A new approach to public service content in the digital age

Responses to the discussion document on the potential role of the Public Service Publisher

Contents

Section 1

Executive summary

1.1 In January, we published a discussion paper on a new approach to public service content in the digital age[1]. The document laid out the rationale for intervention in the interactive digital media market based on key market developments in the broadcasting and online digital media markets. We also made some suggestions as to how such an intervention might work, based on Ofcom's proposal for a Public Service Publisher (PSP), an institution rooted in digital interactive media, which would focus on the provision of content designed for that market.

1.2 This document is an initial summary of the 76 responses to that paper. This document is not intended to address the issues raised by the respondents. We will be conducting further work and industry seminars on the issues raised over the summer to develop further the points raised in the responses.

1.3 We have refrained from further discussion of the key issues here as the next statutory Public Service Broadcasting (PSB) Review will start in early Autumn 2007. The PSB review will consider the full range of issues relating to the future development of public service content including a number of issues directly related to the PSP and its operation

Key messages from responses to the document

1.4 Overall, there was broad support for the idea of intervention to support public service content in digital interactive media, in principle. Many respondents spoke positively of the importance of the online market in media consumption and the value of such an intervention, as well as concerns over the likelihood of the online market delivering sufficient socially valuable content.

1.5 There was clear support for further work to refine the case for intervention and specify where any intervention should be targeted. As a subsidiary question, a number of respondents asked about the precise nature of intervention required. Although many respondents were in favour of investment in digital content, they stressed the importance of ensuring this was clearly and effectively targeted.

1.6 Substantial comment was focussed on the role the PSP could play in content provision. Although these comments were diverse, there was a keen interest in supporting facilitation and navigation of online content, where it was felt that existing provision may be limited. Similarly, others suggested a number of innovative roles for the PSP in supporting the creation of content, including acting as a provider of "venture capital for creativity" or as a navigator of online provision

1.7 We specifically asked for responses to the idea of an open rights model to allow users and producers to make maximum use of the capacity of online content to be modified, amended and re-used to increase value. While there was considerable

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[1] http://www.ofcom.org.uk/consult/condocs/pspnewapproach/newapproach.pdf, further thoughts on the PSP, based on the results of a process of creative engagement can be found at the Open Media Network website: http://www.openmedianetwork.org.uk/

support for a presumption in favour of this approach, a number of respondents raised concerns around the specific mechanism in the discussion document. They suggested that existing copyright legislation was sufficient to deliver the benefits that we had identified. The principles of a more open framework for content were widely supported, but the consensus was that further work will be needed to determine the most effective system to deliver this.

1.8   Questions of funding and scale are likely to be central to the ongoing debate over the PSP. We set out preliminary suggestions on the PSP's funding and scale in the discussion paper and responses to these questions varied considerably. We highlighted the need to consider the funding and scale issues in the light of the online market rather than that of traditional broadcasting. Many respondents welcomed this development, although there were divergent views over how much funding was required for a PSP or where it should come from.

1.9   Many of the respondents made substantial submissions with extensive supporting detail on the key issues highlighted above and others. These are available on the Ofcom website:
http://www.ofcom.org.uk/consult/condocs/pspnewapproach/responses/ .

Further work

1.10   As a result of the responses received to the discussion paper, we will undertake further work to address the issues raised. The three main areas of work are set out below.

   i)   **Further work on the case for intervention**: We have commissioned an external review of the economic case for market shortfall, looking at the nature of possible market shortfall in the online market and the extent of any enduring failure of the market to provide sufficient public value content. In addition, we are commencing a review of online content provision in the UK in order to assess more accurately the level of existing provision of public service content in digital interactive media.

   ii) **Engaging with the online and broadcast industries**: Over the summer, Ofcom is hosting a series of seminars on the key issues concerning the PSP: the case for intervention in online markets, the structure and content of a PSP, and scale and funding

   iii) **Further internal work**: Ofcom will also be working on other issues arising from the responses to the document. In particular, we will develop further analysis of the nature of the content that the PSP should provide.

1.11   The results of this and other work will feed into the next statutory PSB Review, scheduled to begin in early Autumn 2007. Many of the issues discussed below will be directly relevant to that review.

