

# Communities and Culture Committee

## Submission to Ofcom - 3 December 2008

**This submission is in response to the part of the Ofcom consultation dealing with the future of Public Service Broadcasting in Wales.**

### Introduction

#### *Broadcasting Sub-committee*

1. The Communities and Culture Committee of the National Assembly for Wales established a Broadcasting Sub-committee on 5<sup>th</sup> November 2008 to respond to Ofcom's recently published second Public Service Broadcasting Review document; "Preparing for the Digital Future".
2. The Sub-committee's remit agreed by the Communities and Culture Committee is to:

*...report, by 4 December 2008 on the proposals in Phase 2 of Ofcom's Public Service Broadcasting Review and to report on Ofcom's final report on the future of public service broadcasting within 2 months of it being published. The Sub-committee will cease to exist upon final report.*

#### *Broadcasting Committee*

3. The Broadcasting Committee of the National Assembly for Wales reported on 16<sup>th</sup> July 2008 on the future of Public Service Broadcasting in Wales. The Committee ceased to exist on 18<sup>th</sup> July 2008.
4. Since the publication of the report, the Welsh Assembly Government has published its response, and expressed concern about the future of public service broadcasting in Wales.

### **Broadcasting Sub-committee's response to the consultation**

5. The Sub-committee understands the urgency for action in view of the present financial state of ITV, and the expectation that the United Kingdom Government may need to legislate in this area within a very short timescale.
6. Many of the conclusions and recommendations of the Broadcasting Committee are relevant to this consultation document, and the Sub-committee is pleased to note that a number of the key recommendations have been re-stated in Ofcom's PSB document.
7. In particular, the Sub-committee supports the Broadcasting Committee's belief that Ofcom should itself represent the needs of Wales formally by having a representative of Wales on its main board, and ensuring a more

transparent method of representing Welsh opinion in its work in regulating TV and radio in Wales in particular.

*Refined models for public service content in the future*

The Sub-committee recommends:

- The appropriate model for the future should be an amalgam of the 'Evolution approach' and the 'Competitive Funding approach' described in the consultation document
- ITV1 in particular should continue to have public service obligations until at least 2014, and subsequently there should be a separate franchise for Wales

8. The Sub-committee believes this approach would provide the flexibility to ensure a developing and changing response to the needs of audiences in Wales and ensure a migration from the present system to a more plural system of PSB provision in future. We are concerned that Channel 4, in particular, has no track record in providing PSB in Wales, and may not be attuned to the needs of audiences in Wales.

*The models in nations and regions*

The Sub-committee recommends that:

- additional funding is found to sustain funding for public service broadcasting beyond the BBC
- if ITV wishes to withdraw from its public service obligations, and surrender its licence, the licence for Channel 3 in Wales should be separated from the Channel 3 licence for England and advertised separately, with specific public service provision

9. The Sub-committee notes Ofcom's view in its consultation document that ITV plc might wish to withdraw from its public service obligations in the immediate to medium term.
10. This is of concern to the Sub-committee as ITV's programmes and services are a crucial addition to the range and diversity of programming from Wales and about Wales. The Sub-committee believes the BBC is not sufficiently pluralistic to be able to provide a rich diversity of voices and perspectives. Such a view of plurality implies that any voice would need to conform to the editorial guidelines and requirements of the BBC, under one editor in chief, and within one editorial agenda.

11. The Controller of BBC Wales, Menna Richards, gave evidence to the Broadcasting Committee and stated:

*“We recognise the threat to plurality, which is a key issue in Wales, exacerbated by a weak press. The BBC welcomes competition; it is good for Wales, good for the industry. We would prefer to see a continuing role for ITV Wales given its heritage and its ability to deliver significant audience reach.”*

12. The Chief Executive of Ofcom, Ed Richards, gave evidence to the Broadcasting Committee and stated:

*“We agree that it is a serious concern and that the question of plurality in general is crucial, especially in news and current affairs in Wales. This is also the case in Scotland and Northern Ireland, but there is an even more acute argument in Wales.”*

13. The weakness of the indigenous print media and the local commercial radio sector in Wales means that viewers in Wales rely more heavily on its national television services than viewers elsewhere in the UK.

