



**EQUITY SUBMISSION TO OFCOM'S SECOND REVIEW OF PUBLIC  
SERVICE BROADCASTING -  
PHASE 2: PREPARING FOR THE DIGITAL FUTURE**

**Introduction**

1. Equity is a trade union representing 37,000 performers and creative personnel who work across the whole spectrum of entertainment in the UK. Our members work in a range of media and the creative industries including visual broadcasts, sound recordings and film, principally in drama, comedy or entertainment roles.
2. Any decisions regarding the future of public service broadcasting (PSB) will have a direct impact on the production, distribution and funding of our members work, as well as the creative process and the content of programmes in which they are involved.
3. This submission is consistent with many of the points made by Equity in Phase 1 of the consultation and seeks to address the matters most relevant to Equity's membership.

**Background**

4. Equity believes that this review provides Ofcom with an opportunity to reconsider whether "light touch" regulation is the best model for maintaining and strengthening UK television production in line with its statutory obligations. At this time, decisive action is required aimed at protecting and encouraging original UK production, which reflects the lives of the UK population.
5. Failure to act will mean there is a real danger that we will lose the programmes which audiences value most highly. Challenging drama, original comedy and children's programmes made in and about the UK will begin to disappear from our screens at an increasing rate, following on from the cuts in local news outlined in this review.
6. Actors and performers with a few years experience in the profession believe that quality drama on television is already on the decline: the single TV drama is all but dead, proper rehearsal is almost unheard of, and great TV moments are becoming a rarity, with the exception of occasional award-winning period dramas like *Cranford* and challenging modern pieces like *Mark of Cain*. Without regulation which aims to support UK drama production, this slide will continue.

7. Ofcom's objective must be to seek to maintain and strengthen existing public service broadcasting commitments, so we continue to get high-quality original TV from a range of providers. The main public service broadcasters (PSBs) are crucial in meeting this aspiration as they remain the most important source of UK-originated production. In particular BBC, ITV and Channel 4 play an essential role in meeting the demands of audiences and as employers of actors, performers and creative talent.
8. The BBC is especially important as it provides a broad choice and a diversity of high-quality programmes on television, radio and more recently online. It plays a central role as what Ofcom continues to describe as "the cornerstone of public service broadcasting" supported by the licence fee.
9. Equity welcomes Ofcom's overall assessment of the BBC's continuing role, due to the BBC's unparalleled reach and impact in providing a broad range of programming for audiences. It also provides vital support for the creative industries, both as an employer and as a key provider of education and training.
10. Therefore a strong BBC remains crucial to the future of PSB. However, it is the future activity of the commercial broadcasters (particularly ITV, Channel 4 and Five) that continue to provide the biggest and most immediate challenge. There remains a need to determine the ongoing role for the commercial PSBs, given falling revenues, fragmenting audiences and the reduction of implicit subsidies.
11. Equity's position – and consequently our approach to this whole review – is guided by the need to ensure that both the BBC and commercial PSBs can continue to contribute positively to PSB as much as possible in the digital age. The broadest possible range of PSB content provides competition for quality, is in the interests of audiences and the future of the broadcasting industry in the UK.

#### **Section 4: Refined models for public service content in the future**

12. Equity believes that it is significant that such a large proportion of responses to Phase One of the consultation favoured "Model 1 – Evolution" as their preferred approach for ensuring public service content in future. In addition, it is clear that many organisations and individuals who preferred "Model 3 - BBC/C4 plus limited competitive funding" also saw a role for ITV1 and Five. This is backed up by Ofcom's own deliberative research.
13. The fact that these models attracted such widespread support demonstrates the desire amongst audiences and stakeholders for a broad range of PSB provision, through trusted and existing institutions with a track record of providing this type of content.

