



**OFCOM CONSULTATION
PUBLIC SERVICE PUBLISHER**

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The SCBG is the trade association for satellite and cable programme providers who are independent of one of the main terrestrial broadcasters. Its members are responsible for over 100 channels in the UK and in addition broadcast many more services from the UK to continental Europe and beyond. Many member companies are pan-European broadcasters, producing and commissioning content for different national markets.

SCBG channels provide citizens and consumers with programmes and services for a diverse range of audiences across a wide range of genres and audiences, including entertainment, factual, educational, history, music, nature, art and science. Our member companies make and show programmes for children and young people, and for ethnic minorities in their own languages. SCBG members' channels are available in almost 50% of UK homes.

Satellite and cable broadcasters operate in an extremely competitive and volatile environment, without privileged access to scarce Government-controlled spectrum or to the must-carry status afforded to terrestrial networks. They are therefore unable to attract mass advertising revenues, and – with a couple of notable exceptions – do not benefit from public funding.

Satellite and cable broadcasting has been the fastest growing sector in the UK television industry, now employing over 6,000 people in the UK with revenues of nearly £5 billion.

Executive summary

The main arguments in our paper can be summarised as follows:

- SCBG is very sceptical about the need for the proposed Public Service Publisher (PSP). Ofcom has not so far produced any evidence or analysis to back a clear gap in the PSC market.
- We do not agree that the amount of PSC in the market is declining. There is however a case for looking at how to best define PSC and to discuss how to encourage existing operators to provide more of it.
- SCBG strongly disagrees with the argument that competition for viewers is negative for the market and public service broadcasting; on the contrary, the vast number of new internet and multi-channel offerings has raised the level of PSC in the market to record levels.
- Our analysis reveals that, for the majority of genres, commercial digital channels provide more PSC than either the BBC (including its digital services) or the advertiser-funded terrestrial channels.
- Even if Ofcom can come up with compelling evidence that the PSP is needed in the market and give clear objectives for its creation, then SCBG still has serious questions about the proposed funding models.
- SCBG would strongly resist the attachment of a PSP under the umbrella of any of the existing PSBs. Such an approach would perpetuate the privileged position of these broadcasters, and would not contribute to plurality in the market.

1. There is no proven need for a PSP

The SCBG agrees with Ofcom that the market has undergone tumultuous change in recent years. There has been a huge increase in the number of free to air and subscription channels available to consumers on all established and emerging digital platforms; and an even greater growth in the range and diversity of high-value websites and services available through the internet. SCBG notes that while public service broadcasters have played a part in this change, through the launch of their own internet websites and new digital channels, the engine of change has been private sector risk-taking, investment and innovation, combined with the creativity of individual entrepreneurs.

At a time of such proliferation in new private-sector services, particularly on digital platforms and new media, any public intervention in the market must have the backing of convincing market research and analysis which demonstrates a gap in the market, and proves a need for public sector intervention. It must in particular contain a clear definition of what kinds and quantities of Public Service Content (PSC) are needed to achieve the desired societal outcome, combined with a rigorous analysis of the degree to which they are already provided by the market and through existing public service provision, and the remaining gaps that need to be filled.

SCBG does not believe that Ofcom has so far produced such evidence or analysis to back its support for a PSP. Instead, the discussion paper merely lists a few generic sample projects for which there is no proven demand, nor identified public need. It is wholly insufficient for Ofcom to give such wholehearted support to the PSP concept on the vague basis there 'may well not be enough PSC in terms of quantity or diversity'¹.

Ofcom is also silent as to how the figure of £50-100m initial funding has been identified, and why it believes that this to be a 'sensible starting point'.² SCBG questions this evaluation when there is no detailed analysis of the level of provision that already exists in the market from both public service providers and commercial providers, nor of the desired level of provision. Specifically, Ofcom has failed to identify:

- (i) the desired level of PSC provision on all distribution platforms over a given time period;
- (ii) how the BBC's and other PSBs' existing services meet this identified need;
- (iii) how existing multi-channel broadcasters' channels and services meet this need;
- (iv) how existing online services, such as YouTube, MySpace, Google Earth, Second Life and wikipedia meet this need.

