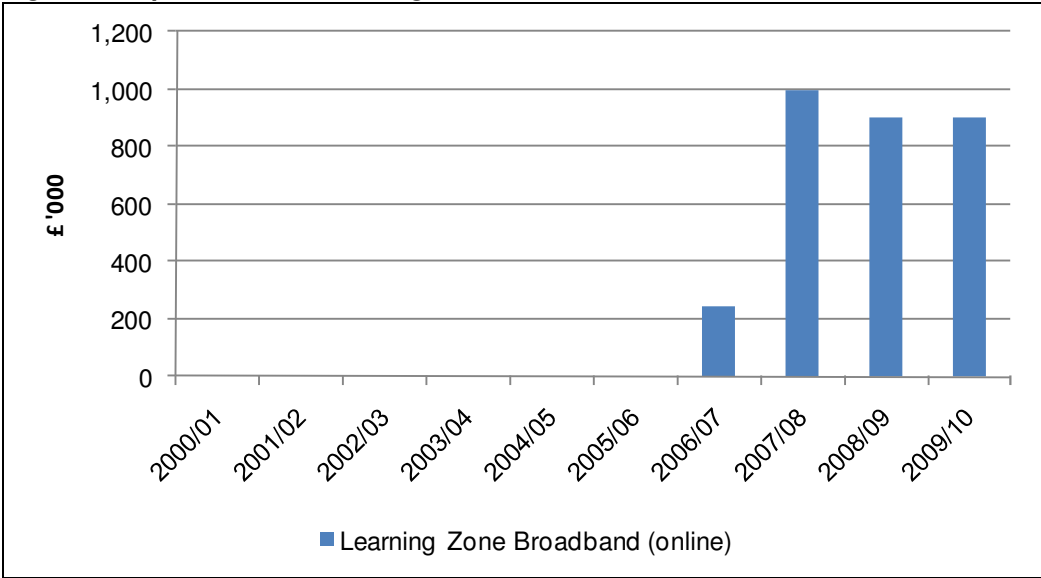
Figure 5: Key changes to Learning Zone Broadband



Source: BBC Learning, FTI Analysis

In Figure 6 we present the trend in expenditure on Learning Zone Broadband during the period 2000/01 (1 April to 31 March) to 2008/09. All expenditure on Learning Zone broadband is spent internally.

Figure 6: Expenditure on Learning Zone Broadband 2000/01 to 2009/10



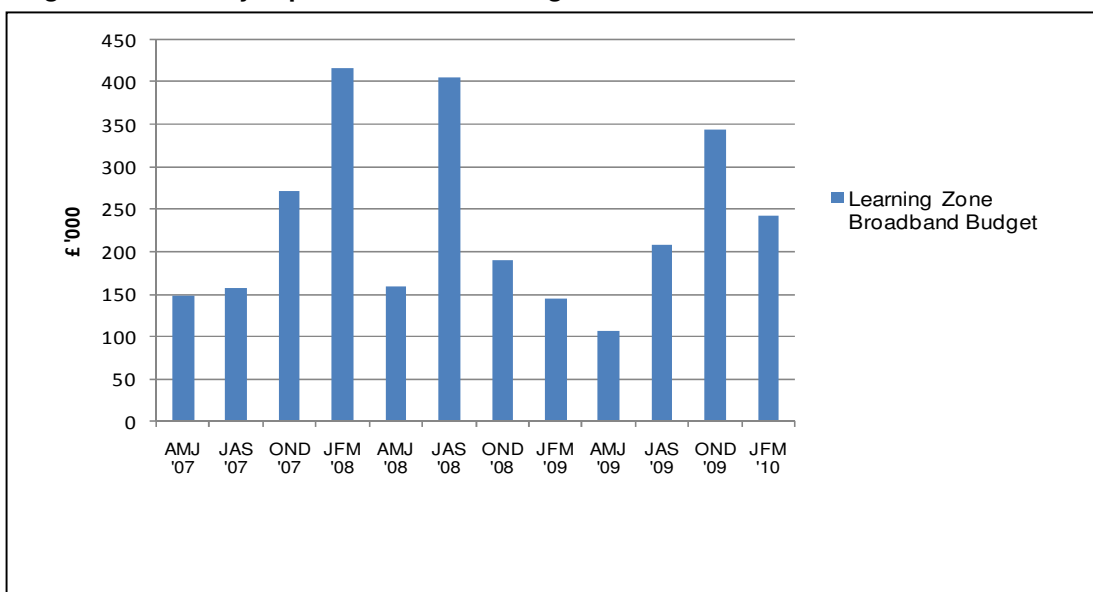
Source: BBC Learning

As noted, the assessment period is from 29 June 2007 to 30 September 2009. The key changes to Learning Zone Broadband during this time are:

- Continued increases in the number of clips made available – from around 500 in April 2007, when it was made available nationally, to around 5,000 by the end of 2009.

The expenditure associated with these changes, on a quarterly basis, is presented in Figure 7.

Figure 7: Quarterly expenditure on Learning Zone Broadband



Source: BBC Learning

BBC Learning stated that updates to Learning Zone are driven by the requirement to deliver the Public Purposes, and in particular, as set out in the bbc.co.uk Service Licence, “there should be resources to support parents and teachers, including those which make use of archive broadcast content”.

Commercial providers of educational clips include Espresso Learning, EBC Education and Gigajam (music only). A number of publicly funded organisations such as Teachers TV, the National Archive, the BFI and English Heritage also make video clips available. Pathé News provides free (negotiated) access of clips to schools. Further market context and trends are discussed in Section 2.3.

2.1.3 *The development of The Learning Portal*

As described thus far in this report, the Learning Portal comprises the following URLs:

- www.bbc.co.uk/learning
- <http://www.bbc.co.uk/learning/adults/>
- <http://www.bbc.co.uk/schools/>
- <http://www.bbc.co.uk/schools/teachers/>
- <http://www.bbc.co.uk/schools/parents/>
- <http://www.bbc.co.uk/schools/students/>

The Learning Portal enables access to approximately 20 websites developed by BBC Learning during the past 10 years. Some of the sites are now outdated and they are to be redesigned into a smaller number covering the same content.

The main development to the Learning Portal during the period of assessment comprises a shifting of some content from Bitesize to the teacher's area (see below) and a redesign in December 2008 to improve navigability and accessibility of content. The goals of the redesign were: to deliver pages that offered one-click access to relevant content, to standardise look and feel and to offer contextual links to other learning content. The redesign was conducted in-house and the spend was around £20,000 and was driven by:

- Improvements as requested by the BBC Trust following its review of BBC Online published in August 2008 (such improvements were conducted in accordance with standards set for all BBC Online sites); and
- A need to improve the user experience following the findings of a research study conducted by Rosenblatt which evaluated the consumer use of the BBC Online Learning content. The study identified that there were four distinct user groups with distinct needs. Prior to the improvements made to the portal, users were not being guided to the appropriate content available.

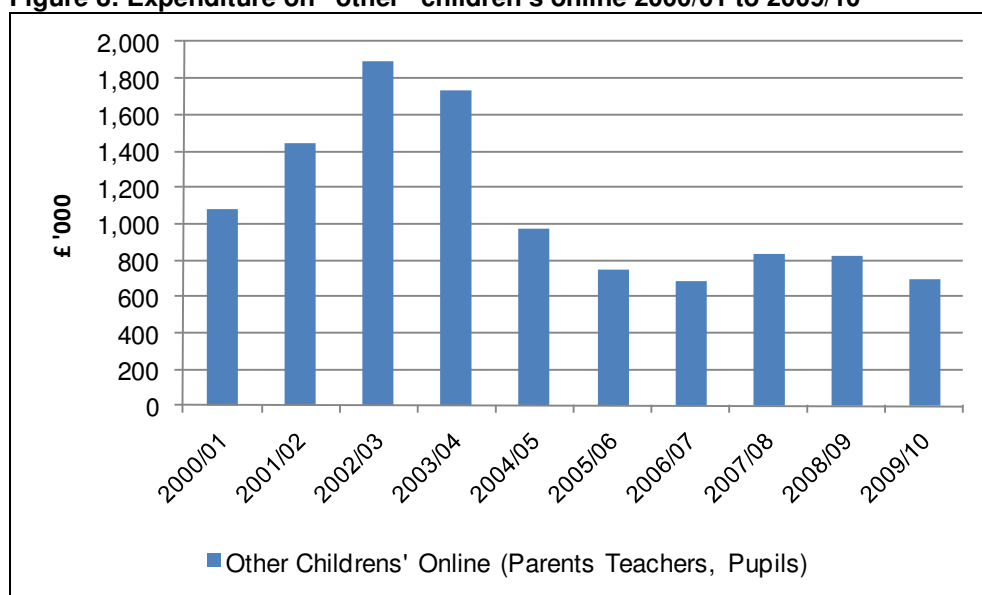
Both of these drivers are key elements of fulfilment of the Public Purposes. The key changes to the Learning Portal during the assessment period were:

- A redesign in December 2008 to improve navigability and accessibility of content; and

- Content from Bitesize KS2 and KS3 (127 lesson plans and integrated worksheets) and KS1 (20 worksheets) were transferred to the teachers area of the portal.

The trend in total expenditure on “other” children’s online web sites (i.e. Parents, Teachers and Students areas, excluding Bitesize and Learning Zone Broadband) is provided in Figure 8. The expenditure on the redesign of the Learning Portal is included in these numbers (approximately £20,000 of spend plus allocated staff and overhead costs).

Figure 8: Expenditure on “other” children’s online 2000/01 to 2009/10



Source: BBC Learning

2.2 How the relevant BBC educational activities deliver against the public purposes

The BBC’s formal education activities come under the ambit of “Priority (iii)” within the broader Promoting Education and Learning Purpose Remit¹⁶:

“Promote and support formal educational goals for children and teenagers and support adult education, especially related to essential skills development. Measurement of this priority will be split out into:

- (i) formal education for children/teens and
- (ii) formal education/ skills for adults.

For children and teens education, the Trust will measure audience perceptions of the BBC helping their children/teens with what they learn at school/college.”

¹⁶ http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/purpose_remits/education.pdf

Further references to the Public Purpose are contained within the BBC Online service licences:

- The April 2007 [bbc.co.uk](http://www.bbc.co.uk) service licence¹⁷ – “[bbc.co.uk](http://www.bbc.co.uk) should make a very important contribution to this purpose amongst its users. It should offer something of educational value to people of all ages. It should invest in content that creates educational value for schools, children, parents and teachers. It should continue to develop, as a key priority, a comprehensive provision for children, to ensure availability of UK online content for children, directed towards learning outcomes and promoting safer use of the internet.”
- The August 2009 [bbc.co.uk](http://www.bbc.co.uk) service licence¹⁸ – “BBC Online should make a very important contribution to this purpose amongst its users by offering something of educational value to people of all ages. It should be the main platform for delivery of the BBC’s formal learning output for children and adult learners and for parents and teachers. It should seek to use the on-demand and personalisable characteristics of the internet to offer learning tailored to users’ needs.” The licence also states that, “BBC Online should be the BBC’s main platform for formal learning output. It should offer content that creates educational value for children, parents, teachers and adult learners across the UK. The BBC’s online formal learning resources should be developed in close collaboration with external partners, including curriculum bodies, academics and teachers. BBC Online should provide formal learning resources aimed primarily at children. These may cover a broad range of subjects and skills. Key propositions include revision and recap for school children and a proposition to encourage teenagers’ skills development. There should also be resources to support parents and teachers, including those which make use of archive broadcast content.”

The Trust monitors the BBC’s delivery of the Public Purposes using largely quantitative measures based on perceptions of the BBC’s delivery of the Purpose priorities by licence fee payers. The relevant BBC educational activities have been assessed by the BBC Trust on a number of occasions:

¹⁷http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/online/online_servicelicences/bbc_co_uk_servicellicence_30apr2007.pdf

¹⁸http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/online/online_servicelicences/bbc_online_aug09.pdf

- Review of BBC Online¹⁹ in May 2008;
- Review of Children's Services and Content²⁰ in February 2009;
- Review of services for younger audiences²¹ in June 2009; and
- In Annual Purpose Remit Surveys.

Findings include:

- Formal learning content was among the most used and most valued areas of bbc.co.uk. Children's learning material was in particular praised for its blend of education and entertainment (May 2008).
- The BBC should do more to inter-link complementary parts of the online portfolio (May 2008).
- Usage levels of the BBC's formal learning content are high and research indicates that users value the content provided (May 2008).
- Usage for content broadcast on television and radio had declined significantly, 55% of teachers said they would be happy for all BBC content to be provided online²². The Trust noted that the BBC was shifting its formal learning video content online through its Learning Zone Broadband web pages where footage is referenced to the curriculum so teachers can more easily access relevant material from the BBC archive (May 2008).
- Parents believed the BBC could do more to deliver the learning purpose, specifically to help their 'children/teens with what they learn at school/college' (February 2009).
- The Trust supported BBC's intention to create stronger links between Formal Learning, CBBC and Knowledge (a department that provides factual content) as this would strengthen the BBC's combined contribution to the learning public purpose (February 2009).
- Very little performance data on Learning Zone Broadband are available as it is a relatively new proposition (June 2009).

¹⁹http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/report_bbc.co.uk_review.pdf

²⁰http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/childrens/childrens_review.pdf

²¹http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/yar/yar_review.pdf

²² BBC Learning Teacher's Tracker, Wave 3, June 2008, GfK NOP.

- The BBC's formal learning proposition offers good value for money. In particular, BBC Bitesize at 8p for each weekly unique user was found to be significantly cheaper than the cost per unique user of BBC Online (June 2009).
- The Trust concluded that: "on the basis that the BBC's formal learning websites are heavily used, well liked and make a strong contribution to delivering the BBC's public purposes, as well as their relatively low cost per unique user, we believe their value for money is good" (June 2009).

In respect of performance, the Trust considers a number of key metrics – including awareness, usage, ratings and propensity to recommend (quality proxies). The most recent data from BBC Learning research (teachers' and children's "trackers"²³) indicate that:

- 51% of primary school pupils, 89% of secondary pupils, and 86% of teachers are aware of Bitesize.
- Claimed Bitesize usage by pupils is 52% (primary) and 71% (secondary). For teachers, claimed usage is 64% (primary school teachers) and 71% (secondary school teachers).
- In respect of ratings, 65% of primary school pupils, and 59% of secondary school pupils score Bitesize at least 7/10. For teachers the proportion is 72%.
- Awareness and usage of Learning Zone Broadband class clips remains low – 74% of teachers were not aware of Learning Zone Broadband and 4% were aware of it and had used it.

We consider the market context and position of the relevant BBC educational activities in the next section.

2.3 Market context, key trends and providers

In this section we describe the market context, key trends and identify the relevant providers. At a high level the market may be termed the market for educational software. Within this, there are a number of distinctions²⁴:

- Users: students vs. teachers;
- Use: home use vs. school use;

²³ BBC Learning Children's Tracker, Wave 5, June 2009, GfK NOP and BBC Learning Teachers' Tracker, Wave 5, June 2009, GfK NOP.

²⁴ This is a non-exhaustive list.

- Platforms: online vs. offline (including broadcast);
- Producers: publishers, broadcasters, others (includes schools and other publicly funded organisations); and
- Products: curriculum-based vs. entertainment-based; standalone products vs. managed learning services; multi subject offerings compared to those focused on a single subject.

