

# **Maintaining and Strengthening Public Service Broadcasting: The Limits of Competition.**

A response to Ofcom's Second Review of Public Service Broadcasting, Phase Two: Preparing for the Digital Future (issued: 24 September, 2008)

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## **Introduction**

We welcome the opportunity to comment on Phase Two of Ofcom's Second Public Service Broadcasting Review. We also note *firstly*, the fast pace at which almost all forms of commercial communication are changing and *secondly*, the impact that the global credit crisis may have upon both public and private providers of public service broadcasting, and related communication services. We welcome the broad market-mapping developed by Ofcom as well as the various types of commissioned audience research, since both can provide a useful check against unwarranted assertions or assumptions.

## **Context**

In our view the difficult economic climate is likely to make earlier proposals for additional forms of public subsidy for public service broadcasting (PSB) more difficult to realise. We concentrate, therefore, on what seem to us to be practicable or pragmatic ways of retaining quality and diversity within the existing but fast changing PSB and related communications sectors.

### *1. Consequences of Competition*

We endorse the view that it is the unleashing of competition itself and the creation of the multi-channel world (following the 1990 Broadcasting Act and the 2003 Communications Act) which have now broken the historic British PSB model. This process has also provided, in some respects, wider choices for audiences though some genres of programming are now at risk. In the past the PSB model has enshrined - within quasi-monopolistic conditions - effective but highly regulated forms of competition between public and private broadcasters with consequences that have been beneficial for listeners and viewers. Under these conditions original programmes with high production values were made available at relatively low cost to audiences. This historic model - based on a moderately well-funded BBC and on the concentration of television advertising revenue on just a few players (ITV, Channel 4 and then Channel 5) ensured high levels of investment in original programme-making, across a wide range of genres.

This model is now broken. Ofcom's own figures detect a downward trend in PSB investment in programme-making as the five main PSB networks - BBC1, BBC2, ITV1, Channel 4 and Channel 5 - reduced their investment from £3 billion in 2002 to £2.6 billion in 2007 (Ofcom, 2008a: 147). It is not possible for either government or regulator to fix this without considerable additional cost to the public purse; though we note some alternative solutions below. And whilst some modest increases in

public expenditure might be justified in the case of the new and fast-growing community media sector, it is difficult to see why the established commercial PSB players should expect enhanced levels of public subsidy even though – ironically - their decreasing production budgets and lower levels of profitability can be seen as a direct consequence of those public policy decisions that set out to create increased competition in this sector.

## *2. Investment in Original Programmes*

Despite a downward trend in programme investment among the five PSBs, it is the ‘big five’ who together attract the largest proportion of the audience - just under 64 per cent in 2007 – (Ofcom, 2008a: 147) and who, together, invest the most in original programme-making. For the year 2006, Ofcom estimated that the BBC contributed some 45 per cent to the total amount invested in original programming by all channels licensed in the UK; ITV contributed 29 per cent, Channel 4 contributed 14 per cent and the digital-only services (excluding the BBC) contributed only 4 per cent of the total. (Ofcom, 2007: 121).

It is arguable that original programmes produced by the PSBs - in a range of genres including drama, documentary, comedy, children’s programmes and current affairs - reflect the diversity of contemporary Britain, and capture something of the national conversation including its submerged and swirling currents. By contrast the allocation of resources among the digital or ‘multi-channels’ (excluding the BBC) shows a clear priority for sport which represents more than half of all spending on content (57 per cent) closely followed by entertainment at 28 per cent. By contrast the genres of News, Children’s Factual, Leisure and Music, taken together, represent just 16 per cent of the multi-channels spend on content. While original drama is more-or-less absent as a category (Ofcom, 2008a: 181).

As already indicated the PSBs also differ from the multi-channels in respect of the proportion of their transmitted hours that are first run, originated material. Whereas, in 2007, some 90 per cent of multi-channel operators’ hours consisted of repeats, with some 10 per cent of originated material, in the case of the PSBs the proportion of originated material ranged from 56 per cent to 90 per cent. The detailed figures for the ‘big five’ are as follows:

### Percentage of Originated Material Broadcast in 2007

BBC 1	85%
BBC 2	83%
ITV 1	90%
Channel 4	64%
Five	56%

Source: Ofcom, 2008a: 174; 195.