14. Ofcom has gone on to refine these models for the long-term delivery of public service content, leaving three possible approaches:
  - Model 1 – Enhanced evolution model
  - Model 2 – A refined BBC/C4 model plus limited competitive funding
  - Model 3 – A refined competitive funding model
15. Equity continues to believe that Model 1 is the best approach for ensuring a good mix of high-quality original programmes that are freely available to audiences. It should do this by building on the strengths of the existing institutions and adapting the existing model of delivery, ensuring that the core producers of PSB programming are able to build on their experiences and reputation for quality.
16. The alternative approaches being proposed can only lead to a narrower range of PSB provision. With Model 2, while there would be a PSB competitor of sorts, this could not be truly described as plurality. It would also introduce the unappealing prospect of additional bureaucracy in the PSB system, with a new funding agency whose remit and criteria are unclear. Model 3 suffers the same problem but on an even larger scale with even greater risks to PSB provision, due to the lack of PSB requirements on a range of broadcasters.

## **Section 5: The models in the nations, regions and localities**

17. It is no surprise that audiences in Scotland, Wales and Northern Ireland preferred the “evolution” model, given that this approach is most likely to support continued PSB production in the nations and regions of the UK (para 5.22). While the evidence clearly suggests that additional funding would be required to meet these demands, Equity believes this would lead to a fairer geographical distribution of original production, able to ensure that the true nature and diversity of the UK is reflected adequately.
18. It is also only fair that broadcasters spread their operations so that a greater proportion of production employment is spread across the UK. The BBC in particular has the ability to work across the UK to create a positive impact on the production base and workforce. We therefore welcome the broad thrust of the BBC’s proposals to increase its out-of-London production.
19. However, it is not sufficient to simply apply arbitrary targets of out-of-London or national production. That approach leads confused decisions, such as the proposed move of *Casualty* from Bristol to Cardiff, in order to boost the national drama output of Wales, which in itself does little to enhance the more even spread of original production across the UK.
20. Broadcasters should be encouraged to support this greater spread of commissioning and explore long-term methods of developing and sustaining regional production in parts of the country that are not represented on screen. One of the best ways in which this can be achieved is by the establishment of returning drama serials. The fact that

this genre of production has a distinct long-term benefit for the local production infrastructure means that it should be subject to particular encouragement.

21. Equity has actively supported this approach in all of the nations and regions of the UK. However, we note that there are specific recommendations on the table from the Scottish Broadcasting Commission's report, which Ofcom considers in this consultation (in Figure 27). We would support further consideration of these options, including the proposed public service digital channel for Scotland, which could meet PSB objectives and lead to greater employment opportunities for our members in Scotland.
22. However, the report does not suggest where the funding of £50-£75m for the digital channel should come from. As we state elsewhere in this response, we would reject any proposal that it should be funded by "top slicing" the BBC. Instead we believe that this PSB funding gap should be met by a combination of approaches, which in this case could include direct funding through the Scottish block grant as well as some of the proceeds generated when the analogue spectrum is sold off. If successful, this may also provide a model for increasing national production in Wales and possibly Northern Ireland.
23. When considering some of the other solutions for maximising PSB content outlined in Section 5, Equity would restate its opposition to competitive funding in principle for the reasons outlined above. However, we would be interested in further analysis and consideration of the model outlined in Figure 29 (on p.77) of the consultation document, which provides a theoretical illustration of bids to deliver content.
24. While this concept is still at a relatively early stage in its development, Equity would be interested to know whether consideration has been given to the viability of adopting this approach to provide opportunities for other types of vulnerable PSB content (such as children's programming) to broadcast in designated time slots.

## **Section 6: Funding options**

25. Equity notes that Ofcom has identified a growing funding gap facing commercial PSBs in the face of fragmenting audiences and other pressures, and would offer the following comments on the options for future PSB funding being considered.
  - Regulatory assets
26. Equity remains of the view that there must be further investigation of how regulatory assets could be used most effectively in future as a means to support and incentivise PSB programming. While it is clear that access to broadcasting spectrum is not as valuable as it was in an analogue world, it still has a significant value that should not be disregarded.

