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## Results of the consultation

### Areas of broad consensus

- The terrestrial broadcasters have only partially fulfilled the requirements of the Communications Act – there have been important shortcomings in delivery.
- There is a sustainable rationale for PSB. The market will continue to under-provide programming that we value as citizens and as a society. PSB should in future be defined in terms of the broad purposes it aims to fulfil.
- Digital technology has brought significant and permanent change to the broadcasting industry, and further change will follow. Ofcom will almost certainly need to consider new ways of maintaining and strengthening PSB for the longer term.
- The BBC should remain a strong public institution undertaking a wide range of activities. However, the Charter Review process needs to consider how standards of quality and innovation can be better upheld, and what model of governance and regulation is required to do that.
- Plurality and competition in the supply of PSB is important – the BBC is not enough.

### Areas of disagreement among respondents

- How best to incorporate the broad purposes and characteristics of PSB in a workable regulatory framework.
- The significance of ‘reach and impact’ and how they should be measured.
- The scale and pace of digital change and the implications for PSB, in particular:
  - the extent to which digital take-up and (ultimately) switchover will affect the ability of commercial channels to meet PSB obligations over the next five years;
  - the likelihood of the market (in the form of non-PSB broadcasters) providing PSB programming in future;
  - whether, conceptually, switchover will alter the market failure rationale for PSB in the longer term; and
  - more importantly, what sort of regulatory response is required.

- How plurality is best delivered – whether in production, broadcasting, or commissioning or all of these.
- The extent to which any additional funding is necessary, beyond the Licence Fee and existing forms of indirect subsidy, and if so where it should come from.
- How funding is best distributed – whether we need to maintain PSB institutions other than the BBC, and what role competition for funding should play.
- In delivering PSB, where the balance should be struck between not-for-profit and profit-maximising organisations. The future of Channel 4.

## Introduction

On 21 April, Ofcom published Phase 1 of our year-long review of public service television broadcasting (PSB). Following publication, we entered into a lengthy period of consultation that included a range of industry seminars and informal discussions across the UK, as well as a formal written consultation process.

Responses to the public consultation exercise can be read on our website at [www.ofcom.org.uk](http://www.ofcom.org.uk). This document does not aim to provide a point-by-point analysis of each response. Rather, it tries to bring together the whole range of ideas and opinions that we have heard expressed over the past four months and that we will be considering as we finalise our Phase 2 report. The views expressed are those of respondents, not of Ofcom. We have aimed to summarise the position of the debate about the future of public service broadcasting, at the mid-point of our own review.

Some ideas were voiced to us informally or in confidence and none of the arguments or opinions described here are attributed to an

individual source, with the exception of some that appeared in the BBC's recent Charter Review document, *Building Public Value*. Except where there is a clear direction of agreement or an overwhelming majority view, we have generally avoided giving too great an indication of the relative numbers of people who have voiced a particular view, preferring to let the issues speak for themselves.

Since this is a summary document, it cannot reflect every individual view that has been expressed to us, but we hope it conveys the point of nearly all of them.

We want to encourage further discussion and debate ahead of the publication of our Phase 2 report, which will consider the future of PSB in more detail. To that end, the final section of this document identifies the questions that the process of consultation has led us to consider in Phase 2. However, nothing in this paper should be read as an indication of Ofcom's answer to any of those questions.

## Overview

### Structure and terminology

1. The main body of this document is set out in two sections that correspond to the structure of our Phase 1 document:
  - Chapter 1, **The effectiveness of the current system**, relates to our assessment of the contribution that the existing terrestrial broadcasters make to fulfilling the purposes of public service broadcasting as set out in the Communications Act.
  - Chapter 2, **Maintaining and strengthening PSB**, addresses the longer-term questions about the future of public service broadcasting and the ten propositions that we set out for the transition to the digital age.
2. In each section, we have arranged our analysis around the specific consultation questions we asked in Phase 1. This overview brings out the main themes by summarising the areas of broad consensus and identifying those areas where the debate has yet to be resolved. It adds depth and detail to the headline summary of results on page 2.

3. We have adopted the same convention when using the term ‘PSB’ as in our Phase 1 report.
  - In discussing the current system, we will refer to the effectiveness of the ‘main terrestrial channels’ in fulfilling the Communications Act’s purposes for PSB.
  - The term ‘PSB’ itself is used to refer to the concept of public service broadcasting and its necessary purposes and characteristics.

### Areas of broad consensus

#### Current effectiveness

4. Our assessment of the effectiveness of the main terrestrial channels over the past five years was broadly accepted, although individual broadcasters drew our attention to areas where they felt criticism was unwarranted. The very broad conclusion that ‘broadcasting on the main terrestrial channels has partially, but not completely, fulfilled the requirements of the Communications Act’ was not controversial, although different respondents had different views of how ‘partial’ fulfilment has been.

### **Citizenship and PSB**

5. In conceptual terms, respondents accepted our basic premise that public intervention in the broadcasting market is justified and sustainable. No one questioned the part of our audience survey showing that viewers feel television delivers important benefits to society as well as to individual consumers. It was agreed that, for the foreseeable future, TV will be capable of delivering benefits to citizens that no other medium can, that those benefits would tend to be under-provided by the market and that intervention is justified to ensure they are delivered.
6. In turn, there was support for the suggestion that PSB is best defined in terms of the purposes we expect it to fulfil and the general characteristics that PSB programmes need to have – rather than by particular genres or institutions.

### **Future change**

7. Digital technology has already transformed TV broadcasting, and most respondents accepted:
  - that more change is on its way; and

- that Ofcom will almost certainly need to consider new approaches to PSB if it is to be maintained and strengthened for the longer term.
8. However, there is a vigorous and ongoing debate – outlined below – over the scale and pace of change, and the precise implications for the current PSB system.

### **The BBC**

9. There was substantial support for the BBC's continued existence as a strong broadcasting institution undertaking a wide range of activities. Equally, most respondents agreed that the BBC's PSB contribution has been diluted over the period under review (1998–2002) and that the Corporation needs to reaffirm its position as the standards setter for the highest quality programming. Many responses suggested that alternative models of regulation should be considered to ensure that is the case. Responding to such suggestions, the BBC's own *Building Public Value* has put forward some proposals for a new structure of governance and accountability, and the Charter Review process will examine these issues in more detail.

## Plurality

10. While there were a small number of respondents who saw no problem with a model in which only the BBC remained a PSB broadcaster, an overwhelming majority supported the principle of plurality. The existence of a range of different PSB commissioners and broadcasters, it was argued, makes sure the best programmes are made and that they reach the widest possible range of audiences.

## Areas of disagreement among respondents

### Purposes and characteristics

11. Even if PSB can be defined in terms of purposes and characteristics, some respondents were unsure whether broadcasters' contributions could accurately be measured in such terms or whether purposes and characteristics could provide an effective basis for regulation, for commercial channels in particular. The detail of our proposed purposes also provoked some disagreement. In particular, not everyone accepted

that television could realistically be expected 'to support a tolerant and inclusive society' – there was more acceptance of the notion that television could challenge people's existing perspectives and make them aware of alternative cultures and viewpoints.