## *3. The Role of Pay TV*

The service offered by the five PSBs appears to be attractive to many households, as indicated in the overall 'share of audience' figures cited above. But there is additional evidence of their popularity if we consider the shifts that have been taking place in the relative popularity of subscription or pay TV in the UK. There is no doubt that subscription television has put forward a successful business model; indeed it now constitutes the largest single source of revenue for the UK television industry. In 2007 subscription revenue represented 38 per cent of all television revenue compared with 32 per cent generated by advertising and 23 per cent generated by public funds (including the BBC licence fee).

However, an interesting trend has been observable since 2002. During this period the percentage of digitally-enabled TV households has risen steeply from 39 per cent to 86 per cent and this has made it possible for larger numbers of people to consider the option of pay TV. However, during this same period, significant numbers of households have opted for the 'Freeview' digital system, an option that does not include the technology required to obtain encrypted, subscription services. In parallel with this development the proportion of digitally-enabled households adopting pay TV has fallen from 87 per cent in 2002 to 55 per cent in 2007. So, while subscription television is still good business, and increasing numbers of UK households have taken out subscriptions, the five 'free-to-air' PSB channels appear to have persuaded nearly half of UK households that the free-to-air services offer sufficient choice (Ofcom, 2008a: 147).

#### *4. Public Service Communications: Citizenship, Technology and Universal Access*

It is this bigger picture of changing attitudes and practices (for and against pay TV, for and against public service) that politicians and public now need to reflect upon, without sentimentality. From a public interest point-of view, with its emphasis on the great gain of informed citizenship regarded as the bedrock of participatory democracy, a host of new possibilities have emerged as 'public service communications' push forward the frontiers of 'public service broadcasting' and as broadcasting now extends into all manner of on-line services. This 'public service broadcasting plus' has immense potential to embody and reflect the diversity of British culture in drama, documentary, comedy, investigative journalism, autobiography, oral history and impartial news.

But one last contextual point needs to be made here about the changing technologies of communication. The citizenship imperative in broadcasting requires a system and a service committed to universal access. And it is likely, though not certain, that the majority of people in Britain will wish to retain the value for money that is represented by the licence fee and, broadly, by the range of services offered by the British Broadcasting Corporation. Broadband internet connection has been proposed by some as the desirable next step, the inevitable 'second life' for broadcasting. By the end of 2007 58 per cent of UK households were connected to broadband although the rate of growth was believed to be slowing (Ofcom, 2008a: 18). Only time will tell when the UK is able to achieve the level of broadband penetration that has already been achieved by broadcasting with its near 97 per cent reach, across the UK. And only time will tell if 97 per cent of households will be able to afford an annual broadband connection, at a cost that is at present roughly equivalent (at the lower end)

to the BBC's licence fee. Until such a time comes, universal service must be preferred to broadband service. Though, of course, the latter also complements the former for those with access to broadband.

## **Ofcom's PSB Phase Two Consultation Questions.**

### **1.Models**

*Q1.1. Should there be public service provision and funding beyond the BBC? Is this an important part of any future system?*

Answer: Yes, there should be public service provision beyond the BBC. But this should not be at the expense of the BBC. That is, the concept of 'top-slicing' the BBC licence fee should not be used to provide competition for the BBC. Such a course of action would break the existing bond of accountability that links licence fee payers to the BBC as its owners, stakeholders and investors. It is also an illogical action considered as a means of supporting PSB since all it does is to 'rob Peter to pay Paul', with little or no additional benefits for audiences. Such a course of action may also set in motion a longer term and more radical form of licence fee disaggregation, completing the job of BBC-destruction that the Peacock report envisaged but delayed in 1986. We endorse the view expressed by Ofcom's Chief Executive in his September 2008 speech to the Royal Television Society that: '...the BBC should remain the cornerstone of public service content, and its core programme and services budget should be secure'.

However, we think there is some lack of clarity about what constitute the BBC's 'core' services. And there appears to be no recognition from Ofcom that the 2007 licence fee settlement has imposed annual budget cuts on the BBC. We are also opposed to the use of any unspent digital switchover money (ring-fenced within the BBC's last licence fee settlement) to solve the problems faced by any other broadcasters. Rather, if some portion of this money remains unspent it should be for the BBC to consult with the DCMS on how this money should best be used.

