

Response to Ofcom document

Ofcom's Second Review of Public Service Television Broadcasting Terms of Reference

from

The Campaign For Press and Broadcasting Freedom (CPBF)

2nd Floor, Vi and Garner Smith House,

23 Orford Rd, London E17 9NL

tel: 020 8521 5932

www.cpbf.org.uk

e-mail <press@cpbf.demon.co.uk>

The CPBF was established in 1979. It is the leading independent membership organisation dealing with questions of freedom, diversity and accountability in the UK media. It is membership based, drawing its support from individuals, trade unions and community based organisations. It has consistently developed policies designed to encourage a more pluralistic media in the UK and has regularly intervened in the public and political debate over the future of broadcasting in the United Kingdom since it was established.

The Campaign has regularly responded to Ofcom's consultation papers, including the various phases of its first Review of Public Service Television Broadcasting, its Digital Dividend Review, and its proposals for a Public Service Publisher. The Campaign has taken a particular interest in the various aspects of public service in the broadcasting media.

Background points

Ofcom's research for its first Public Service Broadcasting review demonstrated a wide **appreciation of the public service television system** which has developed in the UK over the last 50 years. The Campaign welcomes Ofcom's aim to respond to that public appreciation and to 'safeguard the delivery of public service broadcasting' as we move into the very different the digital age (1.25).

Ofcom has recognised that historically a rich and varied service to the public has been based on a **diversity of funding sources**. This means that channels have been able to compete for audiences, innovation and quality, rather than for funds, and has provided challenging and wide-ranging programming for the audience, as well as an enormous amount of entertainment, relaxation, provocation, and sheer fun. We welcome Ofcom's commitment, in its second review, to look at ways of continuing that diversity.

However, we regret the continued **separation between commercial and 'public service'** (PSB) content, and the linked assumption that 'the market' can have no responsibility towards citizenship and the public interest. This is a dangerous idea, which is contradicted by the rich, diverse and publicly accountable history of regulated commercial broadcasting in the UK, and the productive interaction between publicly funded and commercially funded broadcasters.

We do not think that Ofcom should begin its second Review with the assumption that 'public service' is equated with 'publicly funded', nor with the assumption that public funding is a grudging way to compensate for 'market failure'.

Points

We have three general comments on the Terms of Reference for the second review:

- a.** Ofcom should broaden its concept of public service when it re-visits the definition/description which it published in the first review (1.14)
- b.** Ofcom should extend its regulatory requirements to cover all broadcasters received in the UK (1.19 & 1.20)
- c.** Ofcom should begin from premise that commercial companies, too, have an obligation to operate in the public interest.
- d.** Ofcom should review public service broadcasting in the digital age within the context of its other policy recommendations.

a. Broaden the concept of public service

We welcome the recognition of the growing pressures on public service broadcasting, and the commitment to finding ways of protecting key genres and approaches, even though they do not draw in the largest audiences (1.10).

However, we argue that Ofcom should also be looking for ways to encourage the wider broadcasting system to subscribe to a more publicly responsible ethos. This implies different expectations and a focus on the audience as active citizens across the breadth of their viewing. The Review should consider intervention in the light of these broader principles (1.22).

We regret the narrowing of the concept of 'public service' to certain types of 'content' alone (1.21). Splitting off 'public service content' from the rest of the television output has led to the very practice of 'box ticking' which Ofcom wanted to avoid.

For example, in Ofcom's report on the provision of current affairs on terrestrial television (July 2006), Channel Five submitted its daily talk show, *The Wright Stuff* as current affairs, whereas BARB had classified it as entertainment. The requirement for broadcasters to demonstrate that they have provided specific content led to an over-optimistic picture of current affairs provision, at a time when the mainstream, journalist-led current affairs series have been allowed to shrivel.

In this second Review, Ofcom should recognise that entertainment, information and education are constantly re-invigorating each other, stimulated by creative programme makers, and in interaction with the desire to address a large audience. Re-classifying programmes is not an answer to a recognition of this all important interaction. In this context a question like 'How much PSB is sufficient?' (1.2.4) is meaningless.

Particular areas of concern

We recommend that Ofcom pays particular attention to the following areas of concern:

a. Broadcasting of all types within the **Nations and Regions** (1.10): This should include not only the specific programme categories which are mentioned in the document: news content and Channel 3 Regional Non-News Programming (1.30), but a much broader range of programming and local production. In Scotland this should be considered in the light of the proposal for a Scottish Broadcasting Commission.

b. We note that one of the reasons given for bringing forward the review (1.12) is the "disengagement of **ethnic groups**" and we would remind Ofcom of the original remit for Channel Four. The channel was asked to provide for groups not otherwise provided for by mainstream television, and a highly innovative and successful range of programmes was launched by the new Channel. Opportunities were to given to many producers and programmes makers from groups who had been, and still are, seriously underrepresented in mainstream television . This is a useful precedent.

c. We would also point out that **current affairs** is missing from this review (1.30), which despite Ofcom's optimistic 2006 report, is seriously under pressure - especially mainstream journalist-led series with the resources and security to commit to long-term investigative journalism.

b. Extend its regulatory requirements to cover all broadcasters received in the UK

Paragraph 1.19 extends the scope of the Review to include "other audio visual services already launched or in development by the PSBs and to assess the potential for other broadcasters and other institutions to contribute to public purposes, whether for commercial reasons or as part of a broader PSB ecology."