14. ITV in Wales has both reach and impact for its audiences and is very popular – a survey of 2538 people (November, 2008) conducted by the National Assembly for Wales indicated a third of respondents stated they received their news about Wales mainly from ITV Wales.

15. The importance of maintaining an alternative mainstream provider to the BBC in Wales is amplified by ITV Wales’s performance of its programming in peak. ITV Wales is broadcasting twice as much non-news output in peak-time (6pm – 9pm) than BBC1 Wales. Losing this service on ITV would mean a substantial reduction in the number of people of Wales accessing Wales based programming.

16. Ofcom’s own research shows that ITV’s news services serve a demographically different audience from that of the BBC. Relying on one provider would risk isolating large parts of the audience from being informed, entertained and engaged with life in Wales. The fundamental basis of good citizenship “is an educated and participative democracy” and the prerequisite is an understanding of current events. The evidence of audience research in Wales is that it not only values news provision on ITV as well as the BBC, but also values non-news programming in particular.

17. Any further diminution of ITV’s services for Wales in news or in its reduced commitment to non-news programming could result in insufficient economies of scale for ITV in Wales and may make it unable to maintain the necessary range of skills and facilities to make its operation viable.

18. If ITV Wales ceases providing its English language services in Wales, and if the BBC was to be left as the only provider of English language news, current affairs, features and documentaries, sport, entertainment and

drama in Wales, the citizens of Wales would be poorly served by its broadcasting media.

19. Real plurality is achieved through different voices and different tones. The Sub-committee sees plurality as underpinning and guaranteeing the cultural expression of people throughout Wales and reflecting their everyday experiences on TV (or other) services. This can only be achieved by a variety of different perspectives from different broadcasters and providers of content.
20. The Sub-committee considers it unacceptable for there to be only one source of broadcasting in Wales in the English language, and recommends that the resolution of the future of public service broadcasting in Wales should include steps to ensure funding for public service broadcasting beyond the BBC.
21. The Sub-committee notes:
  - Ofcom's comment (s5.55): *"a refined BBC/Channel 4 model could see S4C and Channel Four operate side by side, with further competition introduced through an element of public funding"* It refers to the IWA and others advocating a *"funding model heavily devolved to Wales"*
  - Ofcom's view that: *'future models for Channel 3 based on the existing licence or a future stand-alone Welsh licence would be unlikely to be viable. Were a future stand alone licence to be held by ITV plc, some element of cross-subsidy from the English licence might continue to be possible. But otherwise...some forms of public funding would be required'*
22. The Sub-committee recognises that a Channel 3 license for Wales would need some kind of cross-subsidy but considers that if ITV does not fulfil its obligations to Wales, a separate Channel 3 license for Wales should be created.

#### *Public Service Content Commissioning Body*

The Sub-committee recommends a fund for public service content in Wales is established to be responsible for disbursing monies for PSB content
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23. The sub-committee notes the suggestion made by Ofcom that a competitive funding model could be established through a body to allocate funds, with a budget and objectives set by Parliament. The funding body's duty would be to award funding through competitive tenders to meet identified deficits in provision of public service content, informed by consultation with audiences about their priorities.
24. The Sub-committee believes such a fund should be established in Wales and run by a commission, board or authority, with the appropriate

governance arrangements in place, which would be responsible for making a strategic assessment of the nature and volume of public service content to be commissioned and ensure funding is directed to achieve as much reach and impact as possible.

