



## **The Future of Public Service Media**

Digital UK's submission in response to Ofcom's Small Screen: Big Debate consultation on the Future of Public Service Media

23<sup>rd</sup> March 2021

## About Digital UK & Freeview

1. Digital UK is the joint venture leading the operations and strategy of the UK's biggest TV platform, Freeview. Owned by the BBC, ITV and Channel 4, we provide every home in the UK with subscription-free access to high-quality television.
2. Freeview is the UK's largest TV service. It is used in over 17 million homes (63% of all TV homes), and is on 11 million main television sets. Originating as a broadcast TV service delivered by aerial, it now also offers Freeview Play. This is a hybrid broadcast/on-demand TV service built into a significant proportion of TVs sold in the UK. There is also a Freeview mobile [application](#) and [website](#), which give audiences access to live and on-demand programmes from Freeview channels.
3. Freeview provides a 'foundational' free service of over 70 live channels with public service broadcasting (PSB) channels at its core, alongside other providers. It remains a widely adopted service and is popular among those who choose to complement this with flexible subscription video-on-demand (SVOD) services. By playing a leading role in this mixed ecology, Freeview offers choice, convenience, control, and value to TV viewers – who need not lock themselves into pay TV contracts to get access to the best content, live and on-demand.
4. Partnerships are crucial to how Freeview is delivered. We collaborate with a broad range of businesses in the UK and globally. Freeview's channels are delivered to viewers through TVs and set-top boxes that are developed and built by consumer electronics manufacturers. Increasingly this is in collaboration with third party operating system (OS) providers who run the devices' user interface.
5. Through technical specifications we make available to all manufacturers, the Freeview service integrates into each device's TV Guide. For devices with Freeview Play, viewers can access on-demand content through the device's own apps menu; a dedicated Freeview Play apps menu; and the 'Explore Freeview Play' homepage at Channel 100. Most partners also provide a remote button to take the viewer directly to Freeview Play. The ease of viewer access depends on the deal that Digital UK has negotiated with each manufacturer and/or operating system provider.
6. Our priority is to provide viewer confidence in the easy access to our content across a wide range of high-quality certified devices. We aim to balance consistency of the Freeview viewer experience with manufacturers' desire for differentiation and innovation.

## Executive Summary

7. Digital UK welcomes the opportunity to comment on Ofcom's current thinking on the future of Public Service Media (PSM). It comes at an important moment in the evolution of the UK media market, as technology innovation drives changing viewing habits and disruptive market entry like never before.
8. PSM in 2021 matters more now than ever. Events over the past five years – be they elections, referenda or a global pandemic – have shown the vital role PSM plays in UK society by ensuring the universal availability of content which unites the nation at moments of national importance, provides trusted news in an age of disinformation, and reflects key aspects of UK culture.
9. That the system has evolved in this way is no accident – policy has evolved in response to waves of technology innovation, new entry and competition, to ensure the public interest is still well served. These changes have pushed Public Service Broadcasters (PSBs) and the wider media market to achieve more for viewers, be it through service innovation, diversification into on-demand distribution, new creative treatments, increased pluralism or greater efficiencies. The PSBs have remained at the sector's heart – an engine of UK-originated content investment, investing ahead of the curve, and conditioning the tastes of UK viewers to a point where we have a rich ecosystem of broadcasters, producers, platform operators and now many SVOD players.
10. The end-result has been a thriving UK media market sector, blending a mix of public and commercial content providers, investing large sums in first-run UK-originated content, offering viewers choice, competition and innovation with proportionate regulatory oversight. This has driven creativity for UK viewers, and allowed the sector to punch well above its weight on the international stage.
11. Through all of this, there has been one constant focus for both PSBs and regulators – public policy goals designed to deliver the best public service content for viewers, by institutions uniquely remitted to concentrate on: (i) informing ourselves and others and increasing our understanding of the world (ii) stimulating our interest in and knowledge of arts, science, history and other topics (iii) reflecting and strengthening our cultural identity (iv) making us aware of different cultures and alternative viewpoints.
12. And so far, while technology has revolutionised the way we watch TV, the PSBs have faced into the headwinds of competition and change with some success. The pace of change is accelerating rapidly, driven by global players who increasingly determine which content and services are made available to UK viewers, how easy they are to find, and the extent to which terms offer viable routes to content monetisation. Without decisive action these trends may, for the first time, call into question the sustainability of the PSM system as a whole.
13. The threat comes from global media and technology organisations, at both the content and navigation levels, with deep pockets, new business models focused often on global products and pay services, and with little regard for the essential priorities of UK PSM. Their priority is to monetise viewer engagement in the pursuit of their primary business objectives.
14. To mitigate these risks, there needs to be a new style of regulation, as effective as the framework that has been in place for nearly twenty years, but flexible enough to adjust to the strengthening competitive headwinds that PSBs are now facing into.