Section 2

Summary of Responses

Background

2.1   In January, we published a discussion paper which set out Ofcom's approach to public service content in the online market[2]. This document arose from the growing importance of digital media since changes in the market since Ofcom's first statutory review of public service television broadcasting (the PSB Review) which concluded in early 2005. The discussion document was created in conjunction with the Creative Forum, a group of digital media industry experts[3].

2.2   That document set out the view that television is now part of a wider digital media landscape that encompasses other digital media platforms. Although this market is still in the early stages of development, we argued that the market will not provide sufficient public service content and further intervention in the market was needed.

2.3   We called this intervention the Public Service Publisher (PSP), an organisation that would bring the characteristics of digital media to developing public service content[4]. We sought in the document to outline the role that the PSP could play, though we remain open-minded about how the PSP could work. However, we did suggest a number of possible approaches to content, rights, business model, distribution and location.

2.4   Although we did not ask for responses to a specific set of questions, we did highlight in document some areas in which we would be particularly interested in receiving responses, specifically:

- The appropriate nature of intervention in the digital media age, and the balance between TV and non-TV forms of public service content distribution (i.e., is there a need for the PSP)

- The potential role of the PSP and its creative remit

- The operating model, in particular the approach to rights management

- The scale of funding required

2.5   Many of the respondents followed this structure and the following sub-sections summarise the responses under those headings.

Need for the PSP

2.6   In the discussion paper, we argued that, although the market is at an early stage of development, the economic characteristics of public service content suggest strongly

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[2] http://www.ofcom.org.uk/consult/condocs/pspnewapproach/newapproach.pdf

[3] The output of their work is partially represented in the above paper, but a fuller version can be found on the Open Media Network website: http://www.openmedianetwork.org.uk/

[4] The nature of the content under discussion is detailed in Section 4 of the discussion paper by Andrew Chitty

that there will be underprovision of public service content in the digital media market. We stressed that this market shortfall was likely to be smaller than in traditional broadcasting, as the online market was more likely to deliver greater public value without intervention, but that the shortfall would be enduring.

2.7   We also argued that the PSP was best targeted at this issue, and that other means would be required to continue to address the market shortfall in existing public service broadcasting, and we highlighted the related reviews currently underway in Ofcom on these issues.

2.8   There was broad, though not unanimous, support for the analysis of the changing market. Our argument that consumers' consumption of media is no longer limited to television and radio was supported by most, with a number of respondents adding further examples of this transition. The Arts Council cited research suggesting 82% of their respondents were aiming to create digital content; incumbent broadcasters outlined their online plans, e.g., ITV Local.

2.9   There was broad support for the idea of further intervention in the online market. Some respondents were hostile to the idea of market shortfall, but for the majority, while the arguments for the PSP are not absolutely certain, they are likely to be correct and intervention was seen as bringing public value. Many asked for further work to assess the market in the future. In addition, there were calls for Ofcom to detail more precisely which gaps in the market the PSP was aiming to fill.

2.10   However, even respondents who expressed scepticism over the rationale for intervention, also pointed to areas where the online marketplace may be failing to deliver, particularly the high market share of Internet advertising held by the search engines, the need for competition to the BBC and the fragility of other public service content providers online.

2.11   Some respondents argued that issues concerning traditional television were paramount, though there was some diversity over the nature of the shortfall in traditional broadcasting and the suitable response:

•   Some – largely individuals – argued that the obvious conclusions from the shortfall in PSB would be to fund traditional PSB content to the exclusion of online media.

•   Others highlighted the absence of particular genres, in particular local and community television and suggested that a broadcast approach was needed to secure universality; others highlighted the ability of online activity to support community and local content

•   Furthermore, some argued that it was traditional broadcasters – especially the BBC and radio companies – who would be the best, if not the only, providers of online PSC.

2.12   Market provision is clearly complex, with public service content provided from a number of different institutions. GMG made this point forcefully relating to their provision of news and wider issues. They also called for a full market review of online content.

2.13   Some respondents argued that the focus on market shortfall failed to give weight to the importance of public value and citizen or social benefits. The Campaign for Press

and Broadcasting Freedom amongst others agreed with our conclusions, but not all of our reasoning.