12. There was also some debate about the implications of our proposal that PSB needs to achieve 'reach and impact' in order to be effective. Some have interpreted this as a suggestion that broadcasters ought to move away from serious material in a search for ratings (although that was not Ofcom's intention). It was argued that not every programme needs to reach a large one-off audience if different forms of PSB are collectively able to connect with a wide variety of different audiences. Ratings are not always felt to be a very subtle or satisfactory way to measure reach and impact, and some predict that new technology may in any case allow individual programmes to reach a larger audience in future if viewers are given more opportunities to view or record them.

### **The nature of the digital revolution**

13. The role and impact of new technology is the key issue for the future of television, and it is on this subject that the debate about the prospects for PSB is fiercest. While most people accept that digital technology will bring significant change to the broadcasting sector, and that PSB in the longer term will face critical challenges, there remain four key areas of disagreement:
- the extent to which digital take-up and (ultimately) switchover will affect the ability of commercial channels to meet PSB obligations over the next five years;
  - the likelihood of the market (in the form of non-PSB broadcasters) providing PSB programming in future;
  - whether, conceptually, switchover will alter the market failure rationale for PSB in the longer term; and
  - more importantly, what sort of regulatory response is required.
14. Phase 1 suggested that the process of digital take-up and digital switchover would limit the extent to which the existing commercial PSB channels could meet their existing regulatory

obligations. We noted the impact that multichannel competition has already had on the terrestrial channels' audience and advertising share and the likelihood that increased digital take-up will make it more difficult for the commercial broadcasters to maintain their existing levels of PSB output. At switchover, the value of scarce analogue spectrum, which determines the existing scale of regulatory obligations on those broadcasters, will have declined to nearly zero.

15. In response, there has been a good deal of debate about when the pressure might really start to tell on commercial channels – many argue that existing business models should be profitable and sustainable for the next few years at least. Respondents have also questioned whether switchover is indeed the key turning point: some because they expect the value of analogue spectrum to decline well before then; others because they suggest that the brand and market positioning of the major ad-funded channels, coupled with access to DTT capacity and appropriate prominence on EPGs, may bring in enough of a premium return to sustain some

form of PSB contribution in the future. The precise value of any digital PSB premium continues to be a matter for debate.

16. If the future of the main terrestrial channels is undecided, the shape of the rest of the digital marketplace is even more uncertain. In particular, there is disagreement about the extent to which purely commercial channels will provide PSB-type programming in future. Within the broadcasting industry, some people see a future for serious factual, documentary and news programming on a subscription basis. However, there are also those who remain unconvinced that such programming would ever be provided in the same style, across the same range or be given the same prominence as that currently seen on terrestrial television.
17. There was also a debate about the likely conceptual basis for PSB intervention in a digital world. Ofcom proposed in Phase 1 that switchover would have a significant impact on the rationale for intervention in television. We suggested that consumer market failures would diminish to some extent as individuals

became able to pay directly for the programming they wanted, through a wider range of subscription and pay-per-view services with more sophisticated pricing structures. The rationale for PSB intervention would therefore increasingly be focused on the provision of more programming that contributes to citizenship purposes, rather than on making the market work efficiently for individual consumers.

18. This analysis has been challenged on the basis that it does not fully take into account the particular nature of the broadcasting market: the provision of 'public goods', high fixed costs, barriers to entry and a tendency towards market concentration. On a practical level, it is argued that the universal availability of the sort of conditional access technology that makes a direct broadcaster-consumer relationship possible is some way off. This school of thought argues that even after switchover, a significant public subsidy for broadcasting will be necessary on behalf of consumers as well as citizens.
19. We will return to this debate in our Phase 2 report. Conceptual

arguments aside, most people accept that digital technology will continue to transform the broadcasting industry and that some form of regulatory response will be required. There is as yet no consensus, however, about the form that response should take. At one extreme, there are those who argue against digital switchover, unconvinced that consumers will benefit sufficiently from increased choice and a better-functioning market to justify the impact that switchover would have on the current model of PSB delivery. Others are convinced that the current system will crumble well before the advent of switchover itself. Some suggest that Ofcom should adopt a ‘wait-and-see’ approach while the shape of a digital market is still uncertain. Others argue that Ofcom needs to be proactive at an early stage, tailoring its approach to the process of switchover and the transformation in viewing behaviour, viewer attitudes and business models that it will bring.

### Long-term policy choices

20. Assuming switchover does happen and that its impact, as we suggest, is to diminish the existing scale of commercial PSB, significant questions remain about how PSB could be maintained and strengthened. The main arguments can be summarised as follows.
21. **Achieving plurality.** Plurality in the supply of PSB was agreed to be an important objective, and key to a successful future broadcasting ecology, but proposals for maintaining it varied. At present, plurality exists in the production of PSB programmes, in the commissioning process and in the broadcasting of them. Some argued that plurality in production needs to be further encouraged, through more effective competition in the programme supply market, possibly including a cap on BBC in-house production. In one view, if there could be a genuine meritocracy in commissioning decisions, with the use of a wide range of producers, there would be no need for plurality in broadcasting and commissioning

beyond the BBC. Others argued for a plurality of broadcasters and producers making and showing programmes that a single commissioning body had funded. The great majority of support, however, was for a system of competing PSB broadcaster-commissioners on something like the present model.

22. **Funding.** The current indirect subsidies for commercial public service broadcasting are running out. There are three schools of thought, among those who support a plurality of PSB providers, about where replacement funding should come from: those who would share Licence Fee income beyond the BBC; those who ask for a new source of direct funding (e.g. from general taxation); and those who think that new forms of indirect funding can be found in a digital age, for example in terms of preferential EPG positioning and spectrum pricing waivers.
23. **Institutions.** There is no consensus whatsoever about the best means of distributing funding. The most radical proposal put to us would make all PSB funding (including the BBC's) entirely contestable, in the interests of efficiency and transparency, with broadcasters and/or producers bidding to a central commissioning pot. An alternative argument is made for the direct funding of particular PSB institutions, on the basis that they provide value beyond the programming they put out, for example in terms of training and a public service ethos. In between these two visions, a variety of models were proposed that would blend institutional stability with a form of contestability.
24. **Not-for-profit broadcasting.** Our Phase 1 document asked whether not-for-profit institutions should be particularly important in the provision of PSB, on the basis that such organisations could be more easily aligned to the purposes of PSB. While there was support for this suggestion, there was also concern voiced that

not-for-profit organisations were not always to be relied upon to serve the exact purpose for which they were intended, pointing to questions about the best structures of governance and regulation. Others argued that profit-making organisations can be more efficient and effective providers of public services where their motivation is aligned with the public purpose in question. In this context, there was little consensus about the best business model for Channel 4 as a future provider of PSB.

25. **Securing an effective system.**

Many of the policy issues above were raised in our initial Phase 1 report. Consultation has helped us to flesh out all the arguments in detail and they are discussed further in Chapter 2 below. However, it is also worth noting that a number of respondents stressed the inter-relationship between the different policy choices about plurality, funding, institutions and regulation, arguing that the historical strength of PSB in the UK has resulted from a well-functioning broadcasting **system**, more than the sum of its parts. As we put together the policy options for the future, it will be important to make sure the architecture of PSB fits together into a coherent and resilient system for the longer term, one capable of evolving under economic and technological pressures.