15. As the programme of regulatory reform takes place, the new design should be guided by four principles. It must:
- Sustain and strengthen the fundamental principle of **universality**, ensuring universal access to public service content, free at the point of use;
  - Ensure easy PSM **content discovery** in a market increasingly influenced by content aggregation and disintermediation;
  - Ensure PSM institutions continue to be **well-funded** and that PSM providers remain in a position to invest in high levels of first-run UK-originated output;
  - Allow for **recognition and attribution of the plurality of PSM brands**, which are much cherished by a diverse range of audiences.
16. At its heart, these new regulatory arrangements should (i) take a more neutral stance on how PSM outcomes are delivered (ii) encourage collaboration between PSM institutions, and (iii) prioritise a new approach to partnership terms on prominence and on PSM offer / availability.
17. On **service neutrality**, the regime ought to be modernised to ensure that PSM purposes can be delivered across platforms, with PSM providers able to shape its delivery in the interests of audiences. This might mean delivering outcomes across both traditional linear and on-demand platforms to reflect the fragmenting consumption patterns of different demographic groups, recognising that each platform has its complementary role to play.
18. **Collaboration** between PSBs has always been part of their strategy for best serving viewer interests, and there is room for it go further, particularly as the sector faces into the threat of global competition. To facilitate this, there must be a stable regulatory environment where PSM providers can confidently work together to harness technology and better fulfil the needs of viewers. Though collaboration must not mean homogenisation. There is value in both the plurality of PSM brands, and in offering content all in one place, but our aim should be to provide viewers easy access to both depth and breadth of PSM content from a range of providers.
19. Beyond collaboration among PSMs, not all **partnerships** are created equal. PSM providers working with organisations outside the PSM system are vital in delivering benefits to the viewer. But there are important differences in dynamic compared to collaboration within the PSB system. In particular, the global operating system providers with whom we must now partner will seek to leverage their market position, and power will be increasingly concentrated in the hands of just a few operators. In itself, this will prove to be an increasingly challenging environment for deals to be struck where their priority will be to monetise navigation, not deliver PSM purposes and outcomes.
20. Ofcom's advice on **prominence** has already been given to Government; it remains an absolute priority for Digital UK that the prominence regime be updated to ensure that content from our PSM providers is not squeezed out of the system by user interfaces that will be largely monetised and, in effect, sold off to the highest global bidder.
21. But prominence alone will not be enough to ensure that PSM thrives in the future. The new regime must address the **inclusion** of PSM services and the terms on which inclusion takes place. This will be critical to ensure PSM providers receive **fair value** for their investment in UK content, as per the joint proposal that the PSBs submitted to Ofcom.

22. On the question of **new providers**, the UK market has a long tradition of welcoming new entry for all the plurality, creative competition and choice that it brings. However, when it comes to the question of new PSM provision, our concern (beyond whether any organisation that is not remitted to deliver PSM goals, can be classed as PSM) is that the well-funded nature of the existing PSM system should not be compromised. We would not be in favour of any change that might see existing funding distributed among a greater number of players, with the dilution of impact that could follow.
23. To conclude, the PSB system, much loved by UK viewers and a creative success globally, has weathered waves of competition and innovation stretching back many years. But the competitive headwinds to come, driven by global operators, could, without a new approach to public intervention, call into question the long-term sustainability of the pluralistic PSM system as we know it. By modernising the regulatory framework, we believe the playing field can be levelled to the point where the PSM system of the future will thrive just as its PSB predecessor did for many decades.

## Introduction and Context

**We agree that public service broadcasting (PSB) still matters. It sits at the heart of the UK's media sector, is a vital part of UK audiences' viewing experience, delivering important public policy goals.**

24. We are pleased to see Ofcom recognise both that public sector broadcasting (PSB) still matters and the important positive role it has played in shaping the UK media market as it is today. We believe the UK PSB system has delivered important public-policy goals for UK citizens and society over many decades. It brings huge benefits to audiences, citizens, the creative economy, to the UK's nations and regions, and to the UK's reputation on the global stage.

25. The PSB system exists to deliver the public-policy goals set by Parliament in the Communications Act (2003)<sup>1</sup>. The BBC's Charter & Agreement<sup>2</sup> provides further elaboration. Ofcom helpfully has translated these goals into four PSB purposes and characteristics and has used these to gauge public opinion over many years.

Purposes:

- To **inform ourselves** and others and to increase our understanding of the world through news, information and analysis of current events and ideas.
- To **stimulate our interest** in and knowledge of arts, science, history and other topics through content that is accessible and can encourage informal learning.
- To **reflect and strengthen our cultural identity** through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences.
- To **make us aware of different cultures and alternative viewpoints**, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere.

The seven PSB Characteristics that accompany the purposes demand that programmes should be of a high quality; original; innovative; challenging; widely available; trustworthy and distinctive<sup>3</sup>.