The potential role of the PSP and its creative remit

2.14   We outlined the nature of PSP content in some depth in section four of the discussion document, and also when discussing content production aspects in section five. In these sections we suggested that the PSP should be a commissioner of content and we defined its content as sharing a number of important qualities that digital media enables: the content would be participative, with users able to personalise the content and experience, and where the distinction between producer and consumer is blurred.

2.15   There was broad acceptance of the benefits of online content compared to broadcast media in delivering some aspects of public service delivery. BT highlighted further implications of the advantages of online delivery by arguing that the traditional link between distribution and production was no longer needed. More generally, many respondents argued that the PSP could and should play an important role as a navigator through existing content, and certainly a number of institutions argued that this would be the most effective use of public money in this area given the dispersed nature of the high quality content already available. This view has been highlighted in post-consultation discussions, but a minority disagreed. F4G argued that the market would develop effective search and navigation tools for this purpose.

2.16   The discussion of content–funding attracted a great deal of attention, with significant support for the idea that the PSP should have a wider role than commissioning of content, including:

- Investment in capacity building in the industry. This was expressed in a number of ways, either calling for the PSP to be a provider of "venture capital for creativity", or arguing for a role in skills building or that the PSP should not fund any project to 100% so that at least some level of support would need to be provided. The Arts Council looked by analogy to the role of the BBC and Channel 4 in this area in traditional media

- Production as well as commissioning

- Investment in researching techniques for archiving, maintenance of IPR, and searching data

- Publishing and maintaining educational content to allow groups and individuals to create content; what the Open Rights Group and others called enabling an architecture of participation

2.17   A number of respondents raised the blurring of content boundaries in digital media, both in terms of genre categorisations and the dividing line between TV and online media content. A number argued that both these trends were already well underway in traditional PSB, though PACT and others stressed the importance of the traditional PSB genres.

2.18   A small number of responses stressed the importance of investment in internet infrastructure and in other areas around distribution and common standards. These are clearly important issues for the future of the web, but we note that these concerns are out of scope for the PSP.

The operating model, in particular the approach to rights management

2.19   In the sections on the structure of the PSP, we limited our suggestions to a small number of issues. Specifically we argued that the goals of a PSP could be advanced by the following approaches

- Make use of a more radical rights model, more "share-aware" than broadcasters' and television producers' existing rights models

- Operate a non-commercial business model

- Secure reach and impact by partnering with other organisations for distribution, with perhaps a PSP facilitation brand. We explicitly left open the possibility of the PSP being run by an existing institution.

- Play a wider role in the digital media market by encouraging regional production (being based out of London) and playing a role in new media literacy

2.20   Many details of the operating model will depend on the precise role that the PSP would play and on wider questions around the PSB system as a whole. The PSB Review will address these issues over the next eighteen months. The following responses will feed into that process.

Rights model

2.21   There was broad enthusiasm for the idea that a PSP should attempt to deliver content within an open rights framework. DMP saw the ability to comment on, adapt and modify content as critically important to a successful public service offering online. As in other cases, a number of respondents cited examples of successful methods for achieving this.

2.22   However, many stressed the ability of the existing copyright regime to adapt to the requirements of the online market, citing the EU review of copyright and the Gowers review of intellectual property in December 2006 in the UK and the well-functioning market for content online now.

2.23   A number of organisations representing content creators were extremely concerned that the system described would impair the ability of content creators to exercise control over their content and to make a legitimate return on their activities. In particular it was felt no-one should be pressured or forced into handing over control of copyright.

2.24   Many of these respondents raised specific concerns over the creative commons model itself, within the spectrum of open rights options. Indeed one respondent laid out in some detail, a new proposed rights model. However, others were in favour of the creative commons model.

Business model

2.25   Many respondents treated the non-commercial nature of the PSP as uncontentious. However, there were some concerns about the use of public funding in this way, with BECTU arguing that the PSP may need to generate some return on its investment.

2.26   However, many did note the potential impact of the PSP on the commercial market, and there was clear support for effective governance to ensure that the PSP did not stifle commercial innovation. This view was understandably concentrated amongst respondents from the digital media sector, GMG and F4G Games, but other organisations, e.g., the Publishers Association, stressed the potential for one-sided negotiation and dealing if a single PSP were given a privileged position.