25. As the consultation document points out, the future of Public Service Broadcasting is a particular issue for Wales, Northern Ireland and Scotland. In Wales it would be most appropriate for a Public Service Content Fund to be accountable to the Welsh Assembly Government as well as the UK Government. The differences in audience demand and need in Wales should be reflected in its governance and accountability.
26. Members of the fund should be appointed in consultation with the Welsh Assembly Government.
27. The fund should be available to be bid for by mainstream providers, such as the replacement licensee for ITV, in order to sustain the present level of PSB output in peak on a network mainstream service. PSB funding should be available to other providers, in other media, including radio and online content and including community and commercial radio, online, IPTV and broadband content providers.
28. Consideration should be given to providing broadcast spectrum for a digital service for Wales as part of the remit of the Public Service Fund for Wales. S4C is already and uniquely, a free-standing public service broadcaster in Wales. Its role is to provide Welsh language services and it will have two digital channels – currently broadcasting as S4C digidol and S4C2. Whilst its statutory role is to provide Welsh language broadcast services, it is entitled to use its commercial income for other purposes, and it has invested in non-core businesses such as INUK. Whilst we do not believe that S4C should engage in commissioning English language output, we believe that S4C could assist in the running of the Public Service Content Fund in Wales. It could support the Fund in helping to provide back office functions, access to its audience research expertise, and its expertise in relation to its transmission function.

#### *Funding options for Public Service Provision*

The Sub-committee requests Ofcom considers the specific needs of Wales, Scotland and Northern Ireland in relation to the funding of public service content related to each nation, and recommends that significant funds from a variety of sources be used to support the content fund

29. As Ofcom re-iterates in its consultation document, the next five years will be a period of rapid change in the broadcast industry. By 2012, digital switchover across the UK will be complete and the BBC licence fee and the performance of S4C will be reviewed, within the context of dynamic and swiftly evolving constitutional and political change across the UK.

30. The Sub-committee notes the concern about the future of Channel 4's funding as expressed in the Ofcom consultation.
31. Funding public service broadcasting in future must take into account the specific and distinctive requirements of Wales, Scotland and Northern Ireland. It welcomes Ofcom's recognition of the devolved nations, and "their distinct political and cultural needs". The development of devolution and associated public institutions emphasises the need for comprehensive content across genres that reflects the richness and diversity of the life of Wales, from news and current affairs to entertainment and drama, and for that content to be delivered both by the BBC and by other providers, in order to ensure sufficient plurality.
32. The Sub-committee is concerned that Channel 4's requests for additional funding, or that demands for funding English regional content, should not be set against the particular needs of each of the devolved nations.
33. The Sub-committee recommends other avenues of public service provision funding should also be considered beyond the BBC, including:
- Raising money through the sale of broadcast spectrum
  - Payment for regulatory assets, and levying parts of the industry, such as content and online search providers.
34. The Sub-committee agrees with Ofcom that:
- "the surplus in the current licence fee settlement that is ring fenced to pay for costs of digital switchover, if retained, could be used for other purposes after 2012, without in any way curtailing the BBC's ability to deliver high quality public service content. This sum equates to circa £130 million per year."*
35. The Scottish Broadcasting Commission has proposed the creation of a digital public service television channel and an 'extensive and innovative online platform', which would require circa £70 million for its annual funding.
36. Neither the Broadcasting Committee nor the Broadcasting Sub-committee has taken a view about the desirability of creating a 'channel' for Wales. The approach has been to attempt to address market failure in a more incremental way.
37. However, given ITV's parlous financial position and its retreat from a commitment to a wide range of programming from Wales, then the responsibility of the Public Service Content Board or Authority for Wales might not only lie with creating the strategic context for the allocation of money, and the allocation of that funding but also with responsibility for spectrum space for the transmission of content.
38. The Sub-committee is anxious that English language content provision in Wales is available on mainstream services such as ITV. It recognises

however, that this may not be a realistic possibility beyond 2012. The objective for the content fund would be to ensure a range of content across as many different platforms as possible, and not be located solely on one delivery platform or within one service.