The following observations serve as useful context:

- Use of the internet – the internet is now the most widely used teaching resource by both primary and secondary school teachers²⁵, and students at primary and secondary schools identify the internet as the most helpful resource to aid them with their school work²⁶.
- There are no published estimates on the home software market. Based on a combination of interviews and research for BBC Jam, according to Scintilla Associates²⁷ it is small in revenue terms, largely owing to the prevalence of free materials. This is corroborated by BESA members.
- During the period January 2005 to the end of August 2008, there was a ring-fenced fund for teaching professionals to purchase digital learning resources using e-Learning Credits (“eLCs”), the Curriculum Online Project. The funding totalled over £500m. Findings reported in the third Content Advisory Board report²⁸ stated that eLCs had a major impact on sales, encouraged new entry by many small firms into the sector and a positive but limited impact on investment and innovation. It was also stated that for many firms (particularly the larger ones) eLCs were associated with the creation of an environment where there was confidence to invest in the sector, despite the BBC’s market entry (BBC Jam). The Content Advisory Board estimated that levels of spend were as follows in specific academic years:
 - £30m–£40m in 2002–3 (compared with an eLC allocation of £30m);
 - £90m–£100m in 2003-4 (compared with an eLC allocation of £100m); and
 - £75m–£85m in 2004-05 (compared with an eLC allocation of £100m).
- After eLCs ceased, all school ICT funding is now accessed via the Harnessing Technology Grant which largely covers capital expenditure. Schools are able to use

²⁵ BECTA, Harnessing Technology Strategy Review, 2008.

²⁶ BBC Learning Children’s Tracker, Wave 5, June 2009, GfK NOP.

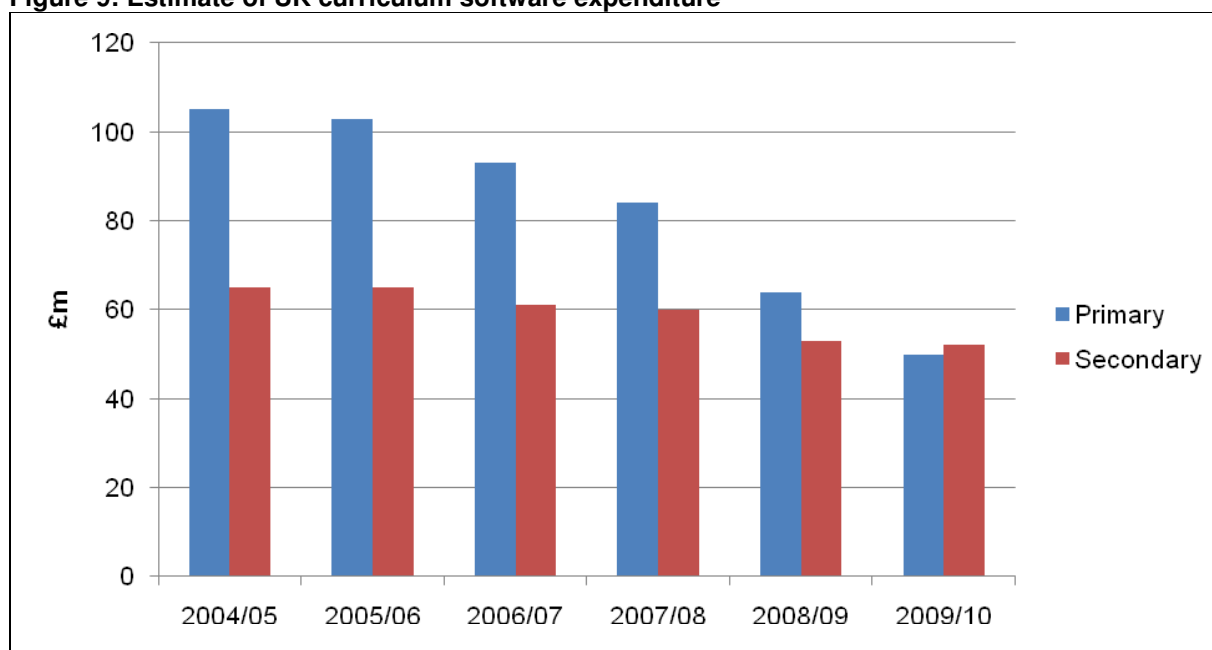
²⁷ Review of the Educational Software Market, Scintilla Associates, July 2009 (the “Scintilla Report”). This report was produced for the BBC.

²⁸ http://foi.becta.org.uk/content_files/corporate/resources/foi/archived_publications/cab_report3.pdf

other sources of funding in addition to the Harnessing Technology Grant to pay for technology-related products and services – these include Devolved Formula Capital and the School Development Grant (for revenue expenditure). Schools spend about 18-19% of their ICT resources on educational software, which equates to about £3,520 for a primary and £15,000 for a secondary school²⁹. According to the Scintilla Report, penetration of more than 500 schools is considered a “successful” business.

- Key Stage 3 National Tests (SATs) were abolished on 14 October 2008 and replaced with increased teacher assessment.
- Estimates of market size (in revenue terms) range significantly. According to the Scintilla Report³⁰, the schools’ market for educational software appeared to be around £141m (July 2007) and declining by around 7% per annum. In 2004/05, BESA estimated the market to be £170m (in revenue terms) although the then Content Advisory Board³¹ estimated that the market generated £75m to £85m revenue. Figure 9 provides BESA’s most up-to-date estimates of market size for curriculum software spend based on its survey of schools. The data we reviewed suggest that revenues peaked in 2004/05.

Figure 9: Estimate of UK curriculum software expenditure



Source: BESA³²

²⁹ The Scintilla Report.

³⁰ Ibid.

³¹ Set up to advise the Secretary of State for Education and Skills on the performance of Curriculum Online in relation to the development of online digital learning resources for schools.

³² ICT in UK State Schools 2009 Summary Report, BESA.

- Maths, ICT, English and Science (known as “core” curriculum subjects) account for more than 90% of the market by value.
- In respect of market structure, published estimates indicate that the top 5 and top 10 suppliers account for around 50% and 60% of the market respectively. The remainder of the market is accounted for by a large number of small suppliers - estimates of supplier numbers suggest that there are at least 811 companies active. Of these, around 144 specialise in CD-Roms and 200 in online curricular content (although companies may operate in more than one segment). Based on a market mapping of a small proportion of online curricular content available, Scintilla Associates identified:
 - For primary schools 25 cross-curricular products of which 9 were free, and 51 subject-specific products of which 12 were free; and
 - For secondary schools, 17 cross-curricular products of which 9 were free, and 43 subject-specific products of which 14 were free.
- According to Scintilla Associates, the larger suppliers include:
 - RM plc, with revenue of £14m from curriculum software in 2008 (RM plc no longer produces content);
 - Espresso Education, with turnover of £11m in 2008;
 - TAG Learning, with turnover of £4.2m (including hardware) in 2007 and having 35% of schools as customers; and
 - The Guardian’s Learn Professional Service with turnover of £1.5m.
- The sector is characterised by low margins and budgets for development tend to be typically around the low tens of thousands, with a significant difference between content developed for school use and that developed solely for entertainment use. Product quality varies significantly and Scintilla Associates report that publicly funded products are perceived to have relatively high quality (such as Sonica for Spanish).
- The sector is highly segmented and there are a range of dimensions across which it can be assessed and sub-divided. Obvious divisions arise from subject coverage and age range coverage (both at the primary/secondary level and also as between different key stages). The main paid-for products are those which cover several curriculum areas (many of which can be made available for use by students at home for an additional

- price). Scintilla Associates also note that there are “a huge number of free resources available for each subject area”, but that these are often without “pedagogic wrap-around” making them of use to teachers but requiring direction to make them educationally valuable for learners.
- Based on BBC Children’s Tracker market research, the resources with highest awareness among primary school students were:
 - free and not for educational purpose solely: Google, Wikipedia;
 - free and for educational purpose: Bitesize (tagged to curriculum), Yahoo! Kids;
 - paid and tagged to the curriculum: Espresso Primary, Channel 4 Learning (Espresso), Education city, Juniors.net, Grid Learning (Grid Club), and SAM Learning.
 - In the same market research, the resources with highest awareness among secondary school students were:
 - free and not for educational purpose solely: Google, Wikipedia;
 - free and for educational purpose: Bitesize (tagged to the curriculum), BBC Blast, Britannica, AOL KOL; and
 - paid and tagged to the curriculum: Espresso Primary, Channel 4 Learning (Espresso), Education city, Juniors.net, Grid Learning (Grid Club), SAM Learning, MyMaths, S-cool.

2.4 Relevant market and market shares

Analysing competition between undertakings needs to be conducted in the context of what the undertakings are competing over. That is, using competition law terminology, there is a need to consider what the relevant market is. In this context, a relevant market is one that defines a number of products which are sufficiently close substitutes that they can be considered to compete directly. The consideration of “sufficiently close” can often be extremely complex and there is a range of detailed empirical approaches which can be used to determine the relevant market. However, a relevant market is a tool of analysis and its definition is not an end in itself. For the purposes of this report, the relevant question is whether the BBC activities compete with and have a competitive impact upon the provision of commercially provided services. Addressing this question does not require a precise analytical definition of the relevant market based on a detailed analysis of substitutability between all relevant products.

The CIA process differs from standard competition analysis. Importantly, the CIA process considers whether there is, or is likely to be, a significant negative competitive impact. This does not require a formal finding of dominance to establish (though clearly the extent of market power which the BBC does or does not have is relevant). The CIA process also needs to be proportionate (as discussed in Section 1) and a formal market definition process would involve significant resources and such a process is neither justified nor indeed required for establishing whether there is a competitive impact in this instance.

2.4.1 The extent of the relevant markets

While an exact delineation of which products compete with each other is not required, some consideration of the broad scope of the market is required. Defining the relevant markets was considered in 2002 in the context of discussions around the Digital Curriculum / BBC Jam.³³ At that time the markets were defined “at least as wide as”:

- provision of educational software resources to formal learning environments (e.g. schools) in the UK;
- provision of educational software resources to informal learning environments (e.g. homes, libraries) in the UK; and
- production of educational software content (and related services) in the UK.

These market definitions were not significantly disputed at the time and we have been provided with no arguments or new evidence which suggests that the situation has substantially changed. The key elements here are that there are two groups of “consumers” of the relevant activities, who make decisions on which resources to use, which can be characterised as:

- pupils in the home; and
- teachers in schools (either directly or via Local Education Authorities).

BBC Learning’s regular market research is based around such a split and this broad delineation is how both BBC Learning and BESA members view the markets; suggesting that this is a reasonable way to view the markets. It is feasible that a consideration of the detailed substitutability between individual offerings could lead to a more complicated picture (for example, there may be some individual subject markets and differing degrees of substitutability depending on whether a “full” range of subjects was covered compared to more subject specific

³³ See PricewaterhouseCoopers “Market Assessment of the BBC’s Digital Curriculum Proposal”, Final report for the BBC, May 2002. See also NERA “Market Assessment of the BBC’s Digital Curriculum Propositions – A review of the PricewaterhouseCooper’s report”, report prepared for the Digital Learning Alliance, July 2002.

resources).³⁴ The question of whether the BBC has a negative competitive impact and the extent of that impact if so is not significantly affected by such questions and it is not proportionate to consider such issues further.

2.4.2 Assessing competition in the relevant markets

It is worth noting at this stage (and we discuss further in Section 3.2) that commercial providers almost exclusively supply to the schools market. Currently, and historically, there has been little appetite in the homes market for software or on-line resources that require payment. While there are some revision services which attract small fees, the vast majority of commercially provided educational content earns its revenues from schools (and teachers' purchasing decisions).

In considering the question set by applying the CIP, the exact extent of the relevant market would most obviously be key if there was a possibility that the BBC's activities were in an entirely separate relevant market to those of the commercial providers meaning that they could, by definition, have no competitive impact. It appears uncontroversial that this not the case. Given that the different products are competing at least to some extent, what is required is an assessment of the available evidence of the degree to which there is a negative competitive impact.

The other potential way in which the exact extent of the relevant markets could significantly impact on the subsequent analysis would be if the BBC's activities competed in a sufficiently wider market that its market power was so negligible that it was not capable of having a negative competitive impact. The two key ways in which the market could conceivably be widened are: first, to include other educational resources such as printed materials and, second, to include other more general information resources available on the internet but not aimed specifically (or solely) at school pupils and teachers (for example, Wikipedia, Britannica, or even sites such as YouTube). PwC and NERA both concluded that it was not appropriate to widen the market to include other educational material, at least in the short term. BBC Learning's market research (Teachers' Trackers) suggests that textbooks and educational software are still seen as distinct or complementary products and not substitutes. In terms of purchasing behaviour, the funding arrangements vary for these different types of resources. It remains conceivable that this could change in the future, but has not thus far.

There is a wide range of material available on the world wide web (including significant resources available for free which can be used in an educational environment: both specifically designed for

³⁴ We have seen no evidence to suggest that the BBC has a particularly differentiated competitive impact across different academic subjects (and this is not an issue which has been raised by BESA and its members in our discussions with them).

educational purposes³⁵ and more general material.³⁶ Clearly this material is, at least to some extent, a substitute for the products provided by the BBC and the commercial education software providers. The impact or otherwise of such materials therefore needs to be considered when considering competitive impacts (as discussed in the next section). We have not considered it necessary to define formally whether such providers are or are not in the same relevant market as their inclusion would not significantly change the fact that the BBC is well known in this sector and provides educational materials used by a significant proportion of pupils and teachers, making it, at least one of, the largest undertakings in any relevant market (as measured by usage).

2.4.3 Assessing market shares

There are significant practical difficulties in assessing market shares in these markets. First, the BBC's activities (and those of various other providers of relevant material) are provided free to the end user. Revenue market shares would therefore not provide useful or germane information. Volume market shares are also problematic in a number of ways. There is no one volume metric that accurately indicates the nature of competition, nor one that can be applied across the different types of provider on a comparable basis. For example, the number of schools in which different products are available (the way in which many of the commercial providers actually sell their services) does not capture the extent to which BBC activities actually displace commercial products or not (while relevant BBC activities are "available" in every school with internet access, this does not imply, however, a 100% market share). Arguably, measures of actual usage are therefore more relevant, but these do not always capture the extent to which the relevant BBC activities are, or are not, impacting the profitability or revenue of commercial providers. It is conceivable, for example, that usage of the relevant BBC activities could be increasing without impacting on the number of schools also wanting to subscribe to commercial products.

As a result of these considerations there is therefore no appropriate market share measure which unequivocally shows competitive impacts (before there is even any consideration of what reliable data and data series are actually available on a market wide basis over the assessment period).

2.4.4 The position of the BBC in the relevant market

Despite this, it is important to provide some assessment of the position of the BBC compared to other providers in the market(s). We consider that there is indicative evidence in this respect, which all generally points in the same direction. In short, BBC Learning appears to be a 'significant player' in the provision of educational software materials: awareness and usage (at

³⁵ There are significant free educational resources available on the internet provided by individual teachers and schools, and various on-line forums (such as the TES website). Notable examples include Woodland Primary School, Coxhoe School Primary Resources and the Hamilton Trust.