## The effectiveness of the current system

### Overall conclusion

#### Phase 1 analysis:

Broadcasting on the main terrestrial channels has partially, but not completely, fulfilled the requirements of the Communications Act. There are some important shortcomings in effectiveness, partly driven by the actions of broadcasters and partly because viewers have drifted away from the more challenging types of programming traditionally thought to be at the heart of UK television.

#### Question 1: Do you agree with this overall assessment of the current system?

26. There was general agreement that, across the main terrestrial channels, there have been some shortcomings in effectiveness over the past five years.
27. However, there were differences of opinion voiced as to how significant those shortcomings have been. Attention was drawn to some areas where particular channels were felt to have performed well, for example: ITV1 in investing in original UK drama; Channel 4 in increasing the

proportion of arts, current affairs and religious programming now shown in peak; the BBC in taking steps (after 2002) to increase output in those genres.

28. There were also differing opinions as to what was responsible for the shortcomings we observed. Some argued that a more competitive environment was forcing broadcasters to adopt a more commercial approach, to keep viewers away from multichannel rivals. Others suggested that in adopting this argument broadcasters were underestimating their own audience, and that they should be more bold in commissioning and scheduling challenging content.

## Output

### Phase 1 analysis:

While levels of spend and original UK production have been stable, a risk-averse approach has reduced innovation and narrowed the range of programming. News, drama and ‘cross-genre’ formats have prospered but dedicated arts, current affairs, education and religious programming is under threat.

### Question 2: Do you agree with our interpretation of the data provided to us by broadcasters, and the key findings we set out?

29. No one disagreed with our overall analysis of broadcasters’ output, although a small number of minor factual errors were identified. Some took issue with the suggestion that innovation has been reduced. It was argued that innovation is evident in the form of new genres and formats, particularly in factual programming, as well as new approaches to traditional forms, such as drama. We highlighted a number of examples of this form of innovation in our own Phase 1 report.
30. It was suggested that the data on output from 2003 would tell a more encouraging story about the provision of arts, religion and current affairs programming. Our analysis reveals that arts programming did increase in 2003, particularly on BBC Two, albeit out of peak time. However, there was a further decline in religious programming (despite a slight increase in BBC Two’s output) and little overall change in current affairs.
31. In the longer term, some broadcasting professionals feel such content will become increasingly difficult to schedule on mainstream channels, and suggest that more accessible and ‘cross-genre’ formats will need to be used to attract significant numbers of viewers.
32. Experts were surprised by our finding that investment in news rose, since the budgets for ITV1 and Channel 4 news are said to have fallen over the period in question, suggesting that the positive finding is mainly related to an increase in the BBC’s news budget.

On a related issue, support was voiced in some quarters for a more concrete distinction in future between the standards of impartiality and accuracy expected of PSB news and those demanded of other news sources.

33. It was argued that terrestrial channels have not made an adequate commitment to the production and showing of UK and European films or to programmes reflecting matters of international significance and interest.

## Impact

### Phase 1 analysis:

Changes in the market could be threatening the ability of the main networks to continue to deliver the components of PSB as set out in the Communications Act.

### Question 3: Do you agree with our analysis of audience trends, and the challenges posed by digital TV and changing viewer behaviour?

34. While there was broad agreement with our suggestion that digital TV poses a challenge to the current system, there was less agreement about the significance of that challenge for the future of PSB.
35. A key issue for debate is the potential impact of digital take-up on the sustainability of PSB programming. Our Phase 1 work revealed that the audience share of terrestrial channels was falling at a considerable rate as digital take-up progressed, and that a share drop was particularly noticeable for some of the most traditional forms of ‘serious’ PSB programming. We interpreted this to imply that such programming would find it increasingly difficult to find a substantial audience as digital take-up progressed.
36. Three objections were levelled at this interpretation, all of which we intend to test in Phase 2. First, it was argued that whatever the share drop in multichannel homes, the total audience for these programmes is still of a sufficient scale to justify public funding. Moreover, it was suggested programmes on well-known, trusted and branded PSB channels are likely to be insulated somewhat from the more extreme effects of audience fragmentation in a digital

environment – in the US, with 90% multichannel penetration, the main networks retain a 40% audience share. Secondly, it could be that the audience for a whole series of programmes is larger, and more diverse, than that for a single programme. Finally, it has been suggested that the majority of the audience for this sort of content currently consists of terrestrial-only viewers, that existing multichannel homes never watched much of it even before they switched and that the total audience will therefore be more stable during and after switchover than a snapshot of the share drop in 2003 implies.

37. Some respondents attributed particular importance to another of Ofcom’s research findings – that a significant amount of the multichannel content that attracts viewers away from the main five channels is either repeated PSB programming or scheduled on channels affiliated to the major networks (E4, ITV2 etc).

## Value

### Phase 1 analysis:

There is strong public support for programmes of social value as well as those they like to watch themselves. Social value is attributed to soaps, sport and drama as well as news and information.

### Question 4: Do you accept this interpretation of the role of television in society?

38. There were no objections to this finding, although there was some debate about whether we should rely on people’s judgements of the relative importance of particular genres if the questions asked had involved no evaluation of cost. It should be noted that our Phase 2 audience research has been designed to get viewers to quantify their appreciation of different elements of PSB once costs are attached.
39. Following on from the finding that soaps and sport are felt to have social value, a key point of contention has been the breadth of the definition for

PSB. One school of thought would define it very precisely in terms of those specific genres of programming that the market would never provide. An alternative viewpoint suggests that there is scope for popular and commercially-orientated programming to be part of PSB if it makes a significant contribution to a broad public purpose. We return to this debate under question 7 below.

### Phase 1 analysis:

Relatively low value is attached by the public to dedicated programming in arts, religion and education. We found there was a preference for including the interests of and portrayal of minority groups in mainstream programming, rather than in specialist programming. Cable/satellite channels and the internet are not yet seen by many as suitable vehicles for the provision of what are thought to be the main components of PSB.

### Question 5: What are the implications of these responses for broadcasters and for this review?

40. There were those who were unsurprised by the first of these findings. If arts, religion and education programming are little-watched genres, they argued, it should be expected that a smaller number of people consider them to be an important part of the current schedule. Similarly, the majority will always tend to favour representation of minorities in mainstream programming, since they are unlikely to take a close interest in minority programming.
41. Some felt that cable and satellite channels could have a future role in the supply of niche PSB programming and content for specialist audiences. Others thought that such channels were less satisfactory outlets for some forms of niche PSB programming, partly because of concerns about free access to content but also because of the lack of any opportunity to engage a wider audience. From this point of view, satellite channels directed at specific ethnic minority audiences

were welcomed, but were not thought to replace the valuable contribution that mainstream terrestrial channels can make to bringing different viewing communities together. Some feel that the major channels need to make a greater contribution in this area, and that PSB institutions ought to offer better employment opportunities to ethnic minorities and disabled people, both on and off screen.

42. The argument was made that television is no longer a suitable medium for traditional forms of education. In this view, TV may be more effective in future at providing the sort of factual content that engages the audience's interest in a new issue, or programming that can provide informal advice and training. It was argued that such content will remain highly valued and widely watched, whereas dedicated educational programming will not.

