



**British Film Institute Response to:**

**OFCOM consultation**

**Small Screen: Big Debate**

**The Future of Public Service Media**

16 March 2021

## **About the BFI**

The BFI is the UK's lead organisation for film, television and the moving image. It is a distributor of National Lottery funding and a cultural charity that:

- Curates and presents the greatest international public programme of world cinema for audiences; in cinemas, at festivals and online
- Cares for the BFI National Archive – the most significant film and television archive in the world
- Actively seeks out and supports the next generation of filmmakers
- Works with Government and industry to make the UK the most creatively exciting and prosperous place to make film internationally

Founded in 1933, the BFI is a registered charity governed by Royal Charter. The BFI Board of Governors is chaired by J. Timothy Richards.

## **About this submission**

The following document responds to questions posed by Ofcom as part of its inquiry into the future of Public Service Media.

The BFI is also a party to the submission made the Creative Industries Federation and supports the views set out in the CIF's paper.

## Response to Consultation Questions:

*Q.1 Do you agree that a new regulatory framework for PSM delivery should support a more flexible 'service neutral' delivery approach that is more outcomes focused? p 39*

*Q.2 Do you agree with our proposals for a clear accountability framework? p 39*

The BFI very strongly agrees with the statement in Ofcom's consultation that:

"there is still a clear case for intervention to support public service broadcasting, as it plays a key role in securing types of programming which are important to society, creating shared national experiences and reflecting the UK back to itself in all its diversity. Public service broadcasting also ensures that no audiences are left behind by the pace of technological change, while also making a vital contribution to the creative economy."<sup>1</sup>

The term 'public service broadcasting' is still as relevant as ever, even as services adapt to the digital age especially because, as Ofcom states:

"public service broadcasting must continue to be universal if it is to deliver these benefits in future."

The PSBs play a crucial role in the cultural and social fabric of UK's society, and in delivering benefits to people as citizens, and not just to people as consumers which cannot be replicated by companies which are solely bound by their legal obligations to maximise value for their shareholders. In this context we note that Ofcom has a specific duty to citizens under the Communications Act:

"It shall be the principal duty of OFCOM, in carrying out their functions—

(a) to further the interests of citizens in relation to communications matters;<sup>2</sup>"

The commitment of the PSBs themselves to citizens, is reflected, at scale, in their institutional structures, as well as in their output. They bring together people with a shared commitment to delivering public value and an accumulation of relevant expertise within a single organisation in which the whole is greater than the sum of the parts.

The contribution of the PSBs to society – to values which help underpin informed democracy such as impartiality, trust, reflecting the culture of the UK in the round – is immense. The value of these

---

<sup>1</sup> Small Screen: Big Debate Consultation, The Future of Public Service Media. Ofcom, p.13  
[https://www.smallscreenbigdebate.co.uk/data/assets/pdf\\_file/0032/208769/consultation-future-of-public-service-media.pdf](https://www.smallscreenbigdebate.co.uk/data/assets/pdf_file/0032/208769/consultation-future-of-public-service-media.pdf)

<sup>2</sup> Communications Act, 2003, 3 (1) a. <https://www.legislation.gov.uk/ukpga/2003/21/section/3>

commitments has been vividly demonstrated during the COVID pandemic; the PSBs have played a critical role in helping to rebut disinformation and untruths on a wide range of subjects around the impacts of both COVID itself and the vaccines which are critical to ending the pandemic phase of the disease.

This is repeatedly reflected in evidence from Ofcom's consultation document, for example:

"The continued importance that people place on PSB news was vividly demonstrated at the start of the coronavirus pandemic in March 2020, when over 80% of people in the UK turned to the BBC for news and information about the developing situation."<sup>3</sup>

And:

"The importance of guaranteed access to reliable and trusted information during times of uncertainty has been powerfully demonstrated during the coronavirus pandemic."

Alongside this, the BFI recognises that commercial broadcasters with no public service obligations and on-demand services make an immensely valuable contribution to both audiences and the creative economy across the UK. Indeed, the PSBs and other public organisations such as the BFI, increasingly work in partnership with such companies.

The BFI itself shares a number of common objectives with Public Service Broadcasters, with both playing a critical role in fostering film, television and the moving image across the UK. The BFI's Royal Charter sets out a mandate to do so in a number of ways:

- by promoting their use as a record of contemporary life and manners
- by promoting education about film, television and the moving image generally, and their impact on society
- by promoting access to and appreciation of the widest possible range of British and world cinema
- by establishing, caring for and developing collections reflecting the UK's moving image history and heritage

The BFI sets out how it will achieve this in its current five-year strategy, [BFI2022](#), which makes clear that its priority in delivering each strand of this work is to make UK screen culture as inclusive as possible.