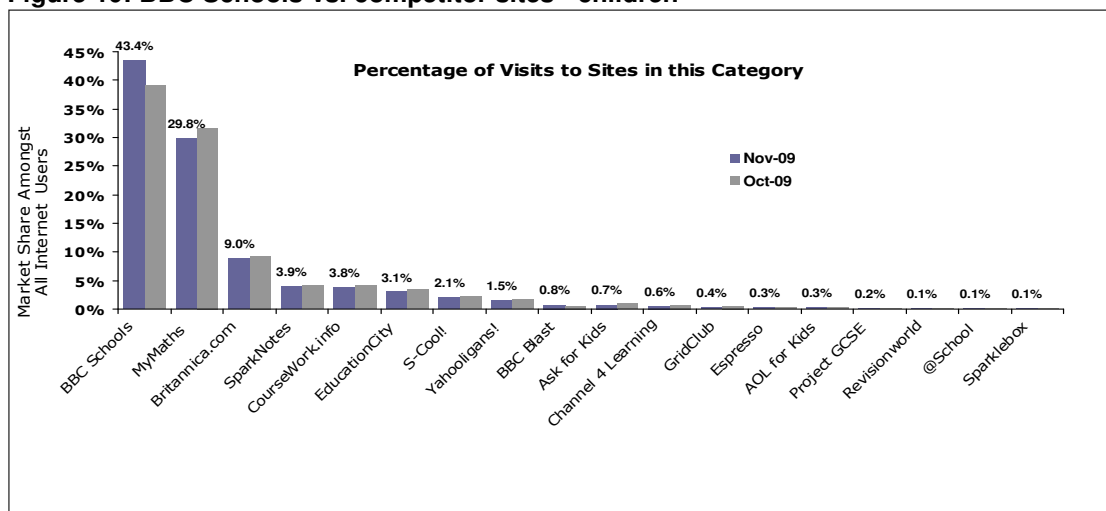
³⁶ For example, the Scintilla report notes that some teachers have lists of general websites they use and explicit mention is made of use of Video clips from YouTube and images from Google "used by nearly all teachers interviewed in most lessons".

least of Bitesize) and its expenditure on developing the relevant activities, compared to the main commercial companies active in the sector is large. The remainder of this section provides a discussion of the indicative evidence available in support of the BBC’s position in the market(s).

There are a number of difficulties establishing the market position of the relevant BBC educational activities arising from the characteristics of the segments in which the activities have a presence (teachers vs. pupil use; free vs. pay), establishing the universe of the segments, and the metrics available to measure the segments. Consequently we need to consider a number of indicators, some of which may not be comprehensive or precise. In the schools subscription market it is particularly difficult to establish a robust estimate of the BBC’s position as usage data are less relevant than subscription data. As stated, as the relevant BBC educational activities are free at the point of use, we are unable to determine any meaningful BBC revenue market share.

BBC does track its market share in the children’s and teacher’s segments³⁷ based on unique visitor data. It considers its share of unique visitors to specific educational web sites (these data do not of course indicate usage). In Figure 10 we indicate the most recent data supplied by BBC Learning in respect of site visits by children. This demonstrates that the BBC Schools family of websites has a high market share of the universe of sites tracked by Hitwise.

Figure 10: BBC Schools vs. competitor sites - children



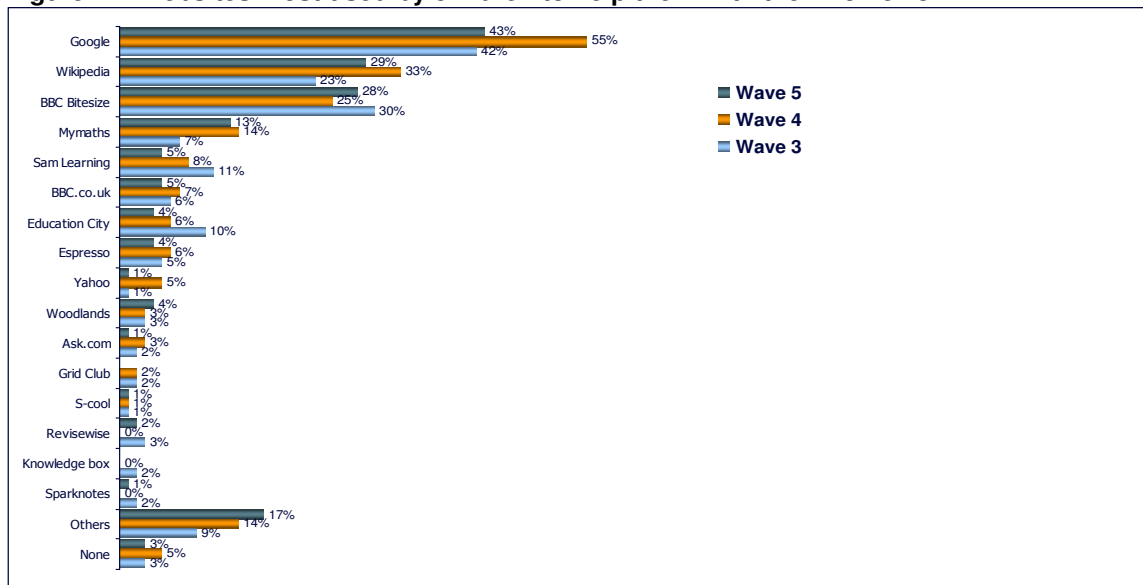
Source: Hitwise

In Figure 11, which indicates the websites most used by children to help them with their homework, BBC Bitesize is the third most popular. Other findings from the survey, the GfK NOP Children’s Tracker, are that awareness and usage of Bitesize remains high compared to its

³⁷ These data are from Hitwise. They may not capture the total universe of visits to all educational websites.

competitors, and that Bitesize is not used as frequently as Wikipedia and MyMaths amongst secondary school pupils.

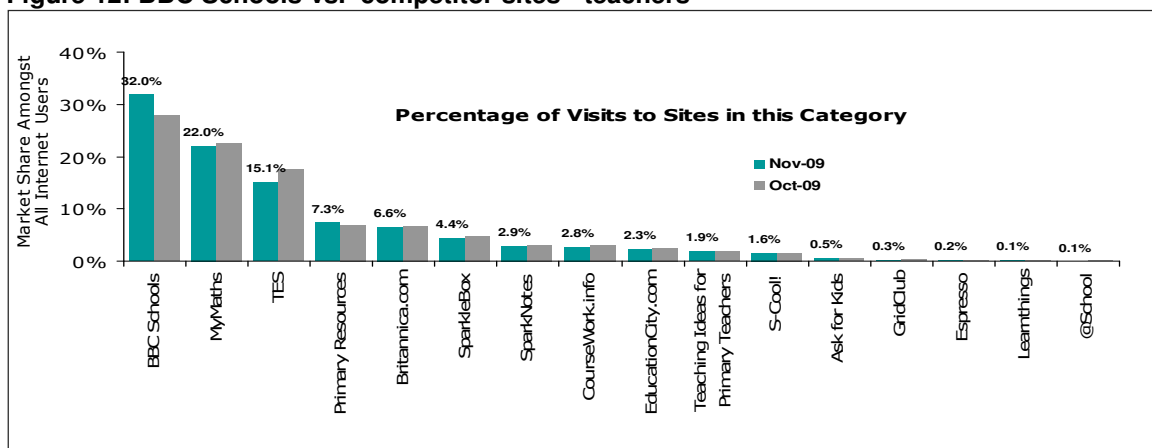
Figure 11: Websites most used by children to help them with their homework



Source: BBC Learning Children's Tracker, Wave 5, June 2009, GfK NOP

In respect of teachers, in Figure 12 we provide the most recent Hitwise visitor data shares that indicate the BBC Schools' market share in November 2009 was 32%.

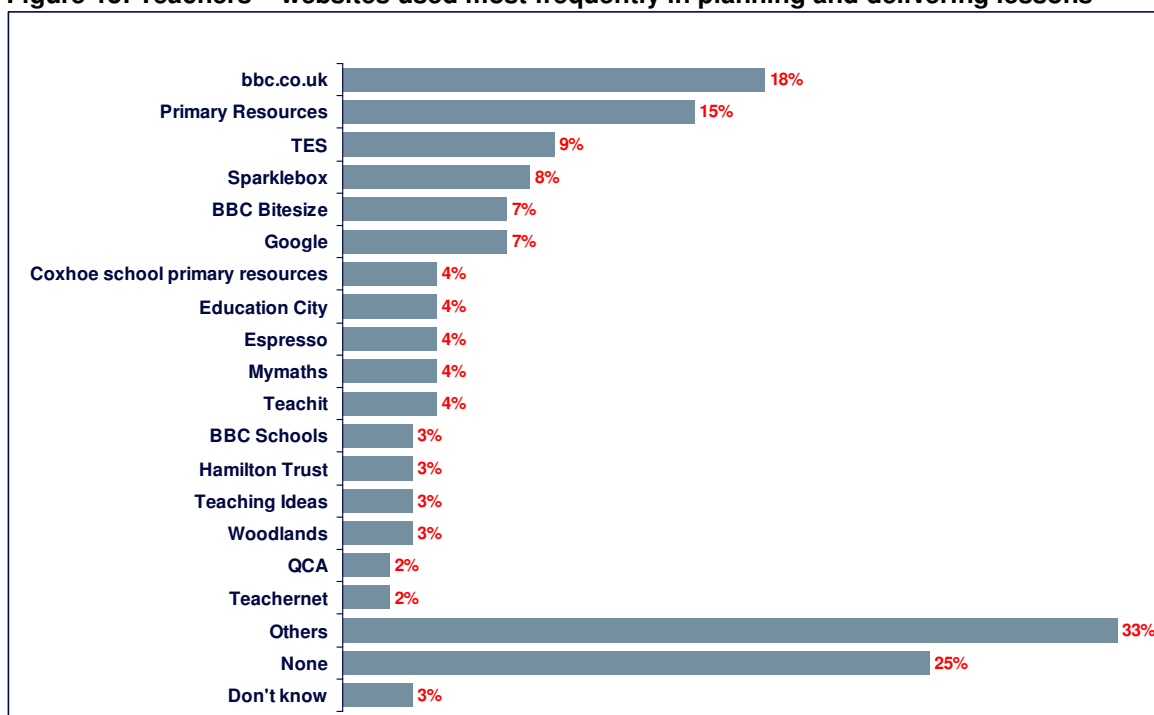
Figure 12: BBC Schools vs. competitor sites - teachers



Source: Hitwise

In respect of teachers' usage of websites, in Figure 13 we provide statistics on the websites used most frequently by teachers in planning and delivering lessons from the June 2009 Teachers' Tracker from GfK NOP. This figure, together with other findings in the survey demonstrate that BBC.co.uk was top of mind when teachers were asked which educational sites they used; awareness and usage of BBC Bitesize sites remains higher than its competitors; 85% of primary teachers and 74% of secondary teachers have used a BBC website in the last term; and 80% of teachers who use Bitesize websites also use other Bitesize learning resources.

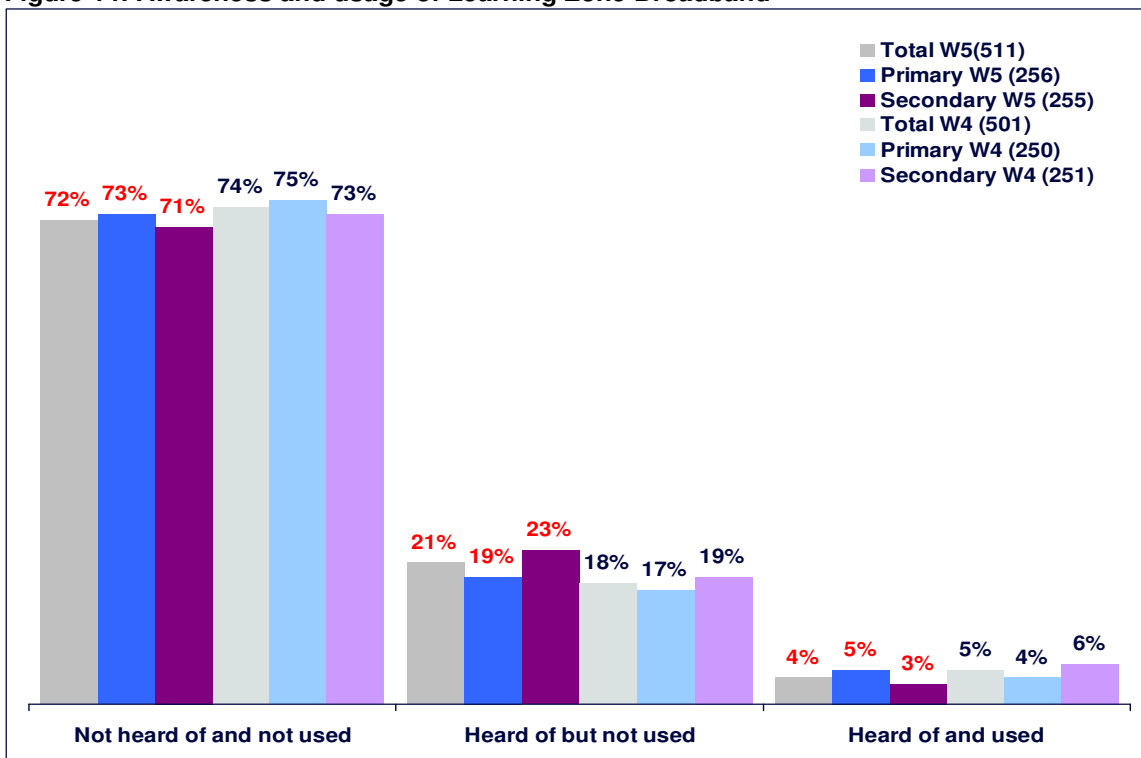
Figure 13: Teachers – websites used most frequently in planning and delivering lessons



Source: BBC Learning Teachers' Tracker, Wave 5, June 2009, GfK NOP

The Learning Zone Broadband has limited usage data available as it is a relatively new activity. Moreover, we do not have data on market context, that is the prevalence of use of audiovisual clips by teachers and usage data by provider. Data from the Teachers' Tracker survey, however, indicates that awareness and usage of Learning Zone Broadband is low, as demonstrated in Figure 14.

Figure 14: Awareness and usage of Learning Zone Broadband



Source: BBC Learning Teachers' Tracker, Wave 5, June 2009, GfK NOP

Turning to the extent of BBC spending and investment in the relevant activities, as an indicator of its scale and importance in the sector, the expenditure data shown in Figures 3, 4, 6 and 7 in Section 2.1 are significant compared with the resources available to develop commercial offerings. BESA members have informed us that £1m worth of investment is very significant in this sector and considerably beyond the development budget available to any individual commercial provider. This is borne out by a high level review of the accounts of Espresso Education Limited. Intangible assets on its balance sheet are under £8million which can be considered to be the accumulated value of its product development to date. An annual spend of between £1m and £2m would clearly represent a major burden to a company of this size (one of the larger providers of curriculum software services in the commercial sector). SAM Learning only publishes abbreviated accounts, but its total net assets for the year ending 31 July 2008 were just over £0.5m. [X]

3 Impact of the relevant BBC educational activities on commercial educational software sector

Our scope of work includes an assessment of the current market impact of the relevant BBC activities as a whole. This section provides a high level view of the competitive position of the BBC vis à vis other providers in the market, including an assessment of the available evidence of the scale of BBC activities compared to the market as a whole. We note that while not directly applicable to the application of the CIP to changes in the relevant BBC educational activities over the assessment period, it provides important context to that consideration, and is required as part of the terms of reference of the study.

A number of stakeholders raised a range of issues that are clearly beyond the scope of our work. These were in relation to the scope of the BBC activities: how the BBC interprets the Public Purposes and how it fulfils them. We note that any weighing up of the relative merits of the actual BBC activities in this area compared to other potential BBC activities (i.e. whether there are alternative ways of achieving the Public Purposes) and subsequent balancing of relative effects on competition and Public Purposes delivery based on a range of alternative hypothetical approaches the BBC could take, are clearly beyond the scope our work. Our study is specifically aimed at reviewing the impact of the relevant BBC educational activities as they are today and whether any negative impacts of changes to the activities could have been minimised without compromising the achievement of the Public Purposes. In this section we therefore consider only the overall impact of the BBC's activities within scope, in order to provide context and a benchmark against which to consider those more limited questions.³⁸

The relevant BBC educational activities could have an impact on the wider market in a number of ways. Section 3.1 considers, in principle, what these effects could reasonably be, providing a basis for assessing whether such effects are occurring in practice and whether they are significant. In Section 3.2 we consider the current impact of the activities against the available empirical evidence.