### **Religious programming**

43. Considerable concern was voiced about the future of religious programming, which some felt to be a key contributor to the purposes of PSB or to 'social capital' more generally. Indeed, one suggestion was that the provision of religious content should itself be a specific purpose of PSB. In addition, there were three main objections raised to our Phase 1 analysis of the value attached to religious programming.
44. First, some respondents felt Ofcom had wrongly implied that religious programming is a minority-interest genre. 2001 census figures have highlighted the fact that 80% of the population describe themselves as having some form of religious faith. The grouping together of religion and other specialist genres (such as arts and current affairs) was also felt to be inappropriate.
45. Secondly, not everyone agreed that our audience survey figures should have revealed a relative lack of interest in religious programming. In the Phase 1 survey, 44% of respondents felt it was

important for terrestrial channels to provide programming that reflects the needs and concerns of different religious communities. Just under 10% placed religious programming in their top five genres in terms of either personal or social importance. In response, some have argued that 44% should not be interpreted as a low or 'minority' score.

46. More generally, the value of these results has been questioned by those who feel they imply a very narrow definition of religious programming, unattractive to many viewers. Reference was made to 1994 ITC research suggesting that many viewers value discussion of religious themes and issues in broader documentary or current affairs programmes, but do not often identify such content as religious programming. From this perspective, it was argued that to be successful in future religious programmes need to be broader in scope and more innovative in their format. It was also suggested that religious programming might be more successful in audience terms

if broadcasters were bolder in their approach to scheduling it. Some suggestions were made that space should also be freed up for Humanist perspectives to be put forward as an alternative set of ethical beliefs. Others felt that regulation needs to protect traditional programming strands and formats, including acts of worship, and that religious programmes do not need to reach large audiences in order to justify their existence.

### Interaction between terrestrial broadcasters

#### Phase 1 analysis:

Both the public and the leading broadcasting professionals we spoke to told us that a range of broadcasters should exist to compete for quality as well as for ratings.

**Question 6: Do you agree that competition for quality between the main terrestrial networks is an important aspect of the current system, but that it has been put under strain by increasing competition for viewers, even from the BBC?**

47. The concept of a plurality of competing PSB networks was well supported, although there were those who suggested the range of providers should be wider and some who felt it might be acceptable simply to rely on the BBC if sufficient regulatory safeguards were put in place. Issues around plurality are discussed in more detail under Proposition 2 below.
48. It was accepted that the BBC has engaged in fierce competition for audiences in recent years. A suggestion was made that the Corporation ought to be made to adopt a more public service approach to scheduling, to prevent any aggressive competition with PSB content on other channels. A range of arguments were made for tighter controls on the distinctiveness of the service the BBC provides, and some of these are discussed in the next chapter under Proposition 6.

## Maintaining and Strengthening PSB

### A sustainable rationale

#### Phase 1 analysis:

In a digital world, many of the consumer market failures that justify intervention in the broadcasting market will disappear. In contrast, we suggest that there are enduring citizenship concerns which will continue to call for some public intervention in the television market.

Our suggested definition of PSB is informed by these concerns, and can be described in terms of some broad purposes and characteristics.

**Question 7: Do you agree with this analysis, and think that this definition provides a good basis for considering the future provision of public service broadcasting and the means of funding and delivering it.**

#### Consumer rationale

49. Not everyone agreed that consumer market failures are likely to diminish in a digital world. It was pointed out that current digital services are not widely felt to give viewers what they

say they value in terms of range, diversity, production values or original UK production.

50. Our Phase 1 argument can be summarised as follows.
51. Consumer market failure exists in broadcasting where there are only a limited number of channels and where those channels are funded by advertising. In those circumstances, broadcasters are motivated mainly by the need to deliver large numbers of particular types of viewers to advertisers, and will tend to cluster around the middle ground. There is no mechanism to capture or exploit the strength of preference that a smaller number (or different group) of viewers have for a different sort of programming. In a fully digital world, this problem potentially disappears. With low barriers to entry and the wide availability of encryption and conditional access technology, it becomes possible for any programme to be made available if its total revenues (either from advertising, subscription of pay-per-view) exceed its total costs. Sophisticated pricing strategies for such programmes should allow the market to function more effectively.

52. In consultation, there have been three more detailed criticisms of the substance of this argument.
53. First, it is suggested that a market on the model outlined above will not deliver the range and balance of programming that UK viewers are accustomed to. Therefore, not every consumer will be absolutely satisfied with the variety of programming available to buy. More specific tastes and preferences may only be catered for on a subscription basis, rather than free-to-air.
54. Secondly, it is argued that since the current generation of DTT set-top boxes have no conditional access capability, any effectively functioning market in programmes must be some way off.
55. Thirdly, it has been suggested that even when conditional access technology is universally available, broadcasting will remain a public good. Although it will now be possible to exclude viewers from watching when they have not paid, programmes will still be non-rivalrous – that is, the fixed costs of production will continue to exceed the marginal cost of making it available to additional viewers. The only ways for commercial operators to address the issue of non-rivalry are through advertiser funding, where the impetus will be to capture the middle ground of audiences that are attractive to advertisers, or subscription funding, which will require premium content to justify premium prices. High fixed costs may also result in significant barriers to entry and a tendency towards vertical integration.
56. We will return to these arguments in our Phase 2 report.
- Citizen rationale**
57. No one objected on principle to our assertion that, whatever the extent of future consumer market failures, there will remain a citizenship rationale for significant PSB intervention in television. The debate about citizenship market failures is about their breadth.
58. In Phase 1, we put forward four purposes for PSB, and suggested that the market would under-supply programming that met all four of those purposes. They were:

- **To inform ourselves and others and to increase our understanding of the world** through news, information and analysis of current events and ideas;
  - **To reflect and strengthen our cultural identity** through high quality UK national and regional programming;
  - **To stimulate our interest in and knowledge of arts, science, history and other topics** through content that is accessible, encourages personal development and promotes participation in society; and
  - **To support a tolerant and inclusive society** through the availability of programmes which reflect the lives of different people and communities within the UK, encourage a better understanding of different cultures and perspectives and, on occasion, bring the nation together for shared experiences.
59. There was substantial support for our overall framework, but some disagreement about its practicality as a basis for regulation.
60. Some respondents suggested that the purposes we set out might be too broad to be truly meaningful or measurable, and that they depart too far from the genre-specific definition that is set out in the Communications Act. It was argued that PSB should be delivered in terms of certain serious and worthy areas of the schedule – news, current affairs, arts, religion and so on. In contrast, those who supported our proposed PSB purposes tended to have a broader conception of what made a programme PSB, including aspects of drama, entertainment and sport, for example. There was one proposal made that ‘shared experiences’ ought to be given more prominence as an everyday purpose of PSB, for the contribution that popular TV programmes can make to building ‘social capital’ across different audience groups that might otherwise have no common frame of reference.
61. Three other points were made about the way the purposes were drafted. First, many people felt that the fourth purpose was unduly ambitious in asking television to provide a means of social engineering. Secondly, it was suggested that an additional purpose

of PSB should be to support the provision of high-quality television as an art-form in itself, or else to be a sponsor of art and culture. Finally there was some confusion about the distinction between the second and fourth purposes, which both refer, in different ways, to aspects of cultural diversity.