Partnership

2.27   We highlighted the role of effective partnership and co-funding in our discussion paper. Many respondents supported this stance, with existing public bodies in this area noting the success of their activities in this area and the need for successful projects to engage with the wider industry, e.g., the EEDA cited the mynorfolk digital challenge which had linked existing providers effectively. Others wrote about the ability of other public bodies to be effective online, save for constrained funding.

2.28   Many endorsed a devolved operating model with an open approach to partnership. The BBC discussed the ways in which it works with other organisations and the importance of partnerships in digital media, as did other public organisations. Parallels with the regional licensee model for ITV were also evoked.

2.29   Channel 4 argued strongly that it should be awarded the PSP, arguing that the corporation has a uniquely strong brand and experience as well as a PSB remit, guaranteed by public ownership. However, only a handful of other responses considered the question (with no clear consensus). Other mainstream broadcasters did argue that new media content could not be divorced from TV, but came to a different conclusion from Channel 4. This issue will be informed by further analysis in the PSB Review.

Wider role

2.30   There was support for the idea that the PSP should be based outside London, though much of this was from respondents with an obvious incentive, e.g., Screen Scotland and a West Midlands consortium who argued for a more specific location for the PSP. This was echoed by Ofcom's advisory committees.

2.31   Concerns were raised over the issues of exclusion and wider issues around universality (with implications for funding and support), though few commented on whether the PSP should take a market leading role in encouraging consumption of public service content online.

2.32   The importance of engagement with marginalised or disabled groups was highlighted, with the CMA and the RNIB arguing strongly that this would need to be a core part of the PSP's remit.

The scale of funding required

2.33   In the discussion paper, we proposed that the PSP would need funding of comparable scale to the BBC's online service, bbc.co.uk (£72m in 2005/06). We suggested funding of £50m - £100m p.a. and highlighted a number of potential sources of public funding which could support the PSP.

2.34   Many welcomed the move to consider the scale of the PSP in the light of its online commitments rather than as arising from the deficit in traditional public service broadcasting. But there was some reluctance to comment on the specific scale needed, with some respondents arguing that they could not comment on the level of funding until the remit and operational basis of the PSP had been determined.

2.35   A number of respondents suggested that the potential sources of PSP funding may be more diverse than suggested in the document. The Arts Council and the DMP stressed the impossibility of purely non-commercial activity being the standard for the PSP. Some other respondents pointed to the DfES funding for Teachers TV as a potential model for alternative funding.

2.36   Responses on specific levels of funding included some suggesting cuts (Screen England argued that the level of funding was well in excess of that received by existing bodies and the organisation could be effective with a lower level of funding); some agreeing with the document; and others arguing for greater funding (BECTU and the BFI felt that £50m would be insufficient to gain traction and have the desired impact).

2.37   There was a similarly wide spread of views on funding sources. There was some support for securing funding through a levy on non-PSB broadcasters. Conversely there was some opposition to sourcing the funding from existing PSB providers, in particular from the licence fee. The Campaign for Press and Broadcasting Freedom echoed a number of responses that argued that the effect of using the licence fee would be to diminish the total available funding for PSB on linear television. Others went further and opposed the possibility that the commercial PSBs could be included in a levy. PACT argued that any funding from the linear world would be inappropriate to fund intervention online.

Section 3

Further work on the PSP

3.1   The January paper on the PSP was intended to open a debate on the issues relating to intervention in digital interactive media. We expect this process to continue throughout this year. In addition, this work will feed into the next PSB Review, scheduled to begin in early Autumn 2007.

3.2   The responses received to the paper published in January highlighted a number of areas where further work on the PSP would be beneficial. As a result, we have launched a number of workstreams, internally and externally, to address both the issues raised and areas we consider need greater focus.

3.3   Going forward, Ofcom intends to work on a number of key areas

1.   Further work on the case for intervention

2.   Engaging with the online and broadcast industries

3.   Further internal work in response to other comments made.

1. Further work on the case for intervention

3.4   Although respondents were positive concerning the need for intervention in principle, a number of respondents felt that the case for intervention is not yet absolutely certain and that further work on the digital media market would be needed. In particular, further activity would be needed to detail more precisely which gaps in the market the PSP was aiming to fill. This sentiment was supported by discussions held at conferences where the PSP was discussed in the spring.