We are also opposed to seeing this digital switchover money being seen as a solution to the real and on-going revenue cost problems faced by Channel 4. The digital switchover pot disappears in 2012 and it is unknown what attitude a new government will take to the new licence settlement that will be required for the second part of the BBC's current Royal Charter period (2007 – 2016). Channel 4 and the BBC should not be in competition for the same source of funding, especially if that source is government.

*Q1.2. Which of the three refined models is most appropriate?*

Answer: Model 1: 'Enhanced Evolution'. Although we think it is possible that in the absence of sufficient public financial support for ITV1 (whether in the shape of regulatory assets or some other form of subsidy) it may, regrettably, be forced to relinquish its PSB role. We do not think such an outcome is desirable, rather we think that every effort should be made to retain ITV1 within the 'family' of PSB channels. But this may not prove possible. We make other suggestions below (Q2.1.) about potential new sources and methods of funding news and non-news programmes in the

nations and regions (we mean by this - only those programmes that are broadcast as part of an agreed opt-out from the ITV1 network service).

*Q1.3. Should Channel 4 have an extended remit? Should it receive additional funding directly or compete for funding?*

Answer: Channel 4 has a distinguished track record of innovation in many areas of television programming including drama, comedy, documentary, 'reality TV', religion and news. It might benefit from a revised but not necessarily an extended remit. Its proposal to develop internet protocol work should be encouraged. Channel 4 should receive additional funding, as the value of its advertising income diminishes. But it should not be required to compete against other broadcasters or content providers for public funding. It is possible that if ITV1 and Five come under increasing commercial pressure and choose or are forced to retreat from many areas of public service broadcasting then C4 will remain as the main alternative public service broadcaster to the BBC. Everything practicable should therefore be done to ensure that it survives to fulfil that role.

*Q1.4. Should ITV1, Five and Teletext continue to have public service obligations after 2012? Should the Channel 3 licensing structure be simplified and in what way?*

Answer: We think that there are some public service obligations, for example the making of original drama and the maintenance of brand identity through the provision of significant quantities of original production that will be compatible with the commercial status and challenges faced by ITV and Five. We think that Ofcom's statement about 'obligations only for UK origination, UK and international news' for ITV and for 'UK origination', 'children's programming and news' for Five are desirable, practicable and appropriate (Ofcom, 2008b: 3).

New licensing structures should be considered for Channel 3. But decisions about the various models of a single UK-wide licence, or a federated system with five nation-based licences, or a system of affiliates can only emerge from what will be, essentially, a political dialogue with the devolved nations (England, Scotland, Wales, Northern Ireland, Channel Islands). The affiliate model might also be extended to provide a new model for regional and local news and non-news programmes (see below, Q2.1).

Given the considerable pressure on public finances that is likely over the next few years as a consequence of the global credit crisis and of the costly compensatory actions taken by the British government, we think it is probably unrealistic to rely upon significant amounts of public money being made available to underwrite public service programming on the privately-owned commercial channels. However, we do think there is scope for developing a levy system on those parts of the industry that are financially successful but making little contribution to the UK programme-making industry. Monies from this source could be re-distributed to help sustain public service programmes on those channels with a track record of providing such programmes, including also Channel 4.

*Q1.5. What role should competition for funding play in future? In which areas of content? How might this work in practice?*

Answer: there is already competition for advertising funding and for subscription revenue. We do not favour competition for public funding designed to support the production of public service programmes. Rather we think that the importance of institutional ethos, culture and track record should be recognised as key factors in enabling and sustaining the production of innovative public service programmes. Such programmes and programming recognise the link between public communication on the one hand and active and informed citizenship on the other. The manufacture and exchange of ideas is different from other forms of manufacture and not always best served by the profit motive; though we have seen in Britain some fine examples of the co-existence of the two.

## **2. Nations and Regions**

*Q2.1. Should additional funding be provided for nations and regions news?*

Answer: Ofcom has pointed out that regional programming constitutes the largest single public service cost to ITV. In addition ITV has embarked, this year, on an exercise that involves making some £40 million of cuts in its current opt-out services within the English regions. Together with the closure of specialist departments (for example factual departments in Yorkshire and in the North West) these cuts will see irreversible damage inflicted upon regional production centres in England. These changes signal the demise of ITV as a regionally-based but national network.