62. Phase 1 also suggested that PSB programmes needed to have certain characteristics – that they needed to be:
- **High quality:** well-funded and well-produced;
  - **Original:** new UK content, rather than repeats or acquisitions;
  - **Innovative:** breaking new ideas rather than copying old ones;
  - **Challenging:** making viewers think; and
  - **Widely available:** if content is publicly funded, a majority of citizens need to be given the chance to watch it.
63. No one objected to any of these characteristics, although some drew particular attention to the need for PSB content to be free-to-air and widely available. The BBC, in formulating their own list of ‘public

value’ purposes and characteristics, have formulated them slightly differently, as ambition, scale, risk, quality, and impact.

#### Phase 1 analysis:

To be effective, PSB programming should have reach and impact – it should be consumed by and influence large audiences and, as such, it will need to be both popular and challenging, serious in intent and accessible in style.

#### Question 8: Can the challenges of reach and impact be successfully met in a digital world of fragmenting audiences and revenues?

64. There was some support for our suggestion that PSB programming should be both popular and challenging, serious in intent and accessible in style. However, there was also some nervousness about where the balance should be struck between serious and accessible elements.
65. In particular, there were doubts raised as to whether we had placed too much emphasis on the value of large

audiences in delivering reach and impact. While some programmes can combine serious subject matter and popular or accessible formats, and those programmes are accepted to be an important part of PSB, there remains a strong body of support for a more traditional approach. It was argued that not every programme needs to reach a large one-off audience if different forms of PSB are collectively able to connect with a wide variety of different audiences. Some PSB programmes have never had very large audiences but they nonetheless form an important part of the schedule. Most thought, however, that PSB programmes should aim to deliver ‘impact’ even if that was not defined in terms of audience numbers.

66. Ratings are not always a very subtle or satisfactory way to measure reach and impact. As some respondents pointed out, new technology may

in any case allow individual programmes to reach a larger audience in future if audiences are given more opportunities to view or record them. In the meantime, the BBC and others have put forward some valuable ideas for ways to measure impact, that we will consider further:

- audience appreciation/satisfaction
- audience demographic – are different programmes reaching a range of different audiences?
- how memorable a programme is – does it make a lasting impression on viewers?
- where certain programmes are scheduled – is PSB programming being given the best chance to maximise its audience share?
- ‘external’ outcomes – can television stimulate interest and engagement in particular issues or campaigns?

## Immediate issues

### Phase 1 analysis:

The immediate consequences of Phase 1 include: the need to move away from a genre-based approach to regulation; more focus by the commercial networks on the most highly valued aspects of PSB; the need to introduce a new approach to measuring, monitoring and assessing PSB; and the need for the BBC to reaffirm its position as the UK standards setter for high quality PSB provision. Digital switchover is important as a means of delivering better choice, competition, quality and range to consumers. We have identified the need to conduct further work on broadcasting for the nations and regions, and the provision of a safe environment for children.

**Question 9: Do you agree with these conclusions about the immediate priorities, and are there other issues you think we should be considering?**

### A move away from genre-based regulation towards a new approach

67. Some respondents felt that a move away from genre-based regulation towards a purpose-based approach might risk becoming excessively light-touch. There was some desire voiced for genre-specific regulation to be tightened.
68. Elsewhere there was strong support for a new measurement system from those who feel the existing 'box-ticking' approach has created perverse incentives without providing any genuine check on quality. But some supporters of the new approach were concerned that it might only be applicable to not-for-profit providers, arguing for a twin-track approach that continued to regulate profit-maximising broadcasters on a more quantitative basis. There was also a degree of concern that a new system might simply add an additional tier of regulation on top of what already exists.

### Focus by the commercial networks on the most highly valued aspects of PSB

69. Here, opinions were divided between those who were not willing to countenance any reduction in PSB provision, at least ahead of switchover, and those who agreed that the costs of some existing obligations appear to exceed the benefits to viewers. There were some in the latter camp who felt that ITV1 and Five should be released from all their obligations. Respondents who took the former view tended to argue that the business models of commercial PSB channels were still sustainable for some years yet, and that sufficient profits would be made to sustain a steady PSB contribution. It was suggested that if commercial channels produced better programmes, for instance in the non-news regional genre, they would be able to make them work. Others recognised that as analogue spectrum falls in value so too does the incentive for commercial networks to accept PSB obligations. From this perspective, it was argued that we ought to make a settlement now that could ensure the future of

commercial PSB beyond switchover, on the basis of the persistent business advantages associated with PSB status and spectrum privileges.

### The need for the BBC to reaffirm its position as a standards setter

70. There was general agreement that the BBC needs to reaffirm its position as a standards setter. Some of the ideas presented are discussed in more detail under Proposition 6 below.

### The importance of digital switchover

71. Most recognise that digital switchover would represent a fundamental change to the UK broadcasting sector, but there is little consensus about the implications of switchover for PSB.
72. Not everyone is convinced that consumers will benefit sufficiently from switchover to justify its potentially damaging impact on the current model of PSB delivery. Others are supportive of the ultimate goal of switchover – increased consumer choice and a better-functioning market. But some on this side of the debate argue that Ofcom's conclusions are not adequately

tailored to switchover – they suggest that all our policy options should be framed first with a view to enabling switchover to happen and later in adapting existing institutions and regulatory models to the new patterns of viewing behaviour and viewer attitudes that switchover will bring.

73. Finally, it was suggested that if we are to ask existing PSB institutions to fund and support the process of digital switchover, we are obliged to offer them something in return, whether in the form of reduced licence payments, reduced obligations or sustainable privileges in the longer term.

### **Nations and regions**

74. There were some common themes about programming dedicated to local audiences across the nations and regions. First, a set of arguments were presented for increased production outside London and increased representation of different regions within network programming. To support this aim, it was suggested that regulation should aim to create ‘creative clusters’ around the country. Secondly, there were a range of suggestions made to set up a new

tier of local TV, based on the existing RSLs (Restricted Service Licences) but with longer-term licences and a more sustainable future. Finally, the principle of regional plurality – both in production and in broadcasting – was held to be important.

75. Ofcom’s Phase 1 finding that English non-news regional programming was not highly valued by viewers provoked a good deal of debate. Some respondents accepted that the existing levels of non-news programming would not be sustainable in the longer term, particularly given the comparatively high costs they impose on ITV1. Others were far from convinced that regional programming quotas should be reduced, and argued that a lack of audience engagement in non-news regional programming tends to result from poor quality provision and unhelpful scheduling, rather than a lack of demand from audiences.
76. It was more generally agreed that viewers in the devolved UK nations should benefit from a larger quantity of local programming than those in the English regions. However there were concerns about how the higher

costs of such provision could be met – one suggestion was that a new fund needed to be set up for this purpose.

77. **In Wales** there was concern about existing levels of provision at the national level, particularly in terms of the Welsh programmes available of ITV/HTV. The point was made that, in the absence of a strong national press, Welsh people are particularly reliant on broadcasting for local news and information, and not everyone felt that the existing coverage of Welsh Assembly business, either in national programming or on the UK networks, was sufficient. There were suggestions made for structural change, either in the form of smaller-scale city TV, or through an English-language equivalent of S4C, or by completely devolving Welsh broadcasting policy. In the latter model some suggested that public funding should come from the Assembly rather than from DCMS. In the absence of such dramatic change, the hope was voiced that the process of digital switchover could be designed to ensure that all Welsh citizens receive Welsh rather than English terrestrial signals.