27. Similarly, prominence on the electronic programme guide (EPG) is a distinct advantage to broadcasters that should be used as leverage to encourage broadcasters to do more in return to meet audience demands, whereas increased advertising minutage and product placement should also be considered as a means of providing additional revenue for commercial PSBs.
28. Another asset that appears to have been overlooked is the revenue generated by the sale of spectrum once digital switchover is complete. This process, managed under the Digital Dividend Review, does not appear to have been taken fully into account in the context of PSB.
29. While this source of income is a one-off it is worth noting that the last sale of spectrum in 2000 generated over £22bn for the Treasury. While no one expects future sales to generate the same level of income, we believe that the proceeds of the sale of this public asset could still be considerable and could be used to contribute to support the future of PSB.
- Licence fee
30. Equity is pleased to see that the various proposals for redistributing or “top-slicing” the BBC licence fee do not appear to feature prominently in Ofcom’s thinking at this time. This approach would not only constitute a failure to secure any additional funding for PSB purposes, but would also sever the important link between BBC services and the licence fee payer.
31. A further reduction in licence fee funding available to the BBC will also undermine its ability to continue to fulfil the important role outlined earlier in this submission, as the cornerstone of PSB and driver of the UK’s creative industries. Therefore we welcome Ofcom’s statement that “we do not believe there should be any change in the way licence fee revenues are allocated that would curtail the BBC’s ability to provide high quality public service output” (para 6.54).
32. Nevertheless, we would note that what is now being referred to as the “switchover surplus” (formerly the “excess licence fee”) is funding that the BBC was expecting to be able to invest in its own operations after the end of digital switchover in 2012. Therefore it will need to reallocate significant funding to meet its range of obligations under its own public purposes, including building digital Britain.
33. Consequently we would reject this proportion of licence fee being redistributed in the manner proposed. Similarly, we do not believe that gifting BBC Worldwide (or its profits) to Channel 4 would be appropriate. It would be another difficult and complicated measure, which would also reduce funding for core BBC services.
34. It is preferable for Ofcom to continue to examine ways in which it could be possible for the BBC to do more to work in partnership with other

broadcasters and content providers, by providing access to its facilities and infrastructure.

- Industry levies

35. Equity is pleased to see that Ofcom's research indicated that "an industry charge was one of the more favourable options for funding PSB in future" (para 6.71). In our submission to Phase 1 of the PSB review we requested that Ofcom commission specific research into alternative methods of funding based upon the contribution of the industry, including, but not limited to, the approach outlined in France.

36. Industry funding approaches could be adopted in the UK, by building on the experiences of models for supporting PSB in other countries (e.g. France, Canada, Spain, Italy). There are likely to be clear benefits to such models, as well as the possible use of investment quotas across a range of broadcasters, which could expand on requirements of the EU Audiovisual Media Services Directive. However, Equity is still not aware of any recent examples of detailed independent research in the UK to examine the practical impact of these approaches.

37. Equity continues to believe that licensed broadcasters operating in the UK could be required to pay a levy, at a rate that reflects their PSB contribution. A higher payment would be due from successful broadcasters without a clear PSB commitment, whereas there would be a lower financial requirement from broadcasters with identifiable PSB output.

38. This would help to address the market failure in the production of key PSB output, such as drama. As noted earlier, these types of programmes have become more difficult for commercial PSB channels to finance with the dilution in advertising revenue. This is compounded further by the downward pressure on the sale price of older programmes to channels that have no requirement or incentive to produce anything themselves.

39. A properly structured levy system could act to ensure that funding for PSB is either provided directly by existing broadcasters (or other platform operators) of this type, which have so far failed to provide significant investment in original UK production, or indirectly through providing greater incentives to produce.

40. We understand approaches to broadcasting levies are being considered by the Institute of Public Policy Research (IPPR) and Equity would also urge Ofcom to take this work into consideration.