Public Service Broadcasting supports each of these objectives through the range of content and services it provides for the UK public, including the BBC's and Channel 4's vital support of independent UK film through BBC Films and Film4 respectively.

As Ofcom notes, the universal accessibility of PSB services is central to their public value, connecting with a far wider range of people, from diverse backgrounds and places, than any other UK broadcasting services. As the Lords' Communications Committee report, *Public Service*

---

<sup>3</sup> Ofcom, op.cit., p.14

*Broadcasting: As Vital as Ever*, concluded “an essential feature of public service broadcasting is its universality, free at the point of use after paying the licence fee: both the availability and affordability of public service broadcasters are unmatched by other services.”<sup>4</sup>

The BFI strongly supports the licence fee as the key foundation stone of the PSB system. The licence fee acts as a guarantor for universal access to broadcasting spectrum as a whole and not just to the BBC – which is why it is levied on anyone in the UK who watches “live TV”, not just the BBC. It continues to be the most effective and equitable mechanism for achieving such universal access and for funding the BBC.

Of course, the Internet has profoundly altered the landscape within which PSB operates. But the impact is not evenly spread. Research by Ofcom demonstrates that the number of people using the internet continues to increase, with 87% of adults using the internet in 2019, but this proportion is lower among older people (81% for 55-64s, 33% for 65-74s and 48% for those aged 75+) as well as those from lower socioeconomic backgrounds (working-age adults in DE socio-economic group1 households are more than three times as likely as those in non-DE households to be non-users of the internet).<sup>3</sup>

The continuing role of linear television in reaching audiences even as they migrate to digital services was demonstrated by BBC Three’s move online in 2016, when its weekly reach among 16–34 year olds fell from 26 per cent in 2014 to 8 per cent in 2017. The recent decision by the Corporation that BBC Three should return as a linear service is acknowledgement of the continuing reach of those services.<sup>5</sup>

Adoption of a “service neutral” approach with a focus on outcomes runs serious risks excluding many, including society’s most vulnerable, from access.

The public value of the non-commercial PSBs as institutions is anchored in them being funded to operate at scale in the interests of people as citizens rather than as consumers. The PSBs play a vital role in advancing cultural diversity, providing UK audiences with access to a rich range of content that has not historically been provided by purely commercial services. Cultural diversity is supported both in terms of variety of genre and form, but also in terms of work that explores a wide range of identities and backgrounds, representing the breadth of experience of the UK public.

It is crucial therefore that any changes to the accountability framework for PSB in a digital age do not compromise Ofcom’s statutory duties promote the interests of citizens in its role as regulator.

For example, Channel 3 and Channel 5 services are both required to present a “wide and balanced range of high quality programmes which meet the needs and satisfy the interests of as many different audiences as practicable” by their licence agreements.<sup>4</sup> Channel 4 is statutorily required to “reflect cultural diversity in the UK” and “champion alternative points of view”, while the BBC’s

---

<sup>4</sup> <https://publications.parliament.uk/pa/ld201919/ldselect/ldcomuni/16/1602.htm>

<sup>5</sup> <https://www.bbc.co.uk/mediacentre/2021/bbc-three-broadcast-channel>

Charter Agreement sets out public purposes including to “show the most creative, highest quality and distinctive output” across genres, as well as to “reflect, represent and serve the diverse communities of the United Kingdom’s nations and regions.”<sup>5</sup>

The BBC and Channel 4 also play an invaluable role in supporting diversity in UK screen culture through their respective film departments. Independent films such as *Blue Story*, *Pride* and *Rocks* reflect UK ways of life including those from traditionally under-represented communities, and reflect these identities to audiences at home and around the world. These films tell distinctive UK stories in a way that major commercially-driven studios do not and this is essential to the continued health of the UK’s cultural tradition. BFI National Lottery funding, BBC Films and Film4 Productions provide the backbone of funding for UK independent film.

Over the past decade, BBC Films and Film4 have invested in 11% of all UK independent films, with these titles accounting for nearly 20% of overall spend on independent film at £888m.<sup>6</sup> The role of PSB investment in independent film is becoming ever more important as investment in UK domestic production continues to decline: production spend on domestic UK features fell 54% in 2019/20 to £132m, having declined consistently since its most recent peak at £319m in 2015/16.