In order to restore some element of culturally diverse regional programming we think there should be further exploration of the model of issuing separate licences for *regional* and, if feasible at a later stage, for *local* opt-out regional programming to be carried within short specified time slots in the Channel 3 service. Such time-of-day based licences would also require some allocation of advertising airtime, probably in addition to the allocation already agreed for ITV. We think that new investors could be encouraged to enter this field including local newspapers, regional development agencies and regional screen agencies. We also strongly believe that the non-news component of these services is vital in providing creative opportunities for local writers and programme-makers, and that ways should be found of building up these services possibly through the deployment of levy income and through the provision of development support from Channel 4 and the BBC. This development would meet identified audience needs and wishes, provide outlets for local expression and creativity, build new centres of production outside London and provide opportunities for training and work-placement.

*Q2.2. Which of the three refined models is most appropriate in the devolved nations?*

Answer: Model 1 'Enhanced Evolution'; but urgent action will need to be taken, especially in Scotland to maintain and if possible to strengthen public service programming delivered on Channel 3 and suitable for a devolved nation.

*Q2.3. Do you agree with our analysis of the future potential for local content services?*

Answer: see Q2.1 above.

### **3. Funding**

*Q3.1. Do you agree with our assessment of each possible funding source, its scale, advantages and disadvantages?*

Answer:

(i) Of the four funding sources identified by Ofcom (2008b: 86) we think that regulatory assets are important as a resource to support the retention of some otherwise threatened elements of public service on Channel 3. Such assets might also be deployed in support of Channel 4's public service remit..

(ii) We think that the licence fee should be reserved exclusively for funding the BBC as outlined in Q1.1 above.

(iii) We agree with Ofcom that there is scope for developing an industry levy. And we suggest that feasibility work be completed as a matter of urgency, with a view to establishing a levy on successful subscription-based broadcasters who make little or no contribution to the UK programme-making industry. This might also be extended to successful Video-on-Demand and other internet distribution organisations which, similarly, make little or no contribution to the costs of original production in Britain. The new European Audio-Visual Media Services Directive (AVMS), the public service broadcasting protocol to the EU's Treaty of Amsterdam and the UNESCO Convention on the Diversity of Cultural Expressions all provide a framework of principles that would enable and support such action. The value of subscription revenue in the UK reached £4.3 billion in 2007; and the growth and maturity of this industry would suggest that it might now be subject to an appropriate and transparent form of taxation.(Ofcom, 2008a: 150; Ofcom 2008b:104). There are also precedents for a proportionate form of industry levy, in the audio-visual sector, in a number of other OECD countries.

(iv) We think that direct government funding is increasingly unlikely as a source for supporting new developments or even for maintaining the level of public service on ITV and on Channel 4. However, we think it vital that existing public funding for Sianel Pedwar Cymru (the Welsh Fourth Channel), MG Alba (formerly the Gaelic Media Service), the Irish Language Broadcast Fund and the Foreign and Commonwealth Office grant that funds the BBC World Service all be continued. In addition we would make a special case for increased public funding for the new community radio stations; though these resources might be found by regional development agencies and local authorities as well as by central government.

*Q3.2. What sources of funding are most appropriate for the provision of public service content beyond the BBC?*

Answer: see Q3.1 above.

*Q3.3. Which of the potential approaches to funding for Channel 4 do you favour?*

Answer: a combination of distributed levy funding and various forms of co-operative support provided by the BBC (Ofcom, 2008b: 110).

### **Public Service Radio: A Question Not Raised by Ofcom**

In framing the 2003 Communications Act, Parliament omitted to include radio services fully within the remit given to Ofcom to undertake periodic reviews of public service television. We would urge government and Ofcom to address the issue of strengthening and maintaining public service radio which is generally acknowledged to be of world class within the UK. It would be relatively easy to damage or destroy the current rich variety of radio services and almost impossible to revive them.

### **References**

Ofcom (2008a) *The UK Communications Market 2008*. London: Ofcom.

Ofcom (2008b) *Ofcom's Second Public Service Broadcasting Review. Phase Two: Preparing for the Digital Future*. London: Ofcom.

Ofcom (2007) *The UK Communications Market 2008*. London: Ofcom.

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