We welcome this extension and argue that the wider broadcasting ecology needs to be taken into account in the run-up to analogue switch off. As the document points out, in an all-digital universe, the very concept of a 'channel' will be challenged. This makes it even more important that broadcasting as a whole should be considered as a broad and varied public service. All broadcasters received in the UK should be part of the regulatory environment. Historically public service broadcasting has been a complex interaction of many different inputs, and Ofcom should be looking for ways to protect and promote the interactivity of the whole system as outlets, platforms and providers proliferate.

c. Recognise that commercial companies, too, have an obligation to operate in the public interest.

Paragraph 1.6 states "The analysis we conducted in the first PSB Review showed that existing commercial funding models for public service broadcasting would become unsustainable after digital switchover. Our analysis concluded that beyond switchover, we would no longer be able to ensure the delivery of the commercial broadcasters' obligations at the same level as previously".

However, Paragraph 1.24 states "The first PSB Review described plurality as a central tenet of public service broadcasting. This review will revisit this issue to explore the costs and benefits of plurality in different aspects of PSB and ask whether and in what sense plurality will continue to be important".

In its submission on public service broadcasting to the DCMS (January 2007) the CPBF addressed this issue and argued:

"Public service broadcasting has been sustained and financed over many years by a mutually reinforcing mix of institutions, funding and regulation. Historically this was provided by commercial broadcasters in return for privileges and discounted access to the analogue spectrum. The issue is not that commercial

broadcasters will cease to be viable, or even strong businesses. It is that the set of incentives which have impelled the shareholder-funded businesses to provide public service broadcasting will disappear. There is no compelling reason why the existing public service system cannot be strengthened and extended into the emerging digital age. It is a matter of public policy whether or not this should be allowed to happen through government policy and the intervention of Ofcom. If it is deemed desirable the means can be willed. Any reduction or decline will only take place if the government and the regulator fail to intervene in a positive way to prevent it (as Ofcom has done in allowing the run down by ITV of its public service broadcasting obligations). This is based on the false assumption that public service on UK TV will have to be reduced because the market is better at providing broadcasting. This has shaped and continues to shape the regulator's policy framework and unless reversed, will become a self-filling prophecy.

Methods for doing this could include:

- [a] reduced cost of spectrum access in return for public service programme provision;
- [b] tax allowances linked to a commitment on the part of commercial broadcasters to produce public service programming
- [c] a levy on advertising, sponsorship and other commercial revenues which would be used to fund public service broadcasting provision in the commercial sector
- [d] taking public control of the ITV, C4 and S4C archives of material that were produced under the system of public service broadcasting and using the income from these sources to help fund new productions
- [e] imposing a statutory obligation on digital commercial broadcasters whose market share exceeds a specified limit to spend a proportion of their income on public service broadcasting.
- [f] reconsidering OFCOM's remit to enhance its obligations to promote public service broadcasting across the developing media, and to limit its powers of interference with the BBC.”

Ofcom should take these possibilities, and others, into account. However, the possibility of using part of the BBC's licence fee to fund other broadcasters, as suggested in the PSP proposal, should be emphatically rejected.

d. Ofcom should consider public service broadcasting in the digital age within the context of its other policy recommendations.

Ofcom's policy recommendations in other areas, particularly the Digital Dividend Review have affected its ability to protect a public service approach to broadcasting. These other areas should be taken into account in the current Review.

The Digital Dividend Review states that ‘Ofcom are vigorously liberalising’ (1.24 and 1.26) and advocates a market-led approach with ‘as few constraints as possible’ (1.51 and 2). This reduces Ofcom’s ability to intervene with broadcasters, and in particular has meant that the availability of High Definition Television on Freeview may well be limited. In the Campaign’s submission on the Review we argued that the radio spectrum should be seen as a public asset and not as a commodity. We do not think that the availability of a ‘digital dividend’ has changed the need for positive regulation, and we think that such regulation should apply to all users, not just the established terrestrial broadcasters.

Conclusion

Paragraph 1.22 of the Terms of Reference states “The Review needs to assess both the need for (continued) intervention in the provision of broadcast television content and the potential need for intervention to support new, alternative or complementary methods of delivering the purposes of public service broadcasting in future. The reasons for any intervention may be very different for some of these new services. Therefore, the review will seek to develop principles to assess and verify any potential need for intervention”.

We support this aim, and trust that Ofcom will take into account the points that we have made.

Campaign for Press and Broadcasting Freedom
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