3.5   We have therefore commissioned an external review of the economics of the interactive digital media market and any likely market shortfall from Robin Mason, Professor of Economics at Southampton University. While this review will consider the economic arguments laid out in the discussion paper, it will also consider the wider issues relating to the online media market.

3.6   In addition, we will be conducting a review of online content provision in the UK . This work will consider public service provision in the online market, including commercial and non-commercial providers. It will focus on the following areas:

•   Creation of content that fulfils the purposes and characteristics of PSC

•   Reach and impact of this content

•   Coverage and range of PSC online

•   The relative role of the public sector

3.7   It is our intention that this work will assess more accurately the level of existing provision of public service content in the digital interactive media, in order to allow a meaningful discussion of existing and likely future shortfalls.

2. Engaging with the online and broadcast industries

3.8   The discussion paper and its responses have been valuable in engaging with the industry and considering many of the key issues around the PSP. However, we remain keen to ensure that we engage fully with industry and other stakeholders on the major issues around the PSP in order to draw on their expertise as we take forward work on the PSP.

3.9   As a result, over the summer, Ofcom is hosting a series of three seminars on the PSP, aimed at developing our understanding of the PSP debate in three key areas:

- The need for intervention in the digital media world (see above)

- Structure and content of a potential PSP

- Sources of funding for public intervention.

3.10   We also intend to use these seminars to engage with those parts of the industry that did not respond to Ofcom's discussion paper and which we believe have a valuable input to make in the development of the online market in general and in relation to the PSP, as well as develop more fully the debate around these areas.

3. Further internal work

3.11   The January discussion paper aimed to lay out proposals for the PSP over a wide range of areas. These proposals have been helpful in generating debate around the PSP, but are preliminary. Over the summer, Ofcom will continue to work on other issues arising from the responses to the document. Many of the respondents made thoughtful points around the nature of the market the PSP would be active in and in particular thoughts about how best to deploy public money in the digital market. We intend to consider these carefully before taking the PSP forward.

3.12   In addition, there are also many overlaps between the PSP and other programmes of work currently underway in Ofcom. A number of these refer to content that may be particularly relevant for the PSP, for example, our review of Children's programming and local content may intersect with issues relevant to the PSP

3.13   We also note that many of the respondents stressed the need for further work to develop and expand on the type of content that the PSP would commission or fund. Ofcom is committed to ongoing work to develop a clear understanding of the PSP's content. This work is likely to be long term in nature but will begin this summer.

The PSB Review

3.14   We anticipate these workstreams running into the Autumn if not beyond and they will form the basis for further activity on the PSP within the PSB Review (due to begin in early Autumn). In particular, we would highlight the importance of considering the PSP in conjunction with other work on PSB, much of which will also have reported by then.

Section 4

List of non-confidential responses

Advisory Committee of local Television Organisations

Advantage West Midlands

Advisory Committee for Scotland

Saul Albert

Arts Council

Richard Bartle

BBC

BECTU

Nicholas Bentley

British Film Institute

British Music Rights

British Copyright Council

British Equity Collecting Society

Brook Lapping

BT

Campaign for Press and Broadcasting

Channel 4

Professor Richard Collins

Community Media Association

Stephen Corkett

Martin Curry

Digital Media Project

East of England Development Agency

Equity

F4G Software

First Light Movies

Five

Guardian Media Group

International Broadcasting Trust

ITV

Will Jackson

Dr Stephen Jones

Mr King

Manchester Digital Development Agency

David Melville

Mobile Broadband Group

Museums Libraries Archives

One Northeast

Open Rights Group, Open Knowledge Foundation, Free Culture UK

One World Broadcasting Trust

PACT

Periodical Publishers' Association

Fred Perkins (Information TV)

Mr Phillips

Phonographic Performance Limited Video Performance Limited

Publishers' Association

Radiocentre

RNIB

S4C

Satellite and Cable Broadcasters Group

Scottish Screen

Screen East

Screen England

Gaelic Media Service

Skillset

SMG

Mark Splinter

John Styles

Richard Taylor

Teletext

Tiga

UK Film council

West Midlands consolidated response

Derek Wyatt MP