39. It is difficult at this stage to gauge the level of funding appropriate to this level of provision. However, the level of funding should be sufficient to provide a range of content across various platforms and a range of content across genres. It should include sufficient funding to undertake responsibility for the broadcast spectrum necessary to carry a content channel in the future.
40. The Scottish Broadcasting Commission has identified £70 million as the cost for the creation of a digital channel and for its content. The budget required by the Content Fund would be dependent on the range of genres to be commissioned, and by the cost of sustaining a digital channel, if this were undertaken. It should be noted that S4C, with two separate digital channels, has an income of £93 million from Government as well as programming to the value of £25 million from the BBC, and the ability to utilise income from its commercial activity. In contrast, the present budget for ITV Wales is circa £12 million.

#### *Network programming and Public Service Content*

The Sub-committee recommends the target of 5% of network production in the BBC from Wales should be met in 2012 rather than 2016, and that the BBC should be monitored and held to account for that target by Ofcom.

41. The Sub-committee welcomes the BBC's agreement to measurable targets for network production from Wales, between now and 2016, amounting to a minimum of 5% of qualifying production, and a value of at least £50 million on that programming. We are also encouraged by the BBC's announcement that additional network programme strands like 'Crimewatch' will be produced in Wales, and that serious consideration is being given to moving 'Casualty' from its Bristol base to Cardiff.
42. As the Director-General of the BBC has indicated, the percentage figure of 5% is a floor, not a ceiling. We are anxious that in transferring substantial strands of in-house BBC programming to Wales, that independent producers in Wales do not lose the opportunity to gain commissions from the BBC networks and we seek assurances from Ofcom and the BBC that this will not be an unintended result of its network commissioning policy. That commitment to the independent sector by the BBC should be quantifiable and monitored accordingly by Ofcom.

#### *Channel Four*

The Sub-committee recommends that Ofcom requires Channel 4 to commission a minimum of 5% of its output from Wales

43. The Sub-committee welcomes Ofcom's proposal to introduce a quota for Channel 4's productions from Wales, Scotland and Northern Ireland from 2010. However, the target percentage figure of 3% of its output to be commissioned from Wales, Scotland, and Northern Ireland is too low and should be based broadly on each nation's population base. The argument for doing so is that Channel 4's public service responsibilities should be based on the principle of meeting the needs of audiences across the United Kingdom.

44. In expressing its commitments to the Broadcasting Committee, Channel 4 stated that:

*"The current status of both S4C and Channel 4 will change, as there will no longer be any analogue TV broadcasting in Wales. S4C will become a primarily Welsh-language service, and Channel 4 will become a truly national broadcaster, available to all homes in Wales for the first time on a free-to-air basis. As a result, Channel 4 will be committed to ensuring that our core objectives are achieved across the whole of the UK, including Wales."*

45. This requirement for quotas for production from the Nations should be aligned to its new long term funding arrangements as a public service broadcaster. Channel 4 has the responsibility to reflect the whole of the United Kingdom in its services, and the minimum quota of 5% of its production from Wales is most appropriate.

#### *Regulatory issues for the short term*

46. The context for ITV's attempt to reduce its Public Service Broadcasting responsibilities is its view, supported by Ofcom, that its PSB obligations will outweigh the benefits during 2011. It is said that the costs in Wales will outweigh benefits by 2009.

47. The short-term options for ITV, and Ofcom's proposal for Wales, are that news in Wales will be reduced from 5 hours 20 minutes to "no more than four hours", through the loss of bulletins on weekday mornings and weekend lunchtimes.

48. ITV has requested that its present duty to produce non-news programming should be reduced from three hours to one and a half hours per week from 2009. It states that the remaining one and a half hours will be broadcast "in peak-time" or "near-peak" and will include current affairs.

49. The consultation document states that it is committed to providing 'regional' news up until 2012, but states ITV wishes to review its 'regional news provision' in 2011.

50. The importance of maintaining an alternative mainstream provider to the BBC in Wales is amplified by ITV Wales's performance of its programming in peak. ITV Wales is broadcasting twice as much non-news output in

peak-time (6pm – 9pm) as does BBC1 Wales. Losing this service on ITV would mean a substantial reduction in the number of people of Wales accessing Wales based programming. On the basis of audience demand, and that plurality is substantially reduced by any reduction in the level of ITV Wales programming, any reduction in services should be vigorously resisted.