3.1 Potential interaction between BBC learning activities and commercial sector

At a high level, the relevant BBC educational activities provide resources to pupils and teachers for use as a recap and revision tool and are used in schools as one input to planning and delivering lessons. These activities are provided free at the point of use to students and

³⁸ We have not been asked to address, for example, any consideration of the relative competitive impacts and delivery of the Public Purposes of Bitesize as a whole compared to alternative educational activities the BBC could conceivably have delivered or whether Learning zone Broadband represents an appropriate use of the BBC's public funding compared to alternative ways of using such funding to deliver against the Public Purposes. That is, we are not assessing the relevant BBC education activities against the full range of potential alternatives which are hypothetically available. We are considering the actual competitive impact of the activities which exist and applying the CIP to changes in those activities over the assessment period.

teachers. Aspects of these activities are similar to those provided by the commercial sector and through other websites which offer educational materials (or materials with an educational value) for free as well.³⁹ Educational resources produced by other providers also contain elements and additional functionality which are not available from the BBC activities. Some commercial products provide teachers with specific support and training for example, or make it possible for teachers to track to what extent which pupils have worked through different materials.

The BBC's presence on the market in this way could potentially have a number of impacts both positive and negative. The relevant BBC Trust policy statements (and consequent BBC Fair Trading Guidelines) make clear that the relevant benchmark is consumer welfare.⁴⁰ All else being equal (a crucial caveat) it can be assumed that welfare is maximised in a competitive environment. However, it is the competitive process and not individual competitors which needs to be protected here. Positive competitive impacts are considered in this section in assessing the impact of the relevant activities on the market as a whole. This also provides context, but we note that assessment of positive competitive impacts is not relevant to the application of the CIP.⁴¹

3.1.1 Potential positive competitive impacts

In respect of positive impacts on the market, the existence of free resources with BBC branding could increase overall awareness of the use of ICT in classrooms and for learning at home. This increasing awareness of the benefits of these resources may be expanding the opportunity involved for the market as a whole and increasing use of educational software and on-line resources as a learning tool (for example, at the expense of more traditional textbooks). These resources, Bitesize in particular, also promote internet literacy more generally amongst a key audience. Another potential positive impact is that the BBC is a significant customer for third party suppliers to this market and its relatively stable (public) funding is enabling investment and expansion in skills by such third party providers. This, all other things equal, creates a greater pool of talent available to all providers. The presence of the BBC, which arguably can operate to longer time horizons than a provider subject to commercial constraints, could also be increasing the quality of educational materials through its investment and ability to leverage other skills within the wider BBC (making use of economies of scale and scope). This may lead to general increases in expectations of pupils and teachers around the quality of the content (such as depth, visual appeal, interactivity etc.). Through the mechanism of competing with other providers of educational content, this could lead to a general improvement in the quality of educational content available.

³⁹ See footnotes 34, 35 and 58.

⁴⁰ See footnotes 5 and 7.

⁴¹ Hence these potential competitive impacts are not considered further in Section 4.

3.1.2 *Potential negative competitive impacts*

Potential negative competitive impacts also could arise in a number of ways. Most simply, the BBC could be providing for free a direct substitute to what the commercial sector can only provide as a paid for service. If teachers perceive the BBC product as a direct substitute they may therefore switch to the lower price (i.e. free) BBC offering if any differences in functionality or quality are not perceived commensurate with the price of commercial products. If the BBC activities are direct substitutes in this way, the negative impact on sufficiently substitutable commercial products will therefore be significant. There are also a number of more indirect mechanisms by which the BBC could conceivably negatively impact the market.

- The level of BBC investment could be at a scale with which the commercial sector cannot reasonably or profitably compete. This will lead to the BBC's activities being of such a scale and quality such that it makes no commercial sense to compete; the BBC's investment therefore acts as a barrier to entry. It is worth noting that this is essentially the same effect described above where BBC's investment in quality increases standards in the sector and the difference in the effect is simply one of scale.
- Another potential negative impact is whether the BBC's investment in this sector crowds out commercial investment. The mechanism here would be that, if there is a limited pool of talent and resource available for developing educational resources, then the BBC in its unique position as a publicly funded provider in this sector could take a disproportionate share of the available resources making it too expensive or even impossible for the commercial sector to gain access to the necessary inputs to develop new materials.
- The scale and breadth of the BBC in all of its activities also could mean that it could create considerable investment uncertainty for the commercial competitors. Development of BBC products is not subject to the same considerations as those impacting on a commercial provider and its ability to use public funding creates different constraints on the BBC than will face a commercial provider. In deciding whether to invest in a particular product and the risks around making a return on that product, a commercial provider could face significantly higher risks if it does not know if a close alternative may be developed and provided for free through public funding. In principle, this could lead to a chilling effect on investment by the commercial sector.
- Finally, the ability of the BBC to source material across a wide range of subjects, with access to a broad base of original content, could mean that it can provide an educational resource that is so comprehensive it becomes a "one stop shop" for pupils and teachers. That is, it may be argued that the scope of the BBC's activities reach a tipping point such that they become the de facto standard and (given their inherent greater ability to

promote BBC activities than most commercial providers) this means that they crowd out the market through having greater convenience, ease of use and awareness such that no teacher or pupil would have the incentive to look for alternatives.

The above discussion has outlined the ways in which the relevant BBC educational activities could conceivably have an impact on the wider market. The next question is whether these effects are occurring in practice. In the next section we consider each of these direct and indirect effects based on the evidence (both written materials and stakeholder interviews) FTI has assessed.

3.2 Current market impact of the relevant activities as a whole

3.2.1 The scale of the BBC activities in the relevant markets

For any of these potential impacts to be significant, BBC Learning would need to be of a scale relative to the market(s) such that its activities, by being used by a large number of pupils and/or teachers, are capable of having a material impact on other providers to those end users. As discussed above, calculating market shares is fraught with a number of difficulties. However, there are indicators which demonstrate that the presence on the market of the relevant BBC educational activities is sufficient to have a material impact on at least some competitors. None of these is conclusive in and of itself, but taken together they paint a picture that the BBC is clearly a major player in the relevant markets i.e. BBC reaches sufficient users such that its actions are capable of having a material impact on competition. Indeed, given its public funding and objectives to achieve the educational Public Purposes it would be concerning were this not the case.

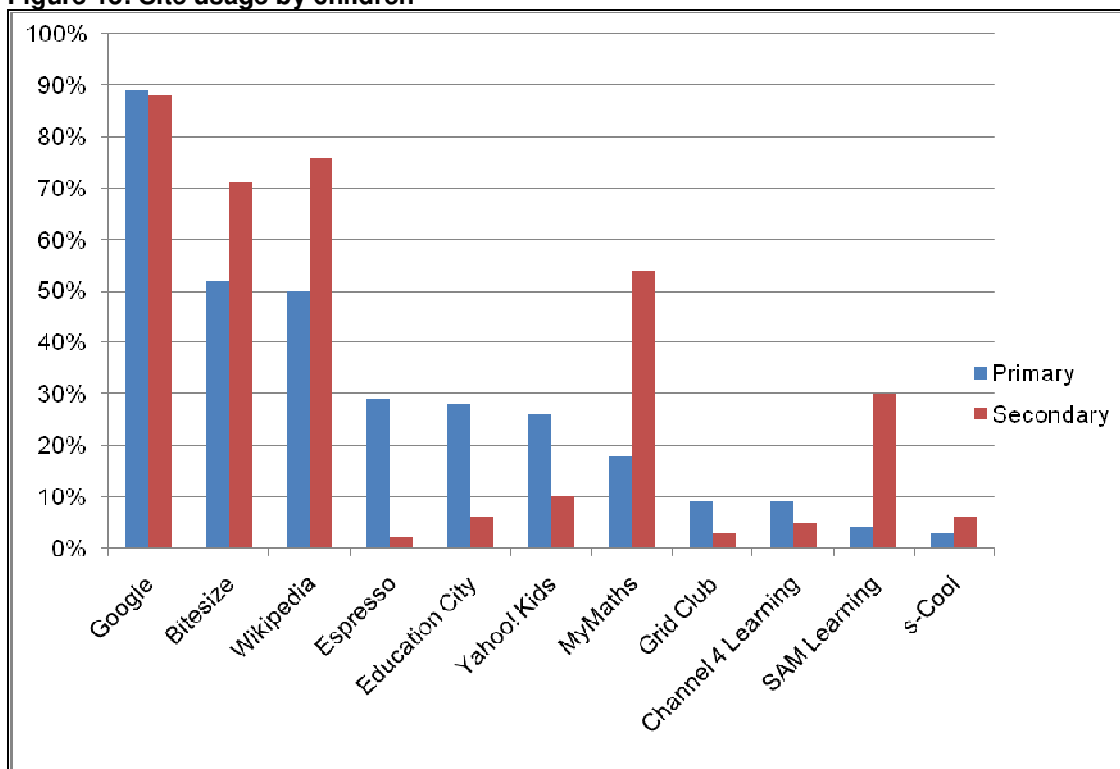
BBC Learning's Children's Tracker market research, for example, implies a share of usage compared to key alternative sites for BBC Bitesize of around 16% in primary schools and 19% in secondary schools.⁴² A large number of children are using Bitesize according to the same research (71% of secondary school children and 52% of primary school children). The difference between these figures arises because there is a high degree of usage from multiple sites. The comparator sites in this research also include general interest sites such as Wikipedia and Google. Bitesize's market share would naturally be higher should these types of site be excluded.

Figure 15 shows the usage of BBC activities compared to a number of the other key websites in the most recent of the BBC's "Children's Trackers" for primary and secondary pupils. It can be

⁴² In the estimation of usage points, BBC Learning – Children's Tracker, Wave 5 data were used. The original report allows for multiple answers to the question "Which of these educational websites have you heard of and which have you used?" Taking the usage percentages and multiplying them by the number of participants in the survey, we calculated "usage points". Dividing the usage points for each website by the total usage points, we get the above percentages.

seen that BBC Bitesize has a significant presence and usage in the market compared to comparator sites.⁴³

Figure 15: Site usage by children



Source: BBC Learning (Childrens' Tracker), FTI Analysis

Figures 10, 11 and 12 also indicate that BBC Learning online output is amongst the most popular in terms of usage by pupils and teachers.

Spend on the relevant BBC educational activities is also large compared to the rest of the sector. Figures 4 and 7 show the BBC's spend across the relevant BBC educational activities between 2007 and 2009.

Compared to the overall market size (as estimated by BESA figures provided in Figure 9), BBC spend on Learning Zone Broadband and Bitesize represents around 2-3% of the turnover of the commercial sector. It is important to note, however, that BBC spend relates to investment which is not immediately comparable with market size based on revenue. This scale of investment is at a level that is likely significantly more than the development budget which any individual

⁴³ These are based on Wave 5 of the Children's Tracker based on a survey of 1660 pupils during May and June 2009.

commercial provider is able to justify (that is, from which they could reasonably make a return) in relation to their own products in this sector.⁴⁴

Given the issues in relation to deriving a more exact market definition together with difficulties in estimating market shares, as discussed in Section 2.4, significant further empirical work would be required to reach a definitive view on the size of the BBC compared to its competitors. The distinction between the home use market and resources for use in schools is also important here. Bitesize's target market is pupils, especially for use in the home, although it is clearly also used in schools. The competitive impact on the home market is likely to be minimal as there appears to be no opportunity for paid-for content in this market. Bitesize is also used in schools, however, where there is a commercial market and Learning Zone Broadband is clearly aimed at teachers' use in schools.

A more detailed assessment of the BBC's quantum of competitive impact would need to take into account that not all of the spend or all of the usage identified would be relevant in the competitive schools market. Some would only be relevant to the home market where the BBC is likely to have little impact on the commercial sector as most content provided is available for free. Further, any competitive impact arises where subscribers cease to subscribe due to BBC activities. The subscription choice is a binary one and usage of different sites is only a proxy: increased usage of BBC activities can conceivably be compatible with no change in subscriptions to commercial products (even if impacting on their usage once schools or local authorities have subscribed to them).

The above evidence suggests, however, that the BBC has a material share of the usage of such educational resources and invests an amount which is significant in the context of this sector, under any reasonable definition of the relevant markets.

In this context, we take each of the possible impacts outlined in Section 3.1 above in turn and consider them mainly in the context of the schools market where commercial providers are active as well as the BBC activities being used.

3.2.2 Actual positive competitive impacts

In relation to positive market impacts, these can be summarised as the BBC expanding awareness and market size both on the demand side and on the supply side. On the demand side (that is, does the BBC presence increase awareness amongst pupils and teachers and lead to them using educational software to a greater extent than they would have otherwise done), the

⁴⁴ This is definitely the case in relation to specialist providers such as Espresso and SAM Learning (see discussion at the end of Section 2.4). Larger publishers may have access to similar amounts of development spend but it is not clear whether such providers could make a reasonable commercial profit from such investments. It has been strongly suggested to us that it would not be possible to make a reasonable return on such investments in our discussions with stakeholders.

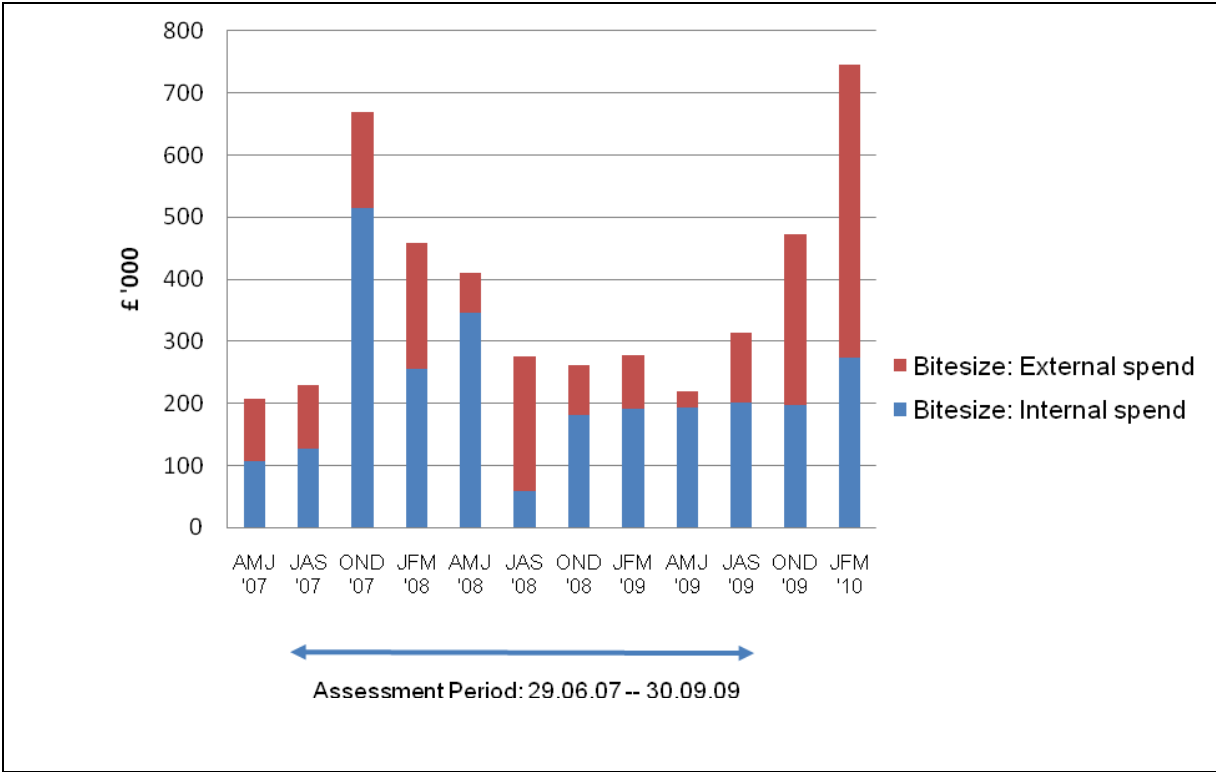
increase owing to the BBC's presence is inherently difficult to judge. A principal reason for this is that there is a general increase in use of information technology and especially world wide web resources across society as a whole. There have been significant increases in fixed and mobile broadband penetration and a massive increase in the awareness (and availability) of internet properties (such as Amazon, Wikipedia, Google, Yahoo, YouTube etc.). A decade ago, these were largely unknown. Amongst this general rise in use and awareness of the internet and educationally relevant material, separating and quantifying the effect specifically due to the BBC is very difficult. Further, the BBC is not the only public sector intervention to increase such awareness and use amongst pupils and teachers (other examples include the activities of BECTA and the funding the government has provided specifically for such educational resources).