¹ Discussion paper, section 1.16

² Discussion paper, section 1.28

2. Competition and market forces

In its discussion paper, Ofcom states that a PSP will help to counter the increasing challenge to PSBs' viewing shares from multi-channel television. SCBG notes, however, that Ofcom previously stated in its 2005 PSB review that the contribution of commercial multi-channel broadcasters to public purposes should be "recognised and incentivised". SCBG strongly disagrees with the argument that competition for viewers is negative for the market and public service broadcasting; on the contrary, the vast number of new internet and multi-channel offerings has raised the level of PSC in the market to record levels.

Neither does the SCBG believe that a PSP will encourage the consumption of more public value content. Young people have moved away from traditional PSB television because of the compelling content and services now available on the Internet and on multi-channel television. These consumers are already users of services of a participative nature and which according to Ofcom constitute a "rich and interactive media experience". A PSP is unlikely to generate the kind of content that will convince audiences to move away from the services they use now. It is well known that the best and most successful examples of new media services have been created either by the users themselves or by the market.

3. PSC from multi-channel broadcasters

Before the PSP debate can move forward, Ofcom must therefore undertake a comprehensive analysis of existing levels public value provision. As a contribution to this vital piece of work, SCBG has commissioned research on the amount of PSC in the UK market in 2006, which is summarised in table 1 below.

The analysis reveals that, for the majority of genres, commercial digital channels provide more PSC than either the BBC (including its digital services) or the advertiser-funded terrestrial channels. 92% of arts programming is shown on commercial digital channels such as Artsworld; 79% of children's programming airs on channels like Nickelodeon; and 92% of documentary or factual entertainment hours were shown on channels such as Discovery. In addition, 84% of all UK originated films were shown on commercial digital channels. These also provided 43% of all news programming. In fact, current affairs is the only genre in which the BBC (including its digital channels) provides the majority of programming hours.

The launch of new digital platforms, the emergence of on-demand models, and the rapid penetration of broadband internet also mean that multi-channel operators can no longer afford to limit themselves to traditional linear distribution models. The PSC content previously retained within linear channels will become increasingly available to consumers across a range of platforms and through a variety of linear and on-demand formats.

The only two cases where there is clear market failure in PSC are UK-originated children's programming and local and regional news. In the first case, commercial children's channels will face very tough advertising cut-backs due to the recent food advertising restrictions and will therefore find it very hard to contribute to original

content. Local and regional news should on the other hand continue to be part of the PSB obligations and Ofcom should use its powers to scrutinise this obligation.

Table 1 : Total of PSB Programming across Channel Groups

Hours of PSB Programming, October 2006:						
Genre	BBC Terrestrial	Commercial Terrestrial	BBC Digital	ITV, C4, Five Digital	Commercial Digital	
Arts	16	17	35	3		843
Children's	156	177	645	760		6,459
Current Affairs	90	65	800	0		311
Documentaries	140	162	193	309		9,419
Films:UK/ROW	21	49	9	264		1,807
News/Weather	243	125	613	10		751

Source: DGA Metrics

% of PSB Programming, October 2006:					
Genre	BBC Terrestrial	Commercial Terrestrial	BBC Digital	ITV, C4, Five Digital	Commercial Digital
Arts	2%	2%	4%	0%	92%
Children's	2%	2%	8%	9%	79%
Current Affairs	7%	5%	63%	0%	25%
Documentaries	1%	2%	2%	3%	92%
Films:UK/ROW	1%	2%	0%	12%	84%
News/Weather	14%	7%	35%	1%	43%

Source: DGA Metrics

4. PSP funding

According to Ofcom's discussion paper, PSP funding could come from three sources; general taxation, enhanced licence fee and a tax on UK licensed broadcasters. Even if Ofcom can come up with compelling evidence that the PSP is needed in the market and give clear objectives for its creation, then SCBG still has serious questions about the proposed funding models.