78. **In Scotland**, too, there were calls for greater autonomy in broadcasting and particularly for BBC Scotland – some respondents felt it should a greater proportion of total BBC funding. There was also concern voiced as to whether the existing ITV networking arrangements gave Scottish licence-holders adequate freedom to provide national programming. An argument was put that Scotland needed to reach a ‘critical mass’ in local production, and some calls were made for increased contribution to Scottish programming and production from the other PSB broadcasters, Channel Four and Five. There was widespread support for Gaelic broadcasting and some desire for a dedicated Gaelic channel, although others felt that to have real impact Gaelic programming needed to be run on mainstream channels as well. There was also a suggestion that the BBC should do more to support the Scots language. Given the geography of Scotland and the number of transmitters involved in achieving universal television coverage, the potential costs of switchover and the process involved prompted some unease amongst Scottish respondents.

79. **In Northern Ireland**, PSB television is highly valued for the impartiality it brings to news coverage. Local current affairs programming is also felt to perform particularly well. However there were complaints about the lack of representation for Northern Irish communities and issues on network programming, and the lack of production for the networks taking place in Northern Ireland. There was also concern that any alterations to ITV1's regional obligations in England should not restrict UTV's flexibility to show national opt-outs rather than network programmes in the peak-time schedule. Calls were made for a review of UTV itself, and for tougher regulation of national quotas. In addition, some respondents argued that there needed to be greater provision for Irish language and/or Ulster Scots programming, on 'local' channels in addition to Irish and Scottish services, and in particular on the BBC. It was suggested that this should be a requirement of the BBC's next Charter.

### **A safe environment for children**

80. There was some recognition of our Phase 1 finding that audiences are unsatisfied with the degree of protection afforded to children in pre-watershed viewing. However, there was also strong support for the suggestion that early evening soap operas and drama can contribute to PSB purposes by addressing challenging social issues. The broadcasters themselves are undertaking a series of discussions on this subject, and Ofcom is conducting a further course of research.

## Propositions for the transition to a digital age

**Question 10: Do you agree with our propositions? What considerations should we take into account in our further analysis of them?**

### Proposition 1

We need to examine the prospects for PSB funding and the case for seeking alternative resources. The existing commercial funding base for PSB is being eroded. Popular support for the TV licence fee may be jeopardised by increased audience fragmentation. So, new forms of explicit or implicit funding or support for PSB need to be considered for the longer term. These should include areas such as electronic programme guide (EPG) positioning, digital multiplex access, commercial TV's payments to the Treasury and other possible incentives.

### Proposition 2

Competition in the provision of PSB is at the heart of an effective system. In a digital world, a single, monopoly supplier of PSB is unlikely to be the most effective model for delivering PSB purposes or characteristics, or for securing plurality of views and perspectives. We need to examine the case for sharing existing funding streams among a greater number of broadcasters and allowing broadcasters or producers to bid for PSB funding.

### Proposition 3

Where public funding is necessary to secure the purposes and characteristics of PSB, different means of distributing funding should be examined. One option is to continue with direct allocations to designated broadcasters. A second is to make allocations through a new intermediary (a 'purchaser' of PSB) with either broadcasters or producers as recipients ('providers' of PSB). Both options need to be assessed as we consider the best model for delivering PSB in the digital future.

81. These three propositions all relate to funding, and can usefully be considered together.
82. Where it was accepted that a new source of funding will be required, the only options put forward for **direct** funding of commercial PSB were the Licence Fee and direct Government grant: the former on the basis that a single stream of funding for PSB is the most straightforward option; the latter because some object to the regressive nature of the Licence Fee as a tax and argue that broadcasting should be funded in the same way as any other public service. There was also opposition to each of these suggestions. The argument against any re-distribution of the Licence Fee was that it would harm the BBC without compensating the viewer with sufficient PSB benefits elsewhere – the suspicion was voiced that Licence Fee funding would be used less efficiently by commercial channels with shareholders to satisfy and/or other ventures to fund. The main argument made against Government Grant-in-Aid is that the systems of accountability involved might remove a broadcaster's editorial independence and increase the likelihood of political interference.
83. There was some support also for the few possible sources of **indirect** funding that we put forward: EPG prominence, multiplex capacity and reduced licence payments. In addition, some asked whether there would be scope for reducing or removing any spectrum charge that might be levied on PSB providers in future. The possibility was also raised of allowing PSB channels some new form of commercial advantage, in the form of increased advertising minutage or a greater proportion of sponsored programming and product placement.

84. The argument was made that the difficult debate about future sources of funding could suggest a simple answer: rely on the BBC alone, funded by the Licence Fee. In this view, the necessary competition for programming ideas could occur within the BBC structure if a greater range of external producers were commissioned. However, there was much stronger support for a different form of plurality: a plurality of broadcasters and commissioners. In commissioning, it was argued that a single BBC/PSB commissioner, however wise, would be unlikely always to support the best ideas, and that producers needed to have access to more than one source of airtime. In broadcasting, the arguments for plurality were traced back to the innovations that have resulted from each new entrant into the terrestrial market. Plurality, it was suggested, provides a choice for viewers between different programming approaches and a rivalry between broadcasters to produce the best PSB programmes.
85. One school of thought holds that the existing system does not provide sufficient plurality, and that in future a completely contestable funding system should be introduced, to encourage the widest possible competition between broadcasters and to prevent existing institutions wasting public funding. In such a system, a central funding body would be able to fund only the best PSB programming, and that which provided value for money. The argument was made that such a system would be fairer and more efficient, and would better incentivise commercial channels to make the best possible PSB programmes.
86. There was some debate about precisely how such a system would work: whether it would be more sensible to fund broadcasters alone or a mixture of broadcasters and producers; whether programmes should be wholly funded or if match-funding would better ensure that programmes were viable with audiences.

87. A wide range of arguments were also raised against the principle of contestability and its practical implications. Some felt a contestable system was liable to be unduly bureaucratic, with the risk that a new central funding body could raise administration costs rather than lower them. There were also doubts raised that any commercial channel would want to bid for funding unless they were looking to subsidise the sort of content they might anyway produce. The problems experienced in making such a system work in New Zealand were mentioned in this context. The New Zealand model (NZ On Air) would appear to have worked in ensuring more locally-produced content is shown, in a much smaller market, but does not seem to have succeeded so well in encouraging commercial channels to show any more of what we in the UK consider to be PSB content.
88. In practical terms, it was pointed out that any model of contestable funding would create difficulties for the existing system of must carry rules for cable providers. We were also reminded that State Aid rules could present legal obstacles to any reform of funding mechanisms.

#### **Proposition 4**

We should continue to secure a substantial contribution to PSB by not-for-profit organisations in addition to contributions from profit-making broadcasters. This is because social purposes may be more easily achieved when the organisational aims within which commissioners and schedulers work are closely aligned with PSB purposes, rather than potentially in conflict with them.