BBC Learning's market research shows some increasing awareness over the past few years of various educational software products. It seems likely that the BBC's activities in this area will have contributed to such increased awareness and use by students and teachers (Bitesize, for example, has been advertised on linear television broadcasts which is not a marketing channel typically accessible to most providers in this sector).

Turning to the supply side, and whether the BBC's investment has expanded the pool of developers of educational material and created opportunities for third party to develop, it is clear that the BBC has had a direct positive impact. There are a number of independent digital production companies that derive significant proportions of their income from BBC spending in this sector. These are relatively small companies (a turnover of around £2m per annum would be considered large for such a company) spread across the UK. PACT indicated, in discussions with FTI, that it was likely this group of companies relied on public funding for up to 90% of their revenue and around 45% of their revenue came from the BBC.⁴⁵ The BBC spends a significant proportion of its budget for the relevant activities on external spend as shown in Figure 16. We were informed that the commercial sector does not tend to source material from the independent sector but effectively undertakes similar activities in-house. By creating a wider pool of expertise however, the BBC can be considered to be having a positive and expansive effect on the supply side of the market.

⁴⁵ The balance of public funding would come from other initiatives from the Department of Families, Education and Schools. BBC Learning and (publicly funded) Teachers TV will also provide an important source of customers for a number of independent TV production companies providing schools related broadcast content.

Figure 16: Quarterly Spend of Bitesize split between external and internal spend



Source: BBC Learning

3.2.3 Actual direct negative competitive impacts

The evidence on the extent of the direct negative impacts of the relevant BBC educational activities on the market is more mixed, although it is clear that there is some such impact:

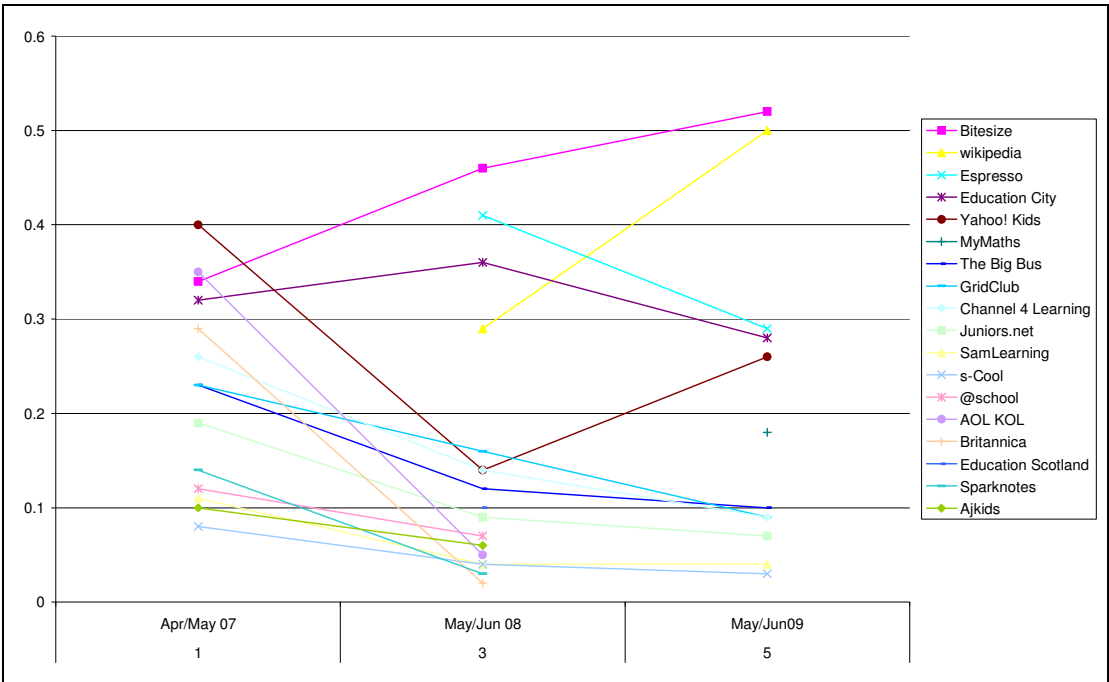
- [X] ;⁴⁶
- [X]; and

⁴⁶ [X].

- [X].

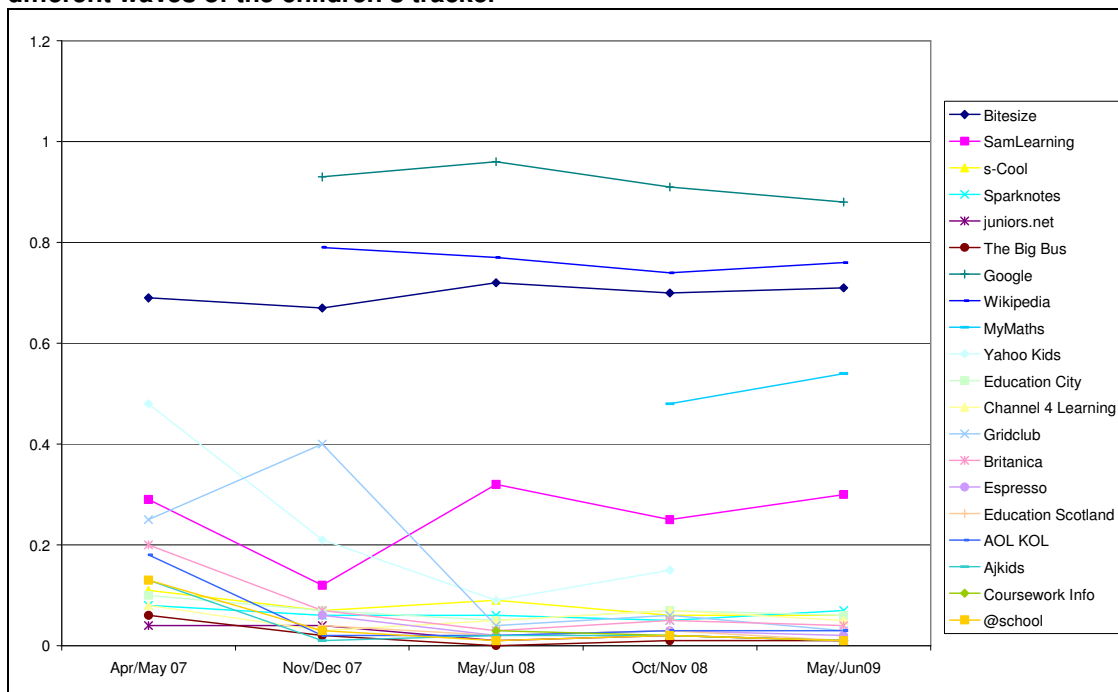
BBC Learning’s Children’s Tracker research suggests that Bitesize usage is growing over time, whereas several of the other key websites have lost users since 2007 as shown in Figures 17 and 18.

Figure 17: Comparison of amongst primary school users of different websites between different waves of the children’s tracker



Source: BBC Learning (Children’s Trackers) and FTI analysis

Figure 18: Comparison of amongst secondary school users of different websites between different waves of the children’s tracker



Source: BBC Learning (Children’s Trackers) and FTI analysis

The increase in usage of the BBC activities does not prove any causation of the decrease in usage of commercial sites. Other factors may also have influenced these decisions. The picture of purchasing/usage behaviour of such resources is extremely variegated. There is a wide range of approaches, awareness and sophistication in relation to educational software usage between schools and between teachers. In some areas, purchasing decisions are dominated by local education authorities that provide a set of resources for a group of schools, whereas in other areas individual schools (or even department heads) will make the purchasing decision. There is great variability amongst purchasers in the extent to which they are informed purchasers and there is also a significant proportion where there is inertia (schools continue to purchase what has worked to date). Changes in funding arrangements (especially the removal of eLearning Credits to more general funding available for hardware and software) appears to have created some confusion and may have been interpreted by different purchasers in different ways⁴⁷. Against this background, it does not therefore seem credible that the existence of the BBC’s free activities is the sole reason for any overall change in the market.

This is supported by a closer inspection of the available market research and usage figures.

⁴⁷ This description is based on FTI’s discussion with a representative from BECTA.

- [✕]
- The Scintilla Report together with discussions with industry participants also leads to the conclusion that teachers especially, but also students, use more than one website (and indeed other resources such as textbooks and CD-Roms). Use of Bitesize is not exclusive and many, if not the majority, of teachers prefer to have a range of resources available to them. While the existence of a free product from the BBC may put some pressure on justifying continued payment for other products, many teachers will want access to both. It is clear from the interviews with teachers undertaken by Scintilla Associates that a large number of teachers will use multiple educational software resources and will not rely on a single site or resource. The relevant BBC educational activities are far from perfect substitutes for the commercial products which provide greater supporting resources for teachers and additional functionality/support which teachers and schools will value and pay for.⁴⁸

In summary, the available evidence in relation to the direct impact of the relevant BBC educational activities, as a direct substitute to commercial offerings, indicates that the presence of the BBC on the relevant market is having a negative competitive impact, but it is likely that this impact is combined with a number of other effects and this impact is not substantially removing all competition from the relevant markets. There is evidence that a commercial provider can expand in the current market. As shown in Figures 8 and 10, MyMaths now has a significant presence and it has been growing strongly to this position recently. In December 2008 its share of usage (as measured through hits by Hitwise) was just over 18% but rose to almost 35% by September 2009.

The Scintilla Report provided the number of exhibitors at the industry 2009 BETT Exhibition in a number of categories. Comparing with the number of 2010 exhibitors in different categories does

⁴⁸ Several of the commercial products provide the facility to track individual learner data and the ability for teachers to access data on usage and scores and to set work in classes, create defined user groups and so on. Commercial products will offer greater support to teachers (such as helpdesks and specific training events). This is not inconsistent with wider trends where it is support services rather than underlying content and software which is providing revenue for many types of IT companies.

not appear to show a significant reduction in the number of available providers as shown in Table 1.⁴⁹

Table 1: Comparison of number of exhibitors at BETT Exhibition 2009 and 2010

Categorisation	2009 Number of firms exhibiting	2010 Number of firms exhibiting
CD-Rom based materials	144	147
Internet Online & Curriculum Content	220	220
Learning Platform and publishing	198	226

Source: BETT website and Scintilla Report

BESA's published figures on market size (see Figure 9) suggest an overall decline between 2007/08 and 2009/10 (i.e. a period which is a few months longer than the assessment period at either end) of just over 20%. There are other factors which will have contributed to this overall decline in addition to any negative competitive impact of the relevant BBC activities. As discussed in Section 2, BESA's estimates of the size of the commercial market suggest revenues peaked in 2004/05 (see Figure 9). Data from BESA indicate that spend by primary schools has fallen much more than spend for secondary schools. Scintilla Associates state that according to a report by Digital Public⁵⁰, there are number of reasons for this, including reduced funding (cessation of eLearning Credits), saturation (eLearning Credits had ensured that teachers had their needs met and there is little "must have" additional product) and disenchantment (schools perceiving some software which they bought as having not met their needs).

3.2.4 Evidence relating to indirect negative competitive impacts

The potential indirect effects identified in Section 3.1 also need to be considered.

First, is the BBC's level of investment acting as a barrier to entry and creating products and expectations in consumers with which the commercial sector cannot profitably compete? Some competitive impact seems likely here. The levels of spend by BBC Learning, as discussed, do represent significant amounts for many of the companies in the commercial sector. BBC Learning also has access to the wider resources of the BBC and BBC Online (such as Future Media and Technology) which creates an economy of scope not available to many of the commercial providers. There could therefore be an indirect negative impact from the BBC being able to deploy its greater financial and development resources, making a product the commercial sector cannot profitably match. Over time this would reinforce and potentially increase the direct competitive effects identified above. It is difficult to assess this effect further in terms of the

⁴⁹ Note that these categories are not mutually exclusive and some firms will be contained in more than one category. There is not an exact correspondence between the categorisation used in 2009 and 2010 but the table compares the main categories for each year.

⁵⁰ BBC Jam – Assessing the Potential for Delivering a Return from the Assets.

overall impact of the relevant BBC educational activities as the effect is inherently about incremental changes in the BBC activities and whether such incremental changes would justify commercial investment. We therefore return to this issue when considering applying the CIP to changes in the activities in Section 4.

Second, is the question of whether the BBC crowds out commercial investment by cornering the purchase of available inputs. We have seen no evidence that this is occurring and it does not seem credible that the BBC would be able to have such an effect. The pool of talent, to develop the relevant BBC educational activities, is drawn from the IT (including games) and educational sectors, and it appears unlikely that the BBC could become a dominant employer of such talent. The fact that there is significant external spend by BBC Learning also indicates this is unlikely to be an issue.

Third, does the BBC create investment uncertainty through its broad capability and the fact that individual commercial companies will reduce investment from not knowing whether existing BBC activities will expand to undermine the business case for a particular investment? There is a clear risk that this could occur, though it is an effect which defies quantification. By definition, this concerns investments which did not happen and products which were not developed because of a perceived risk that development of BBC activities would undermine such investments. It is likely impossible to measure such perceptions and impacts, making accurate quantification of any such effect impossible. It seems highly likely, however, that such an effect is occurring to some degree. Anecdotally, for example, we were informed that one company decided not to move into providing podcasts because it observed that the BBC was providing such content for free through Bitesize (the audio downloads available on that website).⁵¹ Reducing this perception of risk is clearly something that could be provided through greater engagement and better communication between BBC Learning and the commercial educational providers. We note that this relates to the second element of the Committee's decision and is being considered separately. Taking account of this potential indirect negative impact would clearly be advantageous in ensuring that adverse competitive impacts are minimised. We return in Section 4 to this issue in the context of considering potential reasonable actions to minimise the impact of developments to the relevant activities over the assessment period.