General taxation would oblige all UK taxpayers to pay for a service that they might not use. And, as the Government has recently settled the BBC licence fee at a lower rate than requested by the BBC, it appears unlikely that it should be raised again in order to finance a direct competitor to the BBC. Moreover, SCBG has always called for a limited licence fee in order to keep public subsidies to its necessary limits. SCBG also strongly opposes a system whereby UK broadcasters such as SCBG members would have to fund a direct competitor. As noted above, SCBG members already contribute to PSC and do not believe that they should be required to subsidise further provision by other players in the market. Moreover, if the PSP would primarily be an online entity, surely it should not only be broadcasters subsidising it, but all content players in the market.

The only way that a PSP might be funded would be to use the funds received from spectrum pricing of DTT capacity according to Ofcom's own proposal. SCBG has welcomed this approach in order to create more level-playing field between all players in the market interested in DTT spectrum.

SCBG also questions whether a PSP is the most appropriate funding vehicle to address market failure, and whether it would be equipped with the necessary expertise and decision-making apparatus to make balanced investment decisions on

matters such as ‘health, social welfare, political engagement and economic policy’³ which have traditionally been the preserve of other established public sector organisations. For example, the Department of Health must surely be far better placed than a PSP to decide on the need and funding for a co-created content-led service for Diabetes; and, similarly, local government might well be a far more appropriate vehicle for a community-based ‘Reality Drama’ such as City Confidential.

5. PSP structure

SCBG would strongly resist the attachment of a PSP under the umbrella of any of the existing PSBs. Such an approach would perpetuate the privileged position of these broadcasters, and would not contribute to plurality in the market. Attaching it to an existing broadcaster might also lead to cross-subsidies between the linear and new media arms of the organisation.

6. Any PSP must be channel and platform neutral

As stated above, the SCBG does not agree that the amount of PSC in the market is declining. There is however a case for looking at how to best define PSC and to look across the broadcasting and new media spectrum at where one can find it. Many SCBG members contribute a vast amount of their investment towards PSC and there are a plethora of online services in the market of a participative and public value nature. However, if one does believe that the amount of PSC in the market should be enhanced, Ofcom should consider a channel and platform neutral approach to this issue.

SCBG has always argued for more incentives in the market for commercial operators to commission, acquire or produce PSC. Such incentives would be to encourage competition and to scrutinise the behaviour of existing incumbents, but also to cut public subsidies wherever possible. One clear incentive would be to follow the proposal by the Burns Committee in which an independent body would allocate money to providers of PSC. Many SCBG members would welcome the opportunity to compete fairly for such commissioning and distribution opportunities, but unfortunately we do not read the proposed PSP to be such an institution. Rather than encouraging existing broadcasters and media service providers to invest in PSC, the proposal on the table seems to direct itself to producers of such content.

Again, it is important that Ofcom thinks clearly about what it wishes to achieve with this proposal. Is it to boost the independent production sector or is it to increase PSC in the market. If the latter, the only way it can be done is to allow a variety of players to bid for PSC on fair and competitive terms.

³ Discussion paper, section 1.27

7. Conclusion

SCBG has a number of significant reservations about the proposal, based on our natural bias against unnecessary public intervention. As we have argued above, the existence of a publicly funded competitor inevitably affects investment decisions and commercial strategy – and wherever possible, we believe that competition is the optimal way of achieving public policy outcomes. The very fact that Ofcom is even contemplating such a proposal could serve to disincentivise commercial companies from investing in new media ventures.

While we agree that plurality should be at the heart of any public service broadcasting policy, we question whether this is best delivered by creating an entirely new publicly sponsored and publicly funded institution. As we have noted above, not only are commercial multi-channel broadcasters already active in a wide range of PSB genres, they are also pioneering new distribution technologies and building relationships with audiences via non-linear as well as linear means. To reiterate a point made earlier: policy should take account of provision already in the market, and work with the grain rather than against it.

While the idea of a PSP deserves greater consideration, we urge Ofcom to consider very carefully whether it is the best answer to the challenges that it has identified. Without clear evidence of a market failure in PSB-style content in new media, it will be hard to justify. We look forward to discuss this with Ofcom in more detail.