89. The debate about the effectiveness of the current PSB system has raised a question about whether a system that forces profit-making companies to provide certain types of programming is very efficient. Some respondents argued that viewers sometimes lose out where an alternative, stronger profit motive exists in opposition to a broadcaster's PSB purposes. They agreed that not-for-profit organisations may be better suited to PSB in future, and that a not-for-profit set-up makes it easier to align the broadcaster's purpose with PSB purposes. There was a strong feeling that institutions matter.
90. Further, the existence of such an alignment of purposes prompted suggestions that not-for-profit broadcasters could be regulated in a different, more qualitative fashion to purely commercial channels – in the same way that Channel 4 is currently given a broader and more ambitious remit to other commercial channels. Support was also voiced for not-for-profit broadcasters on the basis that they satisfy the public's expressed desire to have an ad-free viewing option.
91. Elsewhere, it was argued that not-for-profit organisations can also be difficult to regulate: their executives may adopt an agenda of their own, away from their PSB remit or from public purposes; they may stray into excessively commercial territory; and they tend to have fewer efficiency incentives than profit-making rivals. An argument was made for the involvement of private companies in PSB where the regulatory structure is able to align their interests with the purposes of PSB. The example of the independent production sector was cited as proof that this can be done.

### Proposition 5

The market is likely to produce significant amounts of programming which meet both the purposes and characteristics of PSB, and which can be defined as PSB. Some programming (and channels) supplied without public intervention already contribute to PSB purposes. Prior to switchover, we should work to explore how many of the purposes and characteristics of PSB can be provided, without public intervention, by the evolving TV broadcasting market.

92. This proposition proved more controversial than we expected. The PSB-type contribution of some existing niche channels was recognised, and an argument was put that where such channels have links to global conglomerates they will be able provide more and more of the funding for PSB content in future. From this viewpoint, it was suggested that if PSB channels are intended to address market failure they need to have more tightly defined remits.
93. However, from an alternative viewpoint significant doubts were voiced about the potential for increased market provision of PSB. Even where the same genres are addressed (for example in factual programming) it was suggested that digital channels offer a narrower range of subject-matter and formats, and that the style of their programming is more concerned with entertainment than with PSB purposes. Niche channels are also unable, at present, to give programming the sort of universal availability, prominence and viewing figures that the main terrestrial channels can deliver.

94. The market, it was agreed, may never deliver some genres of programming – regional content being one example. But it was also argued in some quarters that some of the PSB programming that currently receives public funding would arguably be sustainable without any subsidy, and that some of the BBC’s digital channels may be crowding out commercial investment in similar programming on a subscription basis.
95. Some respondents warned Ofcom not to be too hasty in deciding what the market will provide, without first waiting to see how the digital world develops. From an alternative perspective, the problem with a wait-and-see approach is said to be that it allows public intervention to continue to distort the market for the foreseeable future. Proponents of the latter argument have suggested that future regulatory models should be based on an expectation of increasing market provision.

### Proposition 6

Notwithstanding developments in the market, there is a strong case for the BBC to continue to undertake a wide range of activities to underpin the delivery of the public purposes and characteristics of PSB. But its range of activities needs to be reviewed periodically in relation to core PSB purposes.

- Where a high cost of delivery is associated with low viewing figures, it will be harder to justify continued public intervention. Alternative means of funding, such as subscription, should be considered for these services.
- Other activities, including secondary market distribution, studio and other production resources, and indeed production should be reviewed carefully against their distinctive contribution to PSB purposes.

96. It was agreed by many that a strong BBC should remain engaged with a wide range of activities. It was also argued that to be sustainable the BBC needs to be involved in elements of popular programming as well as the serious end of PSB. However, a range of suggestions were made for placing limits on the further expansion of the BBC. In particular, there were calls for tighter specific remits for each service, increased control of cross-promotion and commercial activity and more frequent reviews of Charter obligations and funding levels. It was suggested that the BBC ought to make a wider contribution to the nations and regions of the UK, in terms of dedicated programming as well as out-of-London production.
97. Some respondents agreed that some of the BBC's less-watched channels ought to be reviewed to consider whether commercial subscription services would be a more efficient model of provision. An alternative view was put that the low viewing figures for such services imply they are core PSB territory, reaching a very particular audience – were they asked to function on a commercial basis they would be bound to move much further towards the middle ground of audience tastes. It was also argued that there may be some difficulty separating these channels from the rest of the BBC given the close links and tie-ins that exist to BBC One and BBC Two.

98. There was support for the suggestion that the BBC's commercial activities ought to be reviewed. The Corporation themselves are already conducting such a review, and it is likely to be an issue for Charter Review. There were some suggestions that the BBC ought not to be involved in overtly commercial activities at all, and that Worldwide might be sold off. The argument that the BBC's importance is as a broadcaster with a valued brand and reputation was used to support a suggestion that they might not need their own production and distribution arms. There was also concern voiced about whether secondary rights are currently sold in the most transparent fashion.
99. The debate about independent production is revisited under Proposition 9 below, but it is worth mentioning here that some arguments were made in favour of BBC in-house production, on the basis that

the Corporation fulfils an important role in training staff, and that its production operation maintains a dedicated PSB ethos that is not matched elsewhere. Not all respondents were convinced by these arguments, and some suggested that the BBC artificially favours in-house producers over independents. One mooted compromise structure would create a newly independent and more meritocratic commissioning structure within the BBC itself.

#### **Proposition 7**

Every programme shown on the main commercial terrestrial channel's schedules need not always reflect PSB purposes and characteristics. In the case of the BBC, however, with its unique and privileged funding status, programmes should always strive to reflect the broad purposes and character of PSB to some degree.

100. No one has disagreed with this suggestion. The question that remains is about where the boundaries should be drawn. It has been suggested that there may be a role for entertainment programming that ‘draws viewers to PSB’ in some way by increasing the likelihood that they will watch other programmes on the same channel – we are investigating this proposal as part of our Phase 2 research. Alternatively, PSB claims are made for programmes such as *EastEnders* or *Fame Academy* on the basis that they make a small contribution to PSB purposes in an accessible fashion.

### Proposition 8

Channel 4 will need to overcome increasing financial pressure if its contribution to PSB is to be viable in a fully digital world. Internal efficiency and self-help must be the starting point. If necessary, a range of alternative options should also be considered, including new commercial initiatives, a share of contestable funding, a new source of direct funding, or a share of the licence fee. In considering these options, Channel 4’s distinctive role and ethos should be maintained on a secure footing through its ownership status, covenants and expression of purposes.

101. There was no consensus on the future of Channel 4. Some respondents were optimistic about the channel’s prospects on the basis of its current profitability and the premium advertising rates it receives for its core audience of 16–34 year olds. Others felt our Phase 1 proposition was

evidence of undue concern for the preservation of existing institutions. There were arguments made against any Licence Fee funding of Channel 4 on the basis that the BBC, and the overall value we get from PSB, would be diminished. There was broader opposition to public funding of any sort, since it might disrupt the independence that Channel 4 has traditionally enjoyed as a commercial entity, and bring in tougher regulation that would remove the 'edge' from some of the channel's programming.

102. Those who opposed public funding suggested that 'market-based solutions' might be able to secure the channel's future. While there was little specificity about what such solutions would be, they would appear to involve a larger amount of directly commercial activity, aiming to cross-subsidise PSB content, and possibly a new governance structure to allow this sort of commercial activity to flourish.

