

The Response of the Campaign for Press and Broadcasting Freedom to ‘Ofcom’s Second Public Service Broadcasting Review Phase Two: Preparing for the digital future’ published: September 2008.

1. The Campaign for Press and Broadcasting Freedom is an independent organisation funded by its membership which links people working inside and outside the media. It works to improve diversity and accountability in the media and has campaigned since 1979 on a range of issues including ownership and control, censorship, public service broadcasting and media standards. For further details: www.cpbf.org.uk

The Ofcom Review.

2. We welcome the opportunity to respond to the Ofcom document. In particular we reiterate our agreement with Ofcom’s recognition that there is a case for continued and increased public intervention to sustain and develop public service content across existing and developing forms of delivery. This is a position that the Campaign has argued for many years.

3. We also welcome the fact that Ofcom has published evidence of substantial public support for public service broadcasting. For example Ofcom’s research continues to show the depth of public support for the maintenance of public service broadcasting¹. This response is organised around the consultation questions which Ofcom has raised.

Consultation questions

4. Do you agree that public service provision and funding beyond the BBC is an important part of any future system?

4[a] Public service broadcasting has, since the introduction of commercial television in 1954, always extended beyond the BBC to include commercial provision of public service broadcasting. We consider that one purpose of policy should be to extend the amount, range and quality of public service communications across the sector, including the BBC and all major providers of commercial communications services.

4[b] Consequently, one function Ofcom is to consider measures which can both sustain existing provision and extend it to major players in digital broadcasting and on the internet. Currently Ofcom is overseeing a strategy which points in the opposite direction. That is, Ofcom is allowing ITV plc to retreat from significant elements of its public service remit, and is also not developing policies to ensure that major providers like Sky, have to spend significant amounts of money on original production. In so far as Ofcom has limited powers in this area it should be pressing the government to devise instruments that would allow it to take a more pro-active role in promoting public service broadcasting across all sectors.

¹ Ofcom, (2008) to Ofcom’s Second Public Service Broadcasting Review. Phase One: The Digital Opportunity (London, CPBF, May) paras. 3.44-3.45

5. Which of the three refined models do you think is most appropriate?

5[a] The Campaign considers that the current array of commercial and non-commercial broadcasters should remain in place. ITVplc should be required to restore the cuts it has made in key areas, such as news and current affairs, children's programmes, drama, and non-news programmes for the nations and regions. If it is reluctant to do this, then steps should be taken by Ofcom to penalise it. It is important to recognise that ITV is positioning itself to make a considerable amount of money using its brand in the new age of digital broadcasting. Ofcom should not be in the business of allowing ITV to ditch its obligations in a manner which suggests the regulator is keen to aid the board room strategy of one of companies it is meant to supervise.

5[b] A whole raft of measures can be used, many of which are outlined in this Ofcom document, to sustain and bolster public service commercial communications. Where public money is needed to sustain particular services, such as Channel 4, or additional services for the nations and regions, then this should come in the form of loans repayable out of revenues over a long period. This could take the form of loans being subject to repayment once the company receiving the loans have achieved an agreed level of profitability or of income, which ever is deemed the most appropriate. In the case of Channel 4 this would be similar to the system of funding which supported it in its early years.

5[c] There should be no spectrum sales. Leasing spectrum is one option as long as the money is used to fund public service broadcasting content.

5[d] There should not be any top slicing of the BBC. The recent debates about using the digital dividend, delivered in the BBC licence fee settlement of 2006, for the future funding of commercial broadcasters is misguided. It will open the door to more demands on the licence fee from the commercial sector. Leaving that sum with the BBC would enable the licence fee to be kept at a lower level than it might otherwise be.

5[e] If the government wishes to fund the expansion of public service broadcasting beyond the BBC it can begin to look at measures to make the companies that own satellite and cable channels pay for the production of public service content. Once companies reach a certain level of audience and profitability, and given that that success is built on the loose regulatory framework gifted by the government as well as access to homes in the UK, then the government should insist that commercial satellite and cable companies fund high quality public service provision across all platforms. Ofcom's focus on the BBC and existing commercial public service broadcasters has always been too narrow.

5[f] Levies are another option. In one form or another they have always played a part in developing UK broadcasting. The Independent Broadcasting Authority which ran commercial radio in the UK in its early years used a system of 'secondary rental', which was in effect a levy on successful radio contractors, to fund developments of public service commercial radio. Channel 4 was originally funded by a levy on ITV contractors, repaid by allowing ITV companies to sell advertising. So, using a levy, properly structured, is a tried and tested method of ensuring the development of public

service broadcasting in the UK and should now be given serious consideration by the government.

5[g] In practical terms we recommend that Ofcom takes a far more robust attitude to the failures of ITV; that there be government funds made available to fund and support Channels 4 and 5; that there be no top slicing; and that the legislation be altered to allow change in the nature of Ofcom so that it has the remit to promote public service across the communications sector, pro-actively, by having powers to make commercial contractors spend on public service broadcasting and where appropriate, to use levies to promote that end.