It is extremely disappointing therefore that the Ofcom consultation makes no mention of the valuable contributions of the PSBs to film culture. The BBC has statutory duties in relation to film as reflected in the BBC Agreement:

“The BBC must develop and publish a film strategy that must- (a) contribute to the fulfilment of the Mission and the promotion of the Public Purposes; and (b) support British film by both investing in film production and promoting, through exhibition and coverage, British film on television and online.”<sup>7</sup>

Channel 4’s statutory obligations for film are set out in the 2010 Digital Economy Act.<sup>8</sup>

The BFI would not want to see any dilution of these statutory duties which are crucial in supporting a diverse and flourishing film culture across the four nations of the UK, among people of all backgrounds.

Equally, requirements around representation, including quotas, must be maintained as the PSB model continues to evolve. It is critical to the cultural and societal health of the UK that all audiences see themselves reflected in film and television content, and such requirements ensure that broadcasters will continue to work to reflect these stories in future, even where there is less of a commercial incentive.

As representation in the screen sectors becomes an increasingly significant issue, it is also imperative

---

<sup>6</sup> BFI Research and Statistics Unit

<sup>7</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/2016/agreement.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/agreement.pdf) p.43

<sup>8</sup> <https://www.legislation.gov.uk/ukpga/2010/24/crossheading/channel-four-television-corporation>, Clause 22.

that industry and Government consider how it may be fostered beyond the scope of current PSB regulation, including in any broader definition of PSM.

Complementary measures include the BFI Diversity Standards, which require participating productions to demonstrate how they are actively working to improve representation in two of four areas (behind the camera, among audiences or through skills and training opportunities) in terms of the protected characteristics of sex, race and ethnicity, sexual orientation, disability, gender reassignment, age and pregnancy and maternity, as well as socioeconomic background, those with caring responsibilities and people based outside of London and the South East of England.<sup>9</sup>

The Public Service Broadcasters are crucial partners with the BFI National Archive in its work to care for and develop collections reflecting the UK's moving image history and heritage. They are required by the 1990 Communications Act (revised 2003) to donate copies of programmes as requested by the national collection, and to make a 'reasonable contribution' towards the upkeep of this heritage. Ofcom as the regulator of the PSBs determines what constitutes a 'reasonable contribution'. This currently amounts to c£1.2m across the PSBs.

This has been essential cornerstone funding, without which many of the programmes we love or admire would have been permanently lost. The PSBs' working relationship with the BFI National Archive has enabled it to develop a collection reflecting innovation and excellence in British TV, with holdings ranging from *The Avengers* to *The Naked Civil Servant* to *Broadchurch*, and from the *1966 World Cup Final* to *The Stephen Lawrence Story* to *The Great British Bake Off*.

While no such statutory obligation applies for cable television or SVoDs, the BFI believes that introducing regulation requiring such contribution on cable television and SVoDs via would ensure better public value - particularly as SVoDs make an increasing contribution in terms of UK production. This would ensure that titles which are key to the story of the moving image in the UK such as *The Crown*, *Black Mirror* and *The Grand Tour* and are preserved for future public access.

We believe that it would not be onerous for these streaming (and cable) providers to support the archiving of the UK's indigenous production, and that legal requirements on this issue could achieve this goal by ensuring the financially appropriate maintenance of the UK's national television archive for the benefit of people today and people to come. The Lords Communication Committee's 2019 inquiry into PSBs and SVoD services recommended that such a requirement be introduced.<sup>10</sup>

Ofcom regulation on regional TV production and programming ensures PSBs commission a significant proportion of programmes made outside the M25, as well as on the need to broadcast localised programmes. This has been furthered by Channel 4's establishment of offices in Leeds, Bristol and Glasgow as well as the BBC's presence in Salford's MediaCity. Such measures enable areas to develop their local screen sectors, including crew bases, studio facilities and location services which can also be used by the film industry.

---

<sup>9</sup> <https://www.bfi.org.uk/inclusion-film-industry/bfi-diversity-standards>

<sup>10</sup> <https://publications.parliament.uk/pa/ld201919/ldselect/ldcomuni/16/1602.htm>

Screen clusters across the UK operate in a virtuous circle, whereby a consistent level of production investment enables them to develop local infrastructure and secure their status as a viable place to live and work for crew, which in turn attracts further projects. This is demonstrated in areas such as Yorkshire, where BFI-backed agency Screen Yorkshire serves to attract and coordinate both film and TV investment in the region. The effectiveness of this function has contributed to major wins for the Yorkshire production sector in recent years, including the relocation of Channel 4 HQ as well as a £15m investment in screen content through the AHRC's Creative Industries Clusters Programme as part of Government's industrial strategy.