- Direct public funding

41. We remain opposed to the general principle of using direct taxation to support a grant-in-aid for PSB. Such a move would not be politically sustainable with the public if this was in addition to the licence fee. It would also lead to inevitable questions about the impartiality and

independence of programme makers if they were directly accountable to HM Treasury.

42. However, there may be specific arrangements, particularly for ensuring original PSB content in the nations and regions, which could draw on public funds as part of an overall package (see Section 5 above).

- Approaches to Channel 4

43. Equity continues to be a strong supporter of Channel 4 and welcomed its future vision as outlined in its *Next on 4* initiative. Its emphasis on new talent, alternative voices and UK-originated content provides a sound basis for its future role within the PSB framework. We believe that audiences will be best served by this approach, which offers high levels of original content, continued plurality and public value, rather than a gradual and managed decline and reduction in PSB commitment. However, the implementation of this vision is clearly dependent upon its funding needs, which Channel 4 estimates at around £150m a year.

44. Therefore we agree that it is important to develop models of funding for Channel 4 with some urgency, which offer a solution that is sustainable, certain and meaningful. Nevertheless Equity's view is consistent with the approach to funding outlined elsewhere in this document. Consequently we believe that it could be a deserving recipient of any industry levy and allocated appropriate regulatory assets, including spectrum sale proceeds. However, as stated above, we remain opposed to use of the so-called "switchover surplus" or gifting BBC Worldwide (or its profits) to Channel 4, principally due to the impact on BBC services.

## **Section 7: Regulatory decisions for the short term**

45. Equity does not intend to comment on each specific change to production arrangements and quotas in the short-term, other than to restate our belief in a fair geographical distribution of original production.

46. In addition Equity welcomes Ofcom's continued focus on the benefits of plurality for audiences – particularly in terms of the diversity of different voices, enhanced reach and impact and the positive role of competition in spurring innovation and quality in PSB.

47. However, we would repeat our assertion that the short-term changes in PSB provision demonstrate that the legislative support is actually quite weak in terms of the specific requirements. Aside from its overall responsibility in Section 264(3) of the Communications Act 2003 of "*maintaining and strengthening the quality of public service television broadcasting*", Ofcom also has clear obligations under s.264(6b) to ensure "*that cultural activity in the United Kingdom, and its diversity, are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy and music, by the inclusion of feature films in those services and by the treatment of other visual and performing arts*".

48. The fact that the statute only refers to such PSB services “taken together” has enabled broadcasters to initiate a reduction in the provision of this type of “Tier 3” content. In particular, there has been a notable decline in children’s programming, with no obvious mechanisms to address the deficit. Yet it seems reasonably clear that the intention of the legislation was to ensure that audiences continue to have access to a choice of high quality programmes in these key areas.
49. For this reason – and within the context of the proposed models for funding public service content and incentives – Equity would support tougher legislation that would provide greater regulatory powers to enable Ofcom to act in order to prevent reductions in PSB output. This should be part of an overall framework aimed at enabling key PSB broadcasters to meet the demands of audiences, rather than enable continual managed decline.
50. That said, we welcome the developments in improving and extending children’s services by the BBC, along with moves by Channel 4, Five and S4C to improve their provision of children’s programming. In addition, we would support further moves to consider whether the model outlined by Ofcom on p.77 of the consultation document could provide opportunities for children’s programming on specific time slots, for example on ITV1.

## **Conclusion**

51. Equity is pleased to have a further opportunity to participate in the PSB review and puts forward these comments as a serious attempt to address the difficult challenges that Ofcom has identified. We would welcome to further discussions and consultation in the remaining stages of the review.
52. We acknowledge the thoughtful approach that Ofcom has adopted to this issue, but there are a number of underlying assumptions in Ofcom’s analysis which we do not accept. In particular, we remain unconvinced that it is in the long-term commercial interests of citizens and consumers or the future of the broadcasting industry in the UK, for commercial television companies to withdraw from high quality PSB programming.

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