6. Do you agree that in any future model Channel 4 should have an extended remit to innovate and provide distinctive UK content across platforms? If so, should it receive additional funding directly, or should it have to compete for funding?

6[a] Yes, Channel 4 should have funding, directly from the government to innovate and provide distinctive UK content across all platforms. But it should not have to get this through competitive funding. In the public sector it is arguable that competitive funding has proven wasteful of public resources and has shifted money from where it should be, in the service of the public, to the accounts of private shareholders. It is a wasteful and time-consuming activity and is not a fair or appropriate way of disposing of public funds. A loan system, as outlined in 5[b] or the use of a levy 5[f], are ways of aiding Channel 4 through its current difficulties.

7. Do you think ITV1, Five and Teletext should continue to have public service obligations after 2014?

7 [a] Yes. If these companies cannot pay for these out of revenue, then there could be limited loans to aid them do this. But if this is not possible, they should relinquish their contracts and these should be re-advertised.

8. Where ITV1 has an ongoing role, do you agree that the Channel 3 licensing structure should be simplified, if so what form of licensing would be most appropriate?

8[a] ITV is, in effect, one network in England and Wales. There would no harm in restructuring the licence in the future to acknowledge this, but it should go hand in hand with a strengthening of the obligations of the contractor to provide a range of programmes calculated to appeal to the tastes and interests of people in different areas of the UK. It is not the structure of the licence that is the issue; it is the obligations that the licence imposes, the willingness of the holders to adhere to those obligations, and the independence and robustness of the regulator. At present all three of these conditions are not properly operational.

9. What role should competition for funding play in future? In which areas of content? What comments do you have on our description of how this might work in practice?

9[a] Although the arrival of the independent sector (a form of competition for funding) after the changes of the mid-1980s led to some diversity in terms of the production base and programming, this situation has rapidly changed. As many predicted in the 1980s the pressures exerted by the growth of independents would be to push down standards of employment and training and lead to concentration in the sector. The competitive ethos that has driven this change and the general changes in UK TV has led to the stripping away of key elements from UK TV (original prime time drama, current affairs at prime time, children's programmes). It has stripped the BBC of key resources and personnel, and seen the transfer of public money to individuals who have become very rich as a result.

9[b] It seems odd then that given the dire consequences that have flowed from the increase in competition for funding that Ofcom should be pushing this. We do not need more competitive funding; we need Ofcom to take stock of just how damaging competition in public services has been to date.

10. Do you agree with our findings that nations and regions news continues to have an important role and that additional funding should be provided to sustain it?

10[a] It has long been known that programming in the nations and regions (non-news as well as news) is important. This kind of programming will only continue if Ofcom takes a much more robust and independently minded approach to the regulation of ITV. The problem has, of course, economic dimensions. But these are negligible compared with the problem of Ofcom's role in overseeing ITV's retreat from these areas. Additional funding should be provided if needs be, but only in the form of loans to ITV in the short term.

11. Which of the three refined models do you think is most appropriate in the devolved nations?

11[a] Existing support for programming in these areas must continue. This means ensuring that the BBC is able to deliver as well as the ITV companies. S4C and Gaelic TV need to be supported.

11[b] Our recommendations in section 5 above apply here. In addition we consider that the recent interventions by the Scottish Parliament and the National Assembly for Wales, point to the need for greater devolution of powers over broadcasting and communications to the elected assemblies.

12. Do you agree with our assessment of each possible funding source, in terms of its scale, advantages and disadvantages?

12[a] Our concern is that the *direction* of Ofcom's approach is to let the main commercial providers (ITV, Sky etc) off the hook, whilst putting pressure on the licence fee.

12[b] Public service communications needs to be funded out of public funds, licence fees, regulatory assets, spectrum leasing and the revenues of commercial operators. The question of whether public funding will have a detrimental effect on editorial

independence is to some extent misplaced. It ignores the extent to which private funding influences editorial choices (we have seen this amply with the reduction of children's TV programmes). It also downplays the way existing mechanisms do foster editorial independence in S4C and the BBC, and the ways they can be improved.

Conclusion

13. We are concerned that the changes in ITV's provision of news and other services, have occurred in the way and at the pace they have, because Ofcom has allowed this to happen. If we see a weakening of the BBC, it will be, we believe, because Ofcom has fashioned a policy consultation environment where the issue of the BBC is constantly returned to as if the fact that it is a successful *public* body is a problem. In one sense this reflects the way Ofcom views the world of communications; for Ofcom's purposes and powers were shaped in the framework of the economic orthodoxies of the last thirty years, which have, since the onset of the global recession in 2008, been shown to be woefully inadequate ways of conceptualising how economies and public services work.. In another sense it is because the Communications Act of 2003 did not give Ofcom enough responsibilities and powers to develop public service broadcasting.

14. The government therefore needs to re-think its policy in the area of communications. We recognise the limitations of Ofcom's powers and urge that new legislation should re-design Ofcom as a body geared towards sustaining public service values across all platforms. It needs not only the powers to do this, but the will to effect changes that will protect and enhance public service values in communications.

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