The effectiveness of such quotas looks set only to increase as the proportion of content required, as well as new terms requiring production companies to have a 'substantive base' outside of the M25, which came into effect from January 2021. It is essential that this regulatory requirement to foster the screen sectors across every nation and region of the UK be preserved as the PSB landscape continues to evolve.

The importance of the regulatory commitments of the PSBs to the development of skills and talent is also noticeably absent from Ofcom's consultation. Any new regulatory framework for PSB should recognise and maintain these commitments. While the UK's film and TV production sectors have been an economic and cultural success story in recent years, their continued growth is threatened by widening skills gaps: 2017 research for the BFI predicted that a growing film sector will create 25,000 new opportunities alone over the next five years. The BFI has invested £19 million in sector skills body ScreenSkills in order to deliver a ten-point plan designed to ensure this workforce is properly grown and trained over this period.

PSBs play a major role in developing the UK film and HETV workforces: nurturing talent is a key part of Channel 4's public service remit, while a requirement to grow the UK's production workforce is written into the BBC's 2017 Management Agreement with DCMS. PSBs run a number of skills and training programmes, including practical placements on productions. All productions commissioned by UK PSBs also contribute to the voluntary HETV Skills Investment Fund, which charges productions 0.5% of their UK production budget to invest in skills activity designed to develop freelancers and talent working at all levels in HETV. Similarly, all film productions in receipt of public funding - including from the BFI, BBC Films and Film4 - are required to contribute to the Film Skills Fund, which works to achieve similar ends for the film sector. Contribution to this levy is voluntary for other film productions.

*Q.3 What do you think should be included in the PSM 'offer'? p 43*

*Q.4 What options do you think we should consider on the terms of PSM availability? p 43*

The BFI supports the proposition made by jointly PSBs as summarised by Ofcom:

"The joint PSB submission proposes that commercial PSBs would be required to provide a "regulated offer" to all major TV platforms. The "regulated offer" would consist of a "core" form of the PSB VoD service, offering only content which had been originally transmitted on a PSB channel. It would be offered to platforms on a set of standardised contractual terms. This approach would preserve the

possibility of commercial negotiations between PSBs and platforms. PSBs would be able to offer enhanced forms of their services to platforms in return for commercial value, while guaranteeing that audiences would always be able to receive the “core” service should those negotiations break down. The “regulated offer” arrangement would not apply to the BBC, which would be required to offer – and platforms would be required to accept – the full BBC iPlayer service, on the terms set out in the BBC’s existing Distribution Policy.”

This proposition seems to us to reflect the realities and diversity of the digital landscape in which PSB now operates, while remaining underpinned by the commitment to public service values and universality of access which are so vital to the health of democracy and culture in the UK.

In addition, we believe that programmes for children and young people form a crucial part of any public service offer, most especially through the Young Audiences Content Fund, as set out in our answer to Q.7. A broad cross section of programming is needed for a truly vibrant and plural PS landscape for young audiences displaying an array of different genres and techniques. In this regard, we are extremely surprised that there appears to be no mention at all of animation in Ofcom’s consultation – this is a serious omission given the role that original animation programming, of British origin, can play in the development of young children, but in adding a cultural counterpoint to the huge amount of international animation available from the global commercial networks and streaming platforms.

A commitment to indigenous language services must also remain a cornerstone of any PSM offer. BBC Alba, S4C and the Ulster-Scots Broadcast Fund (USBF) all play a key role in serving diverse linguistic communities across different parts of the UK.

Investment in original production in the UK will also be sustained by the Audiovisual Media Services Regulations (AMSR) which provides for a quota of at least 30% of “European works” on VoD services licensed by Ofcom and the UK being party to the Council of Europe’s Transfrontier Television Convention which provides for a quota of a majority of programmes being “European works” on linear services. Both of these parts of the regulatory framework have a key role to play as part of any Public Service Media “offer” in stimulating programming that is culturally distinctive.

The AMSR also continues commitments to prominence obligations for both VoD and linear services which will be important in helping audiences to find PSM content in a world in which algorithms operating on a purely commercial basis may not enable audiences to find original content of their choosing rather than those pre-programmed by Artificial Intelligence.

*Q.5 What are the options for future funding of PSM and are there lessons we can learn from other countries’ approaches? p 52*

As stated in answer to Q.1 and Q.2 the BFI strongly supports the licence fee in its current form, as a core guarantor of access to broadcast services and as the principal funding mechanism for the BBC. Equally, we believe that the current funding models for the commercial PSBs are fit for purpose.