Finally, there is a potential indirect impact that the relevant BBC educational activities reach such a degree of comprehensiveness that they achieve a tipping point. Once such a point is reached, students and pupils would increasingly consider that there was no point in looking for other educational resources and simply rely on the BBC website, which would become a one stop shop. The contention is that other providers would simply be unable to compete with the resulting

⁵¹ While these downloads are not technically podcasts, the relevant company clearly perceived that they were sufficiently close substitute so as to undermine its business case for providing a paid-for podcasting service.

bundled product. There is no evidence that the BBC is able to use its ability to be comprehensive across a wide range of subjects in this way. As discussed above, both teachers and children appear to continue to access multiple sites. The very nature of the world wide web (and ease of searching multiple sites) suggests that it is implausible that such an effect would occur. Bitesize does now cover all of the main age groups up to and including GCSE and covers all the major subjects. However, other providers are able to match this coverage (e.g. Espresso and SAM Learning) and even in the face of such bundling, MyMaths, a single subject provider, has been able to increase usage. BBC Learning is therefore not unique in its ability to bundle, even if such bundling were to create a barrier to entry or growth of other providers.

In summary, the relevant BBC educational activities overall do appear to have some competitive impact on the market and possibly a very significant impact on some individual providers through both indirect and direct means. The scale of these impacts has not precluded some providers growing and does not appear to have substantially foreclosed competition. While the commercial market overall is shrinking, this can be attributed to a range of factors of which the impact of the relevant BBC activities is one.

PART II: Competitive impact assessment of developments to relevant activities since June 2007

4 Application of Competitive Impact Principle

4.1 Introduction

The previous section provides the context in which the CIA can be undertaken on changes to the relevant BBC educational activities. Our scope of work concentrates on changes in the assessment period to the three defined activities identified in the complaint and the Committee's decision. In applying the CIP to these three activities, this section is therefore specifically concerned with how developments to Bitesize, Learning Zone Broadband and the Learning Portal contributed to the delivery of the Public Purposes, impacted competition and whether such impacts could have been mitigated without compromising the delivery of the Public Purposes. As stated in Section 1, the BBC Trust requires that a CIP assessment is applied before the BBC begins areas of new activity.

4.1.1 *Prior issues specific to this retrospective process*

In applying this process retrospectively, two prior factual questions arise.

First: how to establish the baseline position at the start of the assessment period (29 June 2007). As described in Section 2.1, the age groups and subjects covered by Bitesize has not changed during the assessment period, although KS1 Bitesize cannot be dismissed as it launched only days before the new Fair Trading regime took effect - the start of the assessment period. Learning Zone Broadband had launched as a product by the start of the assessment period (having gone live in May 2007) but clearly awareness of this was (and remains) low.⁵² We were informed that commercial providers only became aware of this activity at its demonstration at the BETT Exhibition in January 2008. The Learning Portal was redesigned in December 2008 and put in its current form.

This leads to the second question: to what changes will the CIP be applied? At one extreme, the CIP could conceivably be applied to each and every incremental change to any individual web page and addition of every clip to Learning Zone Broadband. Such an approach would, clearly, be neither proportionate nor feasible. We also expect that looking at such minor changes individually would also not provide a rounded picture of actual competitive impacts: in essence the wood would be lost for the trees. The approach we have therefore taken is to compare what the activities looked like at the start of the assessment period with what they achieved and covered at the end of the assessment period, and consider how these cumulative changes have impacted on the market(s). In undertaking this comparison we have also taken account of the amount spent on developing these activities over the period in absolute and relative terms.

⁵² See Figure 14.

That our assessment is retrospective rather than prospective also raises a more fundamental methodological issue compared with the way in which CIAs are typically undertaken. Our work has had the benefit of hindsight and data on trends that would not have been available when changes to the relevant BBC educational activities were being considered. The question therefore arises as to what it is reasonable to assume would have been known and what could reasonably have been foreseen at the time when assessing appropriate mitigations of any negative competitive impacts. One approach to this issue would be to undertake a significant piece of historical research to establish exactly what the knowledge base would have been at June 2007 and effectively reconstruct a decision making process from that point in time with that available information.

We consider that this is neither proportionate nor necessary, as the purpose of this analysis, as stated by the Committee, is to enable it to decide whether the failure to conduct a CIA had any substantive effect.⁵³

During the assessment period there have been no fundamental changes in market structure or the nature of competition in this sector. A forensic consideration of the exact knowledge base therefore does not seem to add to the usefulness of this analysis in deciding whether the failure to undertake a CIA had a substantive effect. The types of negative competitive impact which we have identified (see Section 3.1) are sufficiently generic that they could have been considered at the start of the assessment period and do not rely on particular knowledge of the market or context which has only come to light since June 2007. The key context in which this becomes an issue is when considering what mitigating actions could reasonably have been taken with respect to any negative competitive impacts.

We have been sensitive to what information the BBC Executive would and would not have had in relation to this assessment, but ultimately do not consider that this issue materially affects our ultimate conclusions. The potential ways in which the negative competitive impacts identified could have been minimised would not have required a view to be taken on future market trends at the time any developments to the relevant services were being considered. Nor do we think that any of the potential negative impacts we have identified are apparent only through analysis of data and trends since June 2007. As such, while hindsight might assist in clarifying the extent of any impacts to some extent, it is reasonable to consider that such impacts and any mitigating actions could have been considered at the time.

⁵³ See reference in footnote 4. The Committee's particular decision on this point is quoted and discussed further in Section 5.

A detailed “what if” analysis, which attempts to model the analysis which BBC Executive could have undertaken at the time, and a forensic examination of exactly what data they did or did not have access to, cannot add to or change our conclusions.

4.2 Delivery of Public Purposes

As described in Section 2.1, the changes to the relevant educational activities were all driven with the delivery of the Public Purposes as the core objective.

Moreover, in Section 2.2 we highlighted a number of findings from BBC Trust reviews of the activities, most of which contained positive findings. (We do not repeat the findings here.) Recommendations by the Trust have subsequently been addressed by BBC Learning (although we note that awareness and usage of Learning Zone Broadband remains low⁵⁴).

These findings together with the awareness, usage and quality indicators provided in the various BBC Learning Teachers’ and Children’s Trackers indicate that the activities continue to deliver against the Public Purposes and, as stated in the BBC Trust June 2009 review of services for younger audiences, offer good value for money. Learning Zone Broadband does however have low awareness and usage thus far. Aside from this last point, we have found no evidence to suggest that the activities are not delivering against the Public Purposes.

In relation to each of the relevant activities, the changes over the relevant period delivered the public purposes in the following ways.

- The additional materials added to Bitesize and the associated spend added to BBC learning’s formal education offering for children and teens directly supporting the Public Purpose. The changes made over the assessment period were aimed directly at furthering the Public Purposes by making the website current, used, and useful for the target audience. The addition of better interactivity (based on more up to date versions of Flash and using its features) allowed a development of Bitesize to assist recap and revision. This is in line with accepted standards for effective learning techniques (based on providing information, allowing learners to develop understanding of the information and then testing to allow a check on understanding). In using more sophisticated approaches and making the site more attractive for learners, the developments also delivered the Public Purposes through encouraging web literacy and technology literacy amongst learners.
- The developments in Learning Zone Broadband (essentially increasing the library of clips available) promoted the same educational Public Purposes by making this a more useful

⁵⁴ BBC Learning stated that since exhibition at BETT in January 2008, there had been no marketing of the service.

teaching resource. This also made greater educational use of the archive which promotes the objectives laid out in the BBC Online service licence.

- The developments to the Learning Portal did not, in themselves, add content to BBC Learning's online activities. By making content more readily available and easier to find, these changes promoted the Public Purposes of providing material of use in formal education. These changes increased awareness and usability and thereby increased the extent to which BBC Learning's online activities were able to promote the Public Purposes.

4.3 Consideration of competitive impact

4.3.1 Bitesize

Apart from the addition of KS1 Bitesize immediately before the start of the assessment period, BBC Learning's activities in this area did not significantly change in terms of coverage or scope. That is, the aim of the content (providing a recap and revision facility with a tone of voice aimed at students rather than teachers), the age ranges covered, and the subjects covered all remained the same over the assessment period.

That said, we do not consider that there can be no incremental competitive impact simply because the activity aims to achieve the same in October 2009 as it aimed to achieve in June 2007. As shown in Figure 3 in Section 2.1, expenditure on Bitesize has tended to increase (and budgets for the period show that this spending was planned).

The process of maintenance of the content in Bitesize and upgrading its functionality means that while the aims of BBC Learning were to cover the same ranges of ages and subjects areas, it was also to serve those areas better. As well as updating the look and feel over time and updating the content for changes in the curriculum, this has also led to improvements in the way such content is delivered. These have been in line with overall developments of BBC Online and to ensure that Bitesize remains current in relation to other world wide web content. Nevertheless, there is the potential for these improvements to result in an impact on competition, which needs to be considered, as evidenced by the sums spent over the period.

One potential incremental competitive impact arises from the increase in use of the most up to date Flash technology, for example in relation to self testing for pupils with increasing use of video content (as this has become available in the Flash technology).⁵⁵ Similarly, more audio downloads and short films have been increasingly added to Bitesize. This would seem likely to have a competitive impact in that other products in the markets, in order to remain relevant and

⁵⁵ BBC Learning informed us that this in practice means providing versions compatible with trends in penetration of each iteration of the technology.

current, would also need to invest equivalently and this may require significant investment in the context of this sector with uncertain pay back. At least some commercial providers may also be further disadvantaged in that the BBC is able to employ economies of scope (for example, using common resources for BBC Online) which are not available to commercial providers and therefore matching such content will be even more expensive for them.⁵⁶

These changes have clearly been viewed by the commercial sector as a significant increase in the scale of, and range of activities associated with, Bitesize. It seems reasonable to assume that they would therefore raise questions in the minds of commercial competitors in terms of how Bitesize will develop next and what the constraints on Bitesize's growth actually are. BBC Learning's market research (Children's and Teachers' trackers) from the start has shown that Bitesize is used in schools, despite being aimed at students in homes and there are links to Bitesize material from the teacher areas of the Learning Portal. In considering whether to invest in innovative new products and significantly upgrade existing products, commercial providers would have had an eye on whether Bitesize would be doing something similar for free which was an unknown. This is the context that margins and investment appear to be low generally in this sector (as discussed in the Scintilla Report).

One allegation made by BESA in respect of Bitesize during this period is that it increased the amount of materials available for teachers and became more teacher focused (and hence of more use in the school). We have tested this perception and have been unable to identify evidence that this has in fact occurred. BBC Learning informed us that in 2006 there were approximately 215 lesson plans and shorter activity plans plus 131 separate worksheets within KS2 and KS3 Bitesize⁵⁷. Today there are 127 KS2 and KS3 lesson plans each with an integrated worksheet offered up from the teachers' section of the Learning Portal as well as 20 worksheets (with no associated lesson plans) that were launched with KS1 Bitesize in 2007. Specific teacher areas on Bitesize have also been removed over time as shown in Figure 2.

It may be that the perception of developments in this area does not accord with what actually happened owing to other developments to the Learning Portal (see below). It was also alleged that functionality increased via the addition of message boards. BBC Learning's message boards are aimed at student revision. These were originally on Bitesize, moved to a separate site called

⁵⁶ One indicative piece of evidence on whether this impact has in fact materialised can be seen by comparing overall satisfaction ratings of different websites in BBC's market research. Between Wave 4 (October/November 2008) and Wave 5 (May/June 2009) those rating Bitesize sites in the primary sector with the higher scores increased significantly (by 8%) while comparator sites saw their scores roughly stable or subject to falls. All sites' scores fell in the secondary sector over the same period, although in all cases only by 1 or 2% points. Looking at the secondary sector in more detail Bitesize scored amongst the best scores of the comparator websites in relation to questions "This is a great website" and "Helps me Learn" and "Is Not Boring", all of which questions would relate to this point. This is clearly evidence which is only available retrospectively, but also an improvement of this kind must have been the aim of spending to improve the Bitesize sites, so it is reasonable to consider that it would have been possible to think at the time in terms of what the impact of such spending and consequent impact on the wider sector would be.

⁵⁷ Numerous lesson plans and worksheets are available from a wide variety of sources for free on the internet.

Onion Street in 2001, and incorporated back into Bitesize in 2007. It does not seem likely that there is any competitive impact from these changes: these sites were popular and remain so.

Another potential competitive impact comes from changes in the age ranges available (i.e. the addition of KS1). Although this is strictly outside of our assessment period, the timing is so close to that period we have considered if there would have been a competitive impact from such a change. BBC Learning's online presence had catered for these age ranges before (through a website called Starship, which remains accessible as legacy content). However, the Bitesize brand appears to be significantly better known and therefore the updating of the content and potential increased availability of content aimed at this age group could reasonably have been seen as having a direct competitive impact on existing providers of material for this age range. That is, the availability of such material for free could have led to some subscribers to paid-for material considering it was no longer required.

4.3.2 Learning Zone Broadband

As noted above, Learning Zone Broadband was made available nationally in May 2007 and we understand its functionality has not been significantly changed since then. What has obviously occurred is the addition of numbers of new clips (as discussed in Section 2.1). Awareness of the activity has increased over time, making it a more effective competitor to commercial products which provide clips for use in the class room (usually with additional functionality compared to Learning Zone Broadband which simply takes existing BBC content and tags it in a pedagogically sound way such that teachers can find clips relevant to whatever they are teaching). However, general awareness amongst teachers of the service remains low⁵⁸ and usage would therefore appear to be driven by a small number of enthusiastic users.

This activity will clearly compete with others providing clips for class room use (see, for example the example cited in Section 3.2 where an education authority becoming aware of Learning Zone Broadband led to it apparently deciding not to purchase a commercial product). Commercial offerings such as that offered by Espresso (using Channel4 Learning content) will compete directly and be negatively competitively impacted. There are also likely to be indirect negative impacts arising from the uncertainty about the future number of clips on Learning Zone Broadband.

The level of spend associated with Learning Zone Broadband over the assessment period is shown in Figure 7. This spend can be considered to be significant compared to anything which a commercial software provider could profitably consider and would be sufficient to generate such direct competitive impacts, though it does not seem large enough to create indirect competitive impacts sufficient to foreclose the market. This is especially the case when the large amount of

⁵⁸ See Figure 14.

free video content on the internet available to teachers is considered.⁵⁹ Further research would be required in order to gain a fuller understanding of the usage and source of audiovisual clips in the classroom and therefore the exact extent of their substitutability.

4.3.3 The Learning Portal

As discussed above, the Learning Portal is essentially a number of URLs that provide links to existing information on BBC Online. Much of the content is BBC Learning content (including in particular Bitesize but also other materials produced for children, teachers, parents and adult learners) and also potentially linking to material on other parts of BBC Online where educational relevance is established (and providing links to external sites, as per BBC Online standards). We essentially view the portal as a navigation device linking to existing rather than additional content.

In making content easier to find, it is possible that this could increase the direct negative competitive impact which any such content would anyway have by making it more readily available and thereby exposing it to a wider audience. The level of spend involved in the associated redesign of the Learning Portal was, we have been informed, around £20,000. As such, it seems unlikely this would have had any significant indirect competitive impacts.

4.4 Consideration of whether any negative impacts could be minimised

4.4.1 Bitesize

Bitesize is an activity which is aimed at students undertaking revision and recap at home. The tone of voice and design ethos is described as “irreverent” and “quirky” which underlies this. The home market is one in which few providers other than the BBC are active and is not one where it is possible to charge for content. However, Bitesize is clearly used in schools and BBC Learning’s research has consistently shown this. The 2007 Children’s Tracker based on interviews just before the assessment period notes that Bitesize is used by children about equally in schools and in the home.

The principal changes essentially comprised improving on existing functionality of Bitesize (video, improved and increased interactivity, audio downloads etc.) which was becoming common place elsewhere on the web and could be said to be “current” technology.