51. The Sub-committee is disappointed by Ofcom's proposal to reduce the minimum requirements of ITV Wales's 'non-news' output from 3 hours to 1.5 hours in January 2009, although it welcomes the commitment to maintain the remaining output either in peak, or near-peak times.
52. Whilst the sub-committee understand ITV's concerns about its future viability, at present the needs of audiences have to be balanced with the concerns of ITV and Ofcom in relation to ITV's overall viability.
53. In the context of ITV's overall income and expenditure, the total of circa £13 million that we are told is ITV's budget in Wales is not substantial.
54. ITV states that it is not in the financial position to sustain its public service broadcasting commitments in Wales until 2014, or even to maintain the status quo past January 2009.
55. However, we believe that although ITV's financial position may be difficult, the needs of audiences in Wales are such that Ofcom should ensure that the present level of service, in terms of hours, scheduling and funding, is maintained.

In view of its significance to audiences in Wales, and the lack of any alternative provision at present, we believe that ITV Wales' present level of output should be maintained until 2012 at least.

The Sub-committee recommends Ofcom re-considers its agreement to ITV's proposals to reduce the 'non-news' output for ITV in Wales, and presses for a sustained commitment from ITV to 5 hours and 20 minutes of news output and 3 hours of 'non-news' output per week

### *Digital Switchover*

The Sub-committee recommends that Ofcom ensures S4C is universally available after digital switchover

56. In its Report the Broadcasting Committee of the National Assembly requested Ofcom ensure S4C services are made available on all digital platforms, throughout the switchover process, throughout Wales.
57. S4C informed the Broadcasting Committee of its concern the timetable for digital switchover meant there may be a time lag between S4C's move to a

new multiplex, and digital switchover, possibly making S4C unavailable for a period in that area.

58. The Sub-committee asks Ofcom to ensure that S4C is universally available after digital switchover.

#### *Radio*

The Sub-committee recommends:

- Digital switchover should not take place in Wales unless there is a guarantee of at least 97% coverage for DAB in Wales
- Ofcom considers applications for licensing of community radio by its advisory committee in Wales

59. Whilst Radio is not part of Ofcom's Public Service Broadcasting review, digital switchover in radio in the foreseeable future will mean that listeners in Wales would be disadvantaged by the lack of coverage for Radio Cymru and Radio Wales on Digital Audio Broadcasting.

60. The Sub-committee seeks assurance that no switchover will take place in Wales unless there is a guarantee of at least 97% coverage for DAB throughout Wales.

61. The Welsh Assembly Government has created a fund of £500,000 over 5 years, to help develop the community radio sector.

62. We are concerned that the decisions on the licensing of community radio in Wales are not devolved within Ofcom to its advisory committee or any other body with a Welsh interest, so that the decisions over the granting of community licenses on a Wales basis can be made on the basis of Welsh needs. Ofcom should afford the opportunity for applications for the licensing of community radio to be considered by its advisory committee in Wales.

63. We believe there is an appetite and an unfulfilled demand for community radio services in Wales, which is not being met by the present policy of permitting short-term Restricted Service Licenses. The committee believes that Wales would benefit from longer licenses and more continuity. We therefore ask Ofcom to re-consider this issue.

#### *Portrayal of Wales on Network Services*

The Sub-committee recommends Ofcom commissions a survey of Channel 4 programming and ITN news to gauge the level of coverage of Wales in its services

64. The consultation document does not deal with the issue of how Wales is portrayed on network services. The BBC's King Report, published in July, 2008, has already led to an improvement to the way Wales is reported on the BBC's network news and current affairs programming. The Sub-committee requests Ofcom to commission a similar survey of Channel 4's programming, and of ITN's news service for ITV, to gauge the level of coverage of Wales in its services.