Predictions of the decline and fall of the market for advertising on broadcast television, most recently as a consequence of the pandemic, have proved premature. For example, on 9 March 2021,

ITV reported that total advertising revenue in the final quarter of 2020 was up 3% year on year, notwithstanding the severe damage to the wider economy caused by the pandemic.<sup>11</sup>

In October 2020, Channel 4 reported in that “a better-than-forecast return in the advertising market help[ed] to deliver a significantly improved financial position. This will enable Channel 4 to end 2020 with a healthy financial surplus to invest through economically uncertain times.”<sup>12</sup>

The funding models of the commercial PSBs, including that of Channel 4, based on advertising and discounted spectrum pricing, are proven and successful and there appears to be no credible case for change.

Crucially, as Ofcom’s consultation notes, “the UK system offers good value for money, compared to international models”, something which the BFI believes to be true both as regards audiences and society as a whole.<sup>13</sup>

The Ofcom consultation briefly mentions the High-end TV Tax Relief which has been key to increased investment in TV drama, including by the PSBs in the UK. However, there is no mention of the tax reliefs for Animation and for Children’s Television both of which also play a vital role in supporting the provision of distinctive, high-quality content for children and young people. All three of these tax reliefs are now an important part of the landscape supporting public investment in original British works by both the PSBs and private broadcasters and VoD providers.

*Q.6 What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven’t identified? p 54*

As noted in answer to Q.1 and Q.2 we believe that the collaborative role of the PSBs in relation to independent film production in the UK is an important and needs to be acknowledged by Ofcom as an important benefit of the PSB framework.

We also recognise and welcome the increasing collaboration in production between the PSBs and purely commercial broadcasters and VoD providers including for example, Steve McQueen’s **Small Axe**, broadcast on the BBC but co-produced with Amazon, or **His Dark Materials**, similarly broadcast on the BBC but co-produced with HBO.

*Question 7: What are your views on the opportunities for new providers of PSM? p 60*

We would particularly focus on the need to ensure the continuing universal availability of programming for children and young people and specifically the role of the BFI’s Young Audiences Content Fund (YACF) in helping to deliver this output.

---

<sup>11</sup> <https://www.itvplc.com/investors/results-centre>

<sup>12</sup> <https://www.channel4.com/press/news/channel-4-2019-annual-report-year-transformation-growth-digital-viewing-and-revenues-and>

<sup>13</sup> Ofcom, op.cit., p.49

The removal of children's programming quotas for commercial public service broadcasters and restrictions on advertising around children's television, compounded by the often limited resale value of UK focused content, makes children's television difficult to monetise for broadcasters and potential investors.

Public service broadcasters spent roughly 40% less than they did in 2006 by 2017 (down from £116 million to £70 million). Some 98% of children's programming in 2016 was repeats, with the BBC accounting for 87% of all first-run UK originated children's programming by public service broadcasters.<sup>11</sup> The huge role played by the BBC demonstrates the value of regulation in providing for underserved audiences.

The Young Audiences Content Fund (YACF) administered by the BFI on behalf of the UK Government was established in order to achieve plurality in the delivery of programming for children by stimulating production of a rich variety of children's programming. It aims to stimulate plurality of content for audiences up to the age of 18 by providing industry with up to £57m of grant-in-aid for the creation of distinctive, high-quality content.

The fund makes production awards for original programming which has secured a written commitment from a broadcaster to make the programme available on a free-to-access, Ofcom-regulated service to a UK-wide audience. It also provides development awards for projects without a broadcaster. The Young Audiences Content Fund is a three-year pilot running until March 2022.

In December 2020, the YACF announced the latest projects it is supporting, including Quentin Blake's Clown (C4), Big Boys (E4/C4), Teen First Dates (E4), Generation Genome (KMTV), A Bear Named Wojtek (BBC Alba) and a second series of the popular FYI spin off shows: Kidversation and I Don't Get It (Sky/First News). The announcement comes as many of the first projects supported by YACF received their broadcast premiere on free-to-air channels eg Go Green With The Grimwades (Milkshake! C5), The World According to Grandpa (Milkshake! C5), How (CITV), Don't Unleash the Beast (CITV), Quentin Blake's Clown (C4), Reset and Rewind and Teen First Dates (E4)

Funded by the DCMS, the YACF has had a hugely positive impact in supporting a diverse community of independent production companies across the UK and exceeded targets for the proportion of projects involving new voices, regional representation and indigenous languages including through BBC Alba and S4C. The BFI believes that it is crucial that the pilot should become a permanent initiative to support programming for children in the world of public service media.