103. Others were willing to see a publicly-funded Channel 4 if it was the only way of ensuring it had a sustainable future. One alternative proposal was an asset transfer from the BBC, in the form of some of its more commercially-orientated services. It was recognised that there may be State Aid issues with any form of direct Government support. Some less dramatic options were also proposed, short of major surgery, including an increased advertising minutage, a spectrum charging waiver and a merger of ad sales houses with Five.

104. There was substantial support for the maintenance of existing ownership status, covenants and purposes, and some objections to any notion of privatisation or joint ventures with commercial broadcasters on the basis that the channel's overriding commitment to its PSB purposes would be lost. An alternative view suggested that the Channel's ability to provide PSB programming was bound to decline significantly over time, and that privatisation therefore ought to go ahead as soon as possible, in order to raise the maximum value from a sale.

### Proposition 9

Independent producers make a major contribution to PSB purposes across most programme types. Apart from one or two specialist areas (e.g. news), our supposition is that there is more scope for independent production to enhance the delivery of PSB. Measures that need to be considered include raising the quota of programming which broadcasters must commission from independent producers.

105. It was widely agreed that independent producers make a significant contribution to PSB purposes. There was no agreement, however, about whether they were better equipped to do so than in-house producers. The suggestion that indies enhance PSB by their very existence was questioned, and some put forward an alternative rationale for supporting independent production – that it supports the UK’s creative economy.

106. It was generally accepted that the scale of a producer is not particularly relevant to the quality of content that they produce, and that in-house and independent producers should be able to compete directly against one another for commissions. Some respondents were opposed to any policy change that attempted to punish in-house production, particularly within commercial broadcasters. While it was agreed that a meritocratic commissioning system was desirable, however, not everyone feels that it currently exists. The current 25% quota for independent production is not universally felt to have been a success – it has not yet produced a fully-functioning and self-sustaining market in programme supply. Nevertheless, since the new Codes of Practice have only recently been introduced there was a desire in some quarters to see whether or not they can be made to work before making any further change.

107. The alternative viewpoint is that a new, decisive step needs to be taken now, in order to transform the market, if quotas are ever to be phased out. This could be in the form of a 50% limit on in-house production: to encourage a wider range of commissioning without any of the problems involved with defining an ‘independent’; and to allow in-house producers to pitch ideas to rival broadcasters. Some felt any such quota should apply only to the BBC, since commercial channels’ profit motives already led them to commission only the best ideas, regardless of source. The aim of such a step would be to establish a functioning meritocracy in commissioning across the industry, so that all quotas could eventually be removed, and BBC producers themselves might be freed up to sell ideas to other broadcasters.

### **Proposition 10**

There are many significant challenges ahead. Once digital switchover has been achieved, public intervention to secure PSB may not be justified on its present scale, either because market failures are reduced considerably, or because it will prove impossible to secure the purposes and characteristics of PSB through television at a reasonable cost.

108. The importance of digital switchover has been one of the most hotly debated issues in our consultation process. That there are challenges ahead is not disputed; what they mean for PSB is a matter of fierce contention. Even if consumer market failure diminishes, as we have predicted, it is not clear to respondents whether citizen market failure will be more or less pressing than it currently is. It is also uncertain to what extent the market will be eventually be fragmented by increased choice. If the future is one of global consolidation, some have argued that UK PSB institutions may have to be scaled up in order to compete effectively.
109. A more dramatic technological change than switchover is around the corner that may have a far more telling effect on television. Some of the responses we received suggested that we had been too conservative in our approach in Phase 1, discussing a linear, channel-based model of broadcasting that technology will soon make obsolete. In this view of the future, the PSB of the future may be about 24-hour news channels and libraries of broadband content. Others are convinced that viewers are themselves extremely conservative and will change their patterns of behaviour only gradually, if at all. In the absence of certainty about future market developments, some respondents urged Ofcom to be cautious in whatever action we take ahead of our next PSB review in five years' time. Others urged us to act decisively now, in anticipation of the changes ahead.

## Key questions for Phase 2

Over the consultation period, the key questions for Phase 2 we want to ask in Phase 2 of this review have taken shape. This short chapter brings them together.

### 1. What is PSB?

We need to consider the arguments we have heard about market failure and the rationale for public intervention in broadcasting. We also want to reflect further on the necessary purposes and characteristics of PSB programming, and to carry out further analysis on what it means for such programmes to have ‘reach and impact’. The result should be a firm definition of PSB, its purpose and its scope.

## 2. How effective is the current PSB system?

Our Phase 1 analysis identified some significant shortcomings in the current system of terrestrial broadcasting. In some areas there have been calls for Ofcom to ‘get tough’ in response. Many of those issues are now being addressed by Ofcom’s Content and Standards team. In Phase 2 we will first need to ask a bigger question: to what extent can those shortcomings be overcome through regulation, and how far are they an inevitable aspect of the system itself? How do the costs and benefits stack up?

## 3. How sustainable is the current PSB system?

Our consultation exercise has made clear that this is one of the most contentious questions we have to answer. To what extent is digital technology going to undermine the current model of PSB? Are commercial channels going to be able to sustain significant regulatory obligations in future? Will the market provide more PSB programming in future? And what is the significance of switchover? Our modelling work will aim to provide answers to all those questions.

#### 4. What ought to be the scale and scope of PSB in future?

No reference was made to the necessary scale of PSB in our Phase 1 report, except that we saw the need for significant intervention and supported the existence of a strong BBC. Our initial audience research did not ask respondents to place any monetary value on the qualities they expected from PSB. In our current programme of research, we are doing precisely that, in an effort to quantify the scale of the intervention that the public would support.

#### 5. What are the long-term policy options?

Debate about the digital world and our ten propositions has centred in four areas:

- Achieving plurality;
- Funding;
- Institutions; and
- Not-for-profit broadcasting.

These issues need to be dealt with together – they are about the future architecture of our PSB system. We want to put forward a thorough and integrated analysis of each issue in our Phase 2 report, as the basis for a set of policy options and choices that can sustain PSB in the longer term.

## 6. What are the transitional issues?

Before we get to a fully digital world, there are a number of medium-term issues to consider that relate to our existing PSB institutions, following on from our analysis of the sustainability of existing regulatory structures.

The first is the BBC, and the extent to which the Corporation needs to be reformed under its next Charter. The key issues are likely to be: funding; governance; regulation; remits; nations and regions; efficiency; commercial operations; and commissioning/production structures. The BBC's own Charter Review document has already put forward proposals in a number of these areas.

The second issue relates to ITV1 and Five, the extent to which they can sustain PSB obligations in a digital environment and the optimal model of regulation in the interim. Much will depend on our answer to question 3 above.

The future of Channel 4 is more complicated than that of either ITV1 and Five, given its unique structures

of ownership, governance and funding. The question of sustainability still applies, but the answer may be very different. Our consultation exercise has shown that there is presently no consensus about the future of Channel 4 as a PSB broadcaster, but we will work with the channel and with Government to find one.

Across the PSB landscape, there are two broader questions that need to be addressed:

- what is the best model of provision for the nations and regions?
- how could a new regulatory framework, based on the purposes and characteristics of PSB, be made to work?

Finally, the future of the independent production sector is inextricably tied to the future of PSB, and our Phase 2 report needs to consider again all the arguments we have heard in Phase 1 about independent and in-house production quotas. The key issue will be whether regulatory intervention in the short to medium term might be a means to deregulation in the longer term.