The fact that it is used in schools, as well as in the home, together with the greater investment associated with this increased functionality arising from the redesign and updates of content in line with the rest of BBC online did have a competitive impact as outlined in the previous section. The obvious mitigations to consider first are whether Bitesize could have been better contained as something used in the home or whether development of additional functionality should have

⁵⁹ For example, YouTube: see Footnote 35.

been limited or curtailed. We do not consider there are particular actions which could have thus minimised any negative competitive impact that would not have impacted significantly on the achievement of the Public Purposes.

While aimed at use in the home, Bitesize is of relevance in schools and teachers cannot artificially be stopped from referring to it or recommending it. If particular content is to be compelling and effective in the home revision setting it may be (and indeed will likely be) useful in the classroom. The teacher areas of the Learning Portal also link to modules of Bitesize. One further mitigating approach could be limiting links to Bitesize to student areas which reinforces its usage in the home. Such a change seems rather artificial and it is not clear it would actually have any substantive effect as teachers would still be able to find the same material through looking at pupil areas of BBC online. It would also have been directly counter to the drive to make navigation easier with the clear Public Purpose benefits resulting.

The teaching materials associated with Bitesize (which appear to have been reduced, as discussed in Section 4.3.1) could have been more rapidly run down and / or removed. This would further have emphasised the core intended use of Bitesize. This may have had some effect at minimising the negative competitive impacts identified above, but would not stop teachers using the updated content which appears to be the central source of any such competitive impact. This is a change which could have reasonably been considered, but in our judgement would not have led to significant lessening of negative impacts even if it had been put into effect.

Similarly, in order to drive usage and be perceived as useful the content on Bitesize needs to be compelling, entertain pupils and be relevant and up-to-date. Using current and modern web technology to achieve this would therefore seem to be core to ensuring that the relevant Public Purposes being promoted are actually achieved.⁶⁰ Degrading or limiting the extent to which Bitesize is updated would have reduced usage and interest in it and probably led to a reduction in satisfaction with Bitesize and ultimately usage and therefore public value. Any such limitation therefore would not seem to have been conducive to ensuring continued delivery of the Public Purposes.

Another potential way of minimising competitive impact would have been to not extend Bitesize to include KS1 or to remove KS3 when that was no longer subject to testing. However, achievement of the Public Purposes is delivered through providing a revision and recap site. This cannot simply be linked to specific exams and tests. Limiting the age ranges to which Bitesize applies would have reduced the competitive impact by providing greater opportunities for commercial players in the omitted age ranges but would likely increase confusion for teachers

⁶⁰ There is some evidence that user satisfaction and approval of Bitesize has increased over the assessment period: see Footnote 53.

and pupils and also significantly reduce the delivery of the Public Purpose objectives. Reducing the scope of Bitesize by simply removing chunks of it and ceasing to serve certain age ranges would therefore impact on the delivery of the objectives.

Greater communication around proposed changes in Bitesize, which is sensitive to the expectation which it is setting around quality of content (and the costs of providing such content for a commercial provider) and potentially clear articulations of commitments about what Bitesize will and will not do in future would mitigate the indirect impacts arising from the investment uncertainty Bitesize can create for the commercial sector. This is one important way in which these impacts could have been minimised without compromising the achievement of the Public Purposes. This could have been achieved, for example, through some form of BBC communication on developments to, and plans for, Bitesize⁶¹.

4.4.2 *Learning Zone Broadband*

The expansion of this activity over the assessment period was principally in terms of the number of clips available and increasing awareness of the site. In order to deliver the Public Purposes identified (including effective use of the archive) these developments are clearly required.

The way the site was designed did take some account of minimising negative competitive impacts while still achieving the Public Purposes. The clips are not provided with any additional teaching materials; they are simply tagged to relevant parts of the curriculum and made available for teachers to use in their lesson plans. Commercial sites providing clips can (and do, for example in the case of Espresso) add significant value on top of the clip itself.

Were this process being conducted prospectively, a possible first consideration of ways to minimise any competitive impacts would have been some form of limitation on the size and growth of the site (in particular in terms of the number of clips to be added). At the extreme, this would naturally be whether the site should be continued with at all or whether the negative competitive impacts were considered too great. The number of clips that can be added is naturally limited by the resource available to the BBC, but representatives of the commercial sector have suggested that the number of clips the BBC is able to add to the site with their resource over time exceeds what could be achieved in the commercial sector.

Limiting the number of clips would have reduced the utility of the site to teachers and therefore reduced the extent to which it was able to achieve the Public Purposes. Given the way in which such clips are used, it is not clear that the reduction in competitive impact could have been that significant (especially in the context of relatively low awareness and usage of the site thus far). Teachers select the clips that are relevant to their lessons and their teaching aims. They do not

⁶¹ We note that this relates to the second finding of the Fair Trading Appeal Investigation.

want to use all of the clips available but want specific clips that suit their particular teaching needs for a particular class. As such, the utility of the collection will increase significantly the wider the selection of the clips available (and this is unlikely to be a linear function: the value of a library of 10,000 clips could well be more than double the value of a library of 5,000 clips, by increasing the probability that there is a relevant clip more closely matching the particular teaching need). This relates directly to the Public Purposes being fulfilled. If the size of the clips library had been deliberately curtailed this suggests that more teachers would simply not use it, removing any negative competitive impact, but also removing any Public Purpose benefits. It is also not clear that all the teachers who ceased to use the clips would have then purchased commercial products instead. There are significant quantities of alternative short video form content available on the web which at least some teachers would likely have used instead.⁶² Given the indications on scale of usage in the BBC's market research, it seems unlikely that constraining the number of clips would not have materially reduced the competitive impact, especially given the scale of usage, but would have instead reduced the extent to which the Public Purposes were achieved.

However, there are two other potential mitigations which could have been considered. First, in order to decrease the uncertainty and potentially resulting chilling effect on investment clearer commitments or indications could be provided to the commercial educational sector about subject areas of coverage of the clips to be added over suitable time horizons and the scale of the activity in terms of numbers of clips. Second, there could have been more active promotion of Learning Zone Broadband as a resource which could be included in commercial products (where those commercial products may add differentiating value added material, for example in terms of developed lesson plans using the clips available on Learning Zone Broadband). This would have involved promoting the activity more actively amongst the commercial sector, working with such companies in terms of interoperability with other products and offering standard terms on which such clips were available.⁶³ Although we were informed that such an approach was never ruled out (and indeed discussions were held with Espresso), this was also not actively pursued.⁶⁴ BESA represented to us that the first time the commercial sector became aware of this BBC activity was around January 2008, more than six months after it had launched.

⁶² The Scintilla Report refers to significant usage of YouTube amongst teachers (see footnote 35) and similar content is also available free to teachers from an increasing number of alternative sources (including publicly funded sources) such as the National Archive, some museums and Teacher's TV. Some of this resource is also tagged to the curriculum.

⁶³ To be clear, the existing ethos of the service is that it is public service content available to licence fee payers (pupils and teachers) for free. We are not proposing this change, but having standard terms on which the material can be used may have speeded up the process of making such content available for incorporation into other products for schools.

⁶⁴ It is difficult to judge the counterfactual of what impact this may have had as there is no evidence available for this and it is not something readily modelled. While it is possible the impact could have been significant, this is by no means guaranteed. For rights reasons, the service is streaming only and many commercial providers may only find a download service of use in relation to their products.

4.4.3 *The Learning Portal*

The main competitive impact identified in relation to the development of the Learning Portal is that it makes BBC Learning content easier to find and therefore is perceived as creating a one stop shop competing head-to-head with any commercial product providing cross curriculum products. It is not clear how the scope or scale of these changes could have been changed or limited in a way which would still achieve the incremental public value created by increasing access to such content (which content itself promotes the Public Purposes). Deliberately making the sites more difficult to navigate or limiting the material to which they linked seems counter intuitive and would degrade the Public Purpose objective of the redesign. We conclude that there were not any mitigating actions which reasonably could have been taken here against any negative competitive impact while still achieving the delivery of the Public Purposes identified.

5 Conclusions

5.1.1 *Our remit and the aim of this study*

The Committee's decision of 8 October 2009 partially upheld a Fair Trading complaint against the BBC Executive by BESA, finding that the developments to the relevant BBC educational activities should have been, but were not, subjected to a CIA. The decision explains that once it had been able to review the results of a retrospective CIA:

“the Committee would then be in a position to determine the extent to which any negative competitive impacts could have been minimised in a manner that is proportionate to the delivery of the Public Purposes identified and, more specifically, whether the BBC Executive's failure to conduct a competitive impact assessment with regards to the develops to Bitesize and Learning Zone Broadband since 2007 had any substantive effect.”

As described in Section 1, our scope of work was to undertake a CIA based on the approach for applying the CIP set out in relevant BBC Trust policy statements and BBC Fair Trading/other BBC Executive guidance. Although there is a key difference in that our work was retrospective rather than prospective (and of course we are external to the BBC), this report (and especially Section 4) has followed the CIA approach in identifying the Public Purposes delivery of the changes to the relevant activities, the likely negative impacts from such changes, and consideration of what actions could have been considered to minimise those negative impacts (consistent with continuing to deliver the Public Purposes).

The CIA process involved identifying likely impacts and is aimed at ensuring that the delivery of Public Purposes is achieved with the minimum negative competitive impacts and the review needs to be proportionate. A CIA therefore contrasts with a fully fledged competition assessment

that may be required in other circumstances. Our remit was to undertake a relatively high level review, based on available evidence and desk research and did not involve a requirement to undertake detailed empirical analysis of the type which would likely be required in, for example, an investigation into a potential competition law breach.

The remainder of this section summarises our conclusions and considers what effects can be considered to have arisen as a result of the failure to undertake a similar assessment prospectively.

5.1.2 The impact of the relevant activities as a whole on the market

Although not required by the Committee's decision, our scope of work also included an assessment of the current market impact of the relevant BBC education activities as a whole and how, as a whole, they deliver against the Public Purposes. Our conclusion here is that the relevant BBC activities are likely to have some positive impacts on expanding the market (on both the demand and supply sides) although evidence available to us has been relatively limited. However the relevant activities also have a negative impact on the commercial education sector. This is through a direct competitive effect: some proportion of schools will find the relevant activities a sufficient substitute which leads to their ceasing to purchase paid-for products; and indirect effects: in particular resulting from the economies of scope and wider resources available to the BBC, whereby activities require greater investment for commercial products to remain competitive, which is unlikely to be commercially justifiable.

Exact quantification of the scale of these effects is beyond the scope of this study, but there are a range of indications that the BBC's impact (while potentially significant on particular individual players) has not led to any substantial reduction in competition. A range of other factors have been identified which will have reduced the profitability and ability to compete of the commercial sector (including the growth in use and acceptance of free resources on the internet, changes in funding arrangements, and saturation of the market during the period of ring fenced funding for curricular software). The decline has not been uniform and some providers have been able to increase their usage.

5.1.3 Competitive Impact Assessment

Against this competitive background, our conclusions in relation to the three steps of the CIA process can be summarised as follows:

- Both the services as a whole and the changes to the services clearly deliver against the Public Purposes, making use of licence fee funding to provide educational material and to improve these materials to ensure they continue to be relevant and current to users; the improvements over the assessment period were in line with what users would expect,

- given wider developments in web technology and the evolution of the curriculum, to ensure the resources continued to be of use and relevant to those involved in education;
- By increasing the costs of providing matching products and because the developments inevitably made Bitesize in particular more relevant for use in schools by the very same developments which ensured it continued to deliver against the Public Purposes and was used by students (and therefore was incrementally more competitive with commercial products), suggests changes in the relevant activities did have some competitive impact; our conclusions on the negative impact of the relevant activities as a whole carry across here in that this competitive impact cannot be considered as the only factor affecting development of the market; and
 - It is not clear that there would have been a great deal that could have proportionately been changed about the relevant activities in order to minimise such impacts without compromising their efficacy in delivering against the Public Purposes. The potential approaches we consider could have reasonably been considered at the time which may have had some benefit in reducing competitive impact would have been improved communication with the commercial sector to reduce their investment risk created by the provision of free public service content in their markets and, in relation to Learning Zone Broadband in particular, more consideration could have been given to developing a way of working with the commercial providers to enable some form of syndication of the content.

What effects the failure to conduct a CIA had, in terms of the possible mitigating actions that would have arisen otherwise, depends on the extent to which these factors would have improved market conditions for the commercial sector. As we have noted, the balance of evidence suggests that there were a range of factors involved in the decline in the commercial educational sector since its peak in 2004/05 and therefore partial mitigation of the negative impacts arising from one source (the relevant BBC educational activities) is unlikely to have meant a substantially different market structure or market profitability as a result.

The emphasis placed by the BESA complainants on the lack of warning about BBC developments and detrimental impacts of the uncertainty which the relevant activities create does suggest that these mitigating actions would have had some effect however in increasing the ability of commercial providers to invest and innovate. Greater awareness of the ways in which the relevant activities could have had negative competitive impacts - which would have been achieved by undertaking a CIA - could in itself have a positive influence over time. Based on the evidence we reviewed, competitive issues were taken into account by BBC Learning, but this did not remove all competitive impacts inherent in achieving the Public Purposes.

Appendices

Appendix I – BESA Competitive Impact Assessment – Scope of work required

The Trust commissioned a report covering two elements of work:

1. an overview of the market for learning and educational software tools and products
2. a competitive impact assessment

Background

On 8 October 2009, the BBC Trust partially upheld a fair trading complaint against the BBC Executive by the British Educational Suppliers Association (BESA). BESA had alleged that the Executive's processes had breached a number of BBC policies and principles. Full details of the finding can be found on our website bbc.co.uk/bbctrust.

In light of the finding of a procedural failing by the Executive, the Committee considered it necessary for the BBC Trust to conduct an assessment of the potential negative competitive impacts of developments to Bitesize, Learning Zone Broadband and the Learning Portal, since June 2007, and the way in which they deliver against the Public Purposes. This will enable the Committee to then determine whether the BBC Executive's failure to conduct its own competitive impact assessment since 2007 had any substantive effect.

Furthermore, although not a remedy required by the BESA case, alongside the competitive impact assessment in relation to developments to Bitesize, Learning Zone Broadband and the Learning Portal since June 2007, the Committee would also like to further understand the current market impact of Bitesize, Learning Zone Broadband and the Learning Portal as a whole.

Scope

The piece of work the Trust commissioned was required to provide:

- provide an overview of the current market impact of Bitesize, Learning Zone Broadband and the Learning Portal as a whole;
- a retrospective assessment of the impact of changes in approach and funding and any other developments to BBC Bitesize, Learning Zone Broadband and the Learning Portal since the latest fair trading guidelines came into effect in 2007. This required identifying developments to Bitesize, Learning Zone Broadband and the Learning Portal since 2007 and consideration of the extent to which these contributed to the current market impact of the propositions as a whole;
- an overview of how Bitesize, Learning Zone Broadband and the Learning Portal as a whole and, more specifically, the developments to Bitesize, Learning Zone Broadband and the Learning Portal since 2007, deliver against the BBC's Public Purposes. In that regard, since delivery against the BBC's Public Purposes is part of the delivery of public value, consideration of how Bitesize, Learning Zone Broadband and the Learning Portal as a whole and the developments to these since 2007 deliver public value, is also relevant;
- an overview of the extent to which, at the time relevant developments to BBC Bitesize, Learning Zone Broadband and the Learning Portal since June 2007 were made, the market impact of such developments could have been reasonably anticipated and, therefore, on that basis, what steps the Executive could have been taken to minimise any negative market impacts identified whilst having regard to the delivery of these developments against the BBC's Public Purposes (as part of the requirement to deliver public value)

The work was conducted, as far as was possible, in line with the approach set out in the Executive paper '*Management controls for the assessment of potential competitive impact of BBC Online (prospective and retrospective)*'.

Areas covered

- A high level story of the BBC's formal learning activities over time set in the market context. This would include identifying the other providers and the relevant market.
- An overview of the current market impact of Bitesize, Learning Zone Broadband and the Learning Portal. This might include consideration of the following:
 - The extent to which the BBC's formal learning activities are substitutable with those of other providers or potential providers in the market
 - The impact of BBC spend on market entry on other potential providers and whether BBC spend promotes exit from the market or raises the barriers to entry
 - Whether the BBC grows the market
 - Any evidence that the BBC impacts the profitability of other players.
- An outline of how Bitesize, Learning Zone Broadband and the Learning Portal as a whole deliver against the Public Purposes and public value
- An overview of how has the market developed since June 2007. This might include consideration of the following:
 - Identifying the baseline position pre-June 2007 against which changes are to be assessed
 - The extent to which the BBC has substituted for other providers or potential providers in the market
 - The impact of BBC spend since June 2007 on market entry and whether that spend has promoted exit from the market or raised the barrier to entry.
 - Whether the BBC has grown the market since June 2007
 - Any evidence that the BBC's actions since June 2007 have impacted the profitability of other players
- Identifying any steps taken by the BBC to mitigate any negative market impacts and when these steps were taken and their impact
- An outline of how the developments to Bitesize, Learning Zone Broadband and the Learning Portal since June 2007 deliver against the Public Purposes (as part of the delivery of public value).
- Identify whether any negative market impacts of the developments since June 2007 could realistically have been anticipated by the BBC Executive prior to these developments taking place and, if so, identify what steps could have been considered in order to minimise any negative market impacts realistically anticipated, having regard to delivery against Public Purposes (as part of the delivery of public value)

Overall approach

The work was expected to be primarily desk based. Identification and involvement of key stakeholders, through interviews for instance, was also key.

The BBC Trust oversaw the process by which FTI gathered information regarding the BBC's formal learning activities over time and, more specifically, the developments to Bitesize, Learning Zone Broadband and the Learning Portal since 2007. Much of this was obtained via direct contact with key stakeholders, including the BBC Executive, BECTA and BESA.

Timing

We asked that the work be delivered to the following timetable.

Delivery of draft report by beginning of February

Report finalised by mid- to late-February

Publication of final report in March

Appendix II – Evidence Base

1. Findings and Conclusions of the BBC Trust Finance and Compliance Committee; Fair Trading Appeal Investigation: Appeal regarding the BBC's online formal learning activities, BBC Trust Finance and Compliance Committee, http://www.bbc.co.uk/bbctrust/assets/files/pdf/appeals/fair_trading/besa.pdf, October 2009
2. Complaint: BBC Services in Education, BESA, 31 March 2009
3. BBC Public Purpose Remit: Promoting Education and Learning, http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/purpose_remits/education.pdf, December 2007
4. BBC Online Service Licence, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/online_servicelicences/bbc_co_uk_servicelicense_30apr2007.pdf, April 2007
5. BBC Online Service Licence, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/online_servicelicences/bbc_online_aug09.pdf, August 2009
6. Management controls for the assessment of potential competitive impact of BBC Online (prospective and retrospective); BBC Trust Audiences and Performance Committee, 6 May 2009
7. BBC Fair Trading Guidelines, http://www.bbc.co.uk/info/policies/fairtrading/pdf/fairtrading_guidelines_010409.pdf, April 2009
8. Review of BBC Online, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/report_bbc.co.uk_review.pdf, May 2008
9. Review of BBC Children's Services and Content, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/childrens/childrens_review.pdf, February 2009
10. Review of BBC services: Younger Audiences, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/yar/yar_review.pdf, June 2009
11. BESA, "BBC Trust upholds key elements of BESA's fair trading complaint", <http://www.besa.org.uk/besa/documents/view.jsp?item=1331>
12. BBC Trust Statement of Policy, http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/fair_trading/competitive_impact_statement.pdf, June 2007
13. BESA Final Scope: Competitive Impact Assessment (scope of work required), BBC Trust, December 2009
14. BECTA, Harnessing Technology Strategy Review, 2008
15. Content Advisory Board Report to Secretary of State, Report no.3, http://foi.becta.org.uk/content_files/corporate/resources/foi/archived_publications/cab_report3.pdf, December 2005
16. BESA, ICT Provision and Use in 2009/10, http://resources.eun.org/insight/BESA_ICT2009_Summary.pdf, September 2009
17. BESA, ICT Provision and Use in 2008/09
18. Human Capital, A Review of bbc.co.uk's Distinctiveness, November 2007
19. BESA, Industry Concerns relating to the BBC Bitesize website, 10 October 2008
20. SAM Learning Minutes of Board Meeting, 11 November 2009
21. SAM Learning, RE: Distinctiveness of SAM Learning, 8 August 2008
22. SAM Learning customer service comments, September 2009 – January 2010

23. Memo to BBC Trust regarding BBC Competitive Impact Assessment, Alison Sprague, December 2009
24. SAM Learning Supplementary Evidence: Secondary School Cancellations (document with data on cancelled subscriptions of SAM Learning services, reason for cancellation, and hours of usage), August 2008 – April 2009
25. Additional Evidence Espresso: Comparison of BBC Online's Learning Zone Class Clips and Espresso's Clipbank service (document detailing the similarity of presentation and content of the two services)
26. Espresso Meeting Note (fair trading investigation: BESA complaint stakeholder meeting between BBC and Espresso, concerns raised and suggested remedies), 5 August 2009
27. Email, BBC Learning Zone Broadband, Stephen Fahey of Pearson to Brij Sharna of BBC (description of events which led to the loss of interest in the Heinemann Gallery, a product very similar to Class Clips; allegedly BBC Learning Scotland representative was involved), 7 September 2009
 - a. Attached: Email, JISC Collection of Schools: Pearson Bids, Michael Upshall of JISC Collections for Schools to Ian Jenkins of Pearson (JISC accepts to purchase the Heinemann Gallery service), 6 June 2009
 - b. Attached: Email, Learning and Teaching Scotland: Bried update, Paul Kelly of JISC to Ian Jenkins of Pearson (JISC indicates LTS interest in the Heinemann Gallery), 8 July 2009
 - c. Attached: Email, LTS Scotland Quote_Update, Paul Kelly of JICS to BBC (LTS loss of interest in the service), 11 August 2009
 - d. Attached: Email, Heinemann video gallery. Urgent (LTS interest in the Heinemann Gallery), 2 July 2009
28. Email, Heinemann Video Gallery, Stephen Fahey of Pearson to Brij Sharma of BBC (email to supply additional evidence), 8 June 2009
 - a. Attached: Heinemann Video Gallery (description of the service, and its competitive position in relation to Class Clips)
29. Email, Additional Market Impact Evidence: David Jaffa of SAM Learning to Brij Sharma of BBC (email expressing concern over loss of subscribers by SAM Learning, with extract from consumer survey as evidence that Bitesize is impacting the market), 24 August 2009
 - a. Attached: SAM Learning User Survey (indication of what other online resources are used by teachers), May-June 2009
30. Email, Sparrowhawk & Heald and TEEM report, Divid Jaffa of SAM Learning to Brij Sharma of BBC (email discussing the market impact of the BBC in light of evidence from a market survey), 27 August 2009
 - a. Attached: SAM Learning Research S&H and TEEM (market research report on Bitesize impact on SAM Learning), May 2009
 - b. Attached: SAM Learning Secondary School Cancellations (document with data on cancelled subscriptions of SAM Learning services, reason for cancellation, and hours of usage), August 2008 – April 2009
31. SAM Learning Research S&H and TEEM Research, 1 June 2009 (same as 12.a above)
32. Email, BESA Complaint, Wendy Jones of BBC to Brij Sharma of BBC (email with complaint response and document list), 4 June 2009
 - a. Attached: BESA Complaint Response by BBC Learning (fundamental points in response and response to each specific claim by BESA with reference to evidence in the Appendices)
 - b. Attached: BESA Complaint Response – Appendices (list of documents for the appendices, but the actual documents are not attached)
33. Email, BECTA Report, Wendy Jones of BBC to Brij Sharma of BBC (email expressing the possibility of creating a level playing field by the use of the BECTA ecosystem), 17 June 2009

- a. Attached: Ecosystem Strategy (BECTA promoting an ecosystem that enables the discovery, delivery and sharing of digital resources – a platform for getting content into schools and sharing between communities), May 2009
- 34. Email, Bitesize TV hours since launch, Philip Benton of BBC to Cathryn Auplish of BBC (email with attached previously requested information), 9 September 2009
 - a. Attached: Bitesize TV hours (spreadsheet with hours broadcast and originated for GCSE 1998-2009)
- 35. Email, FW: BESA Complaint, Wendy Jones of BBC to Cathryn Auplish of BBC (email with attached previously requested information), 30 July 2009
 - a. Attached: Formal Learning Investment Charts (spending on BBC Jam, revision services (Bitesize), Learning Zone and other children's services), 2001 – 2009
 - b. Attached: Extract from 5 year strategy which summarizes the evolution strategy (Bitesize family development plan)
- 36. Email, FW: BESA Complaint, Wendy Jones of BBC to Cathryn Auplish of BBC (answering questions on the Bitesize strategy, Learning Zone broadcasting hours, BBC historical role in education, the service evolution, and distinctiveness) , 12 August 2009
 - a. Attached: Service development chronology and management (document listing Bitesize, Learning Zone, and Learning Zone Portal major developments chronologically)
- 37. Email, Re: BESA Complaint, Wendy Jones of BBC to Julia Ockenden of BBC (discussion of the obligation of BBC to consider competitive impact, and the market reviews performed to assess teacher/student audiences), 24 June 2009
 - a. Attached: School strategy – market review (extract from strategy papers 2001/2, 2004/5, 2006/7, qualitative market and competitor evaluation, competition review)
- 38. Email, Re: BESA – Bitesize follow-up, Philip Benton of BBC to Cathryn Auplish of BBC (email discussing availability of information on broadcasting hours, and subjects for revision on Bitesize), 21 August 2009
 - a. Attached: Bitesize Production Team: 5 year Vision to 2013 (assumptions, main competitors and distinctiveness assessment, year by year business plan)
- 39. Email, Re: BESA Complaint, Cath Warren of BBC to Brij Sharma of BBC (email to provide previously requested information), 4 June 2009
 - a. Attached: BESA Complaint Appendices (zipped documents)
 - i. BBC Online Approval 1997 (Secretary of State for Culture, Media and Sport temporary approval of BBC Online; correspondence between the BBC and DCMS regarding the nature of the service)
 - ii. BBC Bitesize Approval 1998 (Secretary of State for Culture, Media and Sport permanent approval of BBC Online; discussion of the nature of the service and public feedback)
 - iii. GCSE Bitesize TV Revisions (GCSE improvements/additions by date and commissioner)
 - iv. Bitesize Five Year Vision (plan for the development of Bitesize services 2007-2012)
 - v. Extract from 5 year strategy which summarizes the evolution strategy (Bitesize family development plan)
 - vi. BBC Learning Children/Es Tracker Wave 4 March 2009 (tracking usage of the BBC service in comparison to alternative services)
 - vii. Learn Xpress strategy Document January 2006 (Learning Zone Class Clips strategy for development and budget)
 - viii. The Learning Zone Strategy Presentation November 2007 (outlining the transition of the service from broadcast-based to online-based)
 - ix. Learning and Mark Wakefield email exchange July 2006 (discussion of Learning Zone service provision as on demand streaming, testing of the service as part of Projects Merseryside and Hull, and proposition

- withdrawal only after evidence in favour of digital versus traditional services)
- x. Learning Portal 2008 Design Document (motivation of portal redesign based on findings of report on navigation and content findability, objectives and design goals to improve the portal, and process description)
 - xi. Presentation to PACT and BESA November 2007 (presentation on BBC Learning activities with focus on Skills, Me and My Movie, Blas, and RaW)
 - xii. Notes from PACT and BESA meetings November 2007 (questions and comments by PACT and BESA on the presentation)
 - xiii. Learning Monthly Management Report March 2009 (file does not open)
 - xiv. Email setting agenda for SAM Learning meeting December 2008 (talking points proposed by BBC to address the issues expressed by SAM Learning)
- b. Attached: BESA Complaint Response: Appendices (list of above documents)
40. Report Document 2005, Rosenblatt (report on the accessibility of content on the Learning portal identifying key strengths and weaknesses, and what improvements are necessary), May 2008
 41. BBC Learning Teacher trackers: Wave 1-5, GfK (research into how teachers are using learning resources provided by the BBC and their competitors)
 42. BBC Learning Children trackers: Wave 1-5, GfK (research into how children are using learning resources provided by the BBC and their competitors)
 43. BBC Learning Monthly Management Reports, Audiences (evaluation of the performance of adult and children's learning sites), June 2007, December 2007, June 2008, December 2008, September-November 2009
 44. Unique Users Backdata All Sites Week 2 2010 (data on online users per service for period 207-2009)
 45. Review of the Research Literature on the Impact of Multimedia Revision Web Materials, Manchester Metropolitan University (review of literature on school students' use of online curriculum support and revision resources and recommendations for long-term in-depth field research into the area), April 2009
 46. External spend (spreadsheet with 2007-2009 data on internal and external spend on online and television projects for Bitesize and Learning Zone)
 47. BESA ICT 2009 (views on provision and access trends for the UK for 2009/10)
 48. Huveaux plc 2008 Preliminary Results (review of the financial performance of the company over 2008)
 49. Review of the Educational Software Market (overview of use of digital resources for education, size and scope of market, and dynamics), Scintilla Associates, 20 July 2009
 50. Market Assessment of the BBC's Digital Curriculum Proposition – A Review of PwC's Report definition of the relevant market and assessment of impact on innovation and competition of the proposed BBC services), NERA, July 2002
 51. Market Assessment of the BBC's Digital Curriculum Proposition (overview of educational resource sector, relevant market, potential barriers to entry and market impact), PwC, May 2002

Meetings with stakeholders:

52. Meeting with Myles Runham (BBC Learning, Head of Interactive Learning), Wendy Jones (BBC Learning , Head of Policy and Public Affairs), John Miller (BBC Learning , Editor), George Auckland (BBC Learning , Head of Innovation) ,Phil Benton (BBC Learning , Head of Production), and Lorraine Downing (BBC Learning , Production Executive), 12 January 2010
53. Meeting with Neil Land (BBC Chief Advisor, Fair Trading), 12 January 2010

54. Telephone interview with John McVay (PACT, Chief Executive), 18 January 2010
55. Meeting with Dominic Savage (BESA) and Paul Smith (CEPA), 21 January 2010
56. Meeting with BBC Learning John Miller (BBC Learning , Editor) and Andrew Lees (BBC Learning , Bitesize Senior Producer), 22 January 2010
57. Meeting with BBC Learning George Auckland (BBC Learning , Head of Innovation), 22 January 2010
58. Telephone interview with David Hassel (BECTA), 26 January 2010
59. Meeting with Dominic Savage (BESA), Lorna Cocking (Pearson Education), Lewis Bronze (Espresso Learning), David Jaffa (SAM Learning), Mattias Bjornfors (CEPA), Daniel Hulls (CEPA), and Graham Taylor (Publishers' Association), 26 January 2010