26. These public policy goals remain as relevant today as they have in the past. Arguably they are more relevant in a world in which trusted impartial news sources, both regional and national, are required to counter the disinformation widely distributed via social media channels, some of which put lives at risk in a public health crisis, or poses a threat to well-functioning democracies. Just like other UK public sector services, PSB institutions are carefully remitted to act in the public interest, with a unique set of goals that put the interests of UK citizens at their heart. Through a plurality of institutions, the UK's PSB system operates at significant scale compared with equivalents elsewhere in the world. In terms of market contribution, the PSBs commission £2.5bn and c.32,000 hours annually of first-run UK-originated content. For comparison, the multi-channel comparator,

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<sup>1</sup> See [Communications Act \(2003\) s264\(4\) and \(6\)](#).

<sup>2</sup> See [BBC Charter and Agreement](#)

<sup>3</sup> See note 6 in Ofcom's 2015 review of public service broadcasting <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2015/psb-review-statement>

excluding sport, is just under £500m<sup>4</sup>; and total hours of first-run UK content on Netflix and Amazon Prime Video, reached just over 210 hours in 2018<sup>5</sup>.

27. This content is distributed across a wide range of genres. This contrasts with (for example) the SVODs where commissioning is more concentrated in Factual, Drama and Comedy. While SVODs play an important role for some, it is unlikely they would match the PSBs' 2019 spend of (for example) £274m on UK soaps, or £353m on news/current affairs<sup>6</sup> – two genres that account for over 30% of viewing across the main five PSB channels in 2019<sup>7</sup>.
28. Thanks to the PSBs, UK viewers have come to expect the best content at the highest quality, fuelled by their ability to commission high volumes of UK-originated content. They drive-up quality standards across the sector, and have acted as a competitive spur to a thriving commercial market. The result is an ecosystem supporting five PSBs (BBC, ITV, Channel 4, Channel 5 and S4C); many fully commercial, free-to-air and subscription channels; two pay TV platforms and a range of SVOD services. The UK's independent production sector has also boomed. Taken as a whole, our system is a proven hit with viewers, an engine for jobs and growth, and a force for positive change within society. The UK media sector is regarded as creatively strong internationally, and has helped to elevate the UK's position on the world stage.
29. The value and importance of PSB to the public and society has been consistently demonstrated by Ofcom's PSB tracking study results; in many areas, positive attitudes towards PSB delivery are higher now than they were in 2014.<sup>8</sup> The current health emergency has reinforced this appreciation. Digital UK research showed that 80% of people believe that the PSBs have an important role to play in bringing together the nation in times of crisis<sup>9</sup> and over 90% of people spontaneously cite a PSB portfolio channel when asked about their source of television news.<sup>10</sup>
30. But the PSBs' contribution to public value goes well beyond their work during a global pandemic. Guided by the fundamental principle of universality, the PSB system ensures that all viewers regardless of age, location or economic status, have free and easy access to a wide range of high-quality content that:
- has the capacity to create iconic watercooler moments, from high profile royal interviews to key sporting events, to the final of the Great British Bake Off. The sense of community and cohesion generated by these moments unites people of all ages, backgrounds, and cultures; a characteristic valued by even younger, less engaged viewers.<sup>11</sup>

<sup>4</sup> Mediatique report "A challenged future for public service broadcasting in the UK", commissioned by Digital UK

<sup>5</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0013/192100/psb-five-year-review.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0013/192100/psb-five-year-review.pdf), page 20 footnote 28 (Ampere Analysis, December 2018)

<sup>6</sup> See [Ofcom Media Nations 2020 Interactive Report](#), Broadcast TV > Revenue and Spend > Spend (£) > First-run UK-originated by genre (PSBs)

<sup>7</sup> See [Ofcom Media Nations 2020 Interactive Report](#), Broadcast TV > Viewing > By Genre

<sup>8</sup> See Ofcom's recent five-year review of PSB, [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0013/192100/psb-five-year-review.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0013/192100/psb-five-year-review.pdf), Figure 6: Attitudes on the delivery of PSB.

<sup>9</sup> Digital UK research on 'The value of television and content providers at a time of national crisis', Q. "Please indicate to what extent you agree or disagree with the following statement: The public service broadcasters have an important role to play in bringing together the nation in times of crisis", Base - UK Population (1002)

<sup>10</sup> Digital UK research on 'The value of television and content providers at a time of national crisis', Q. "Where do you typically go to access information (e.g. news) that is accurate and impartial?", Base - UK Population (1002): who select: Television (618)

<sup>11</sup> See [Ofcom's report on "An exploration of people's relationship with PSB, with a particular focus on young people"](#), page 10

- offers an authentic portrayal of British lives, and the diversity of culture in nations and regions, by offering shows made in the UK, with UK talent, for UK audiences.
- acts as a lifeline to those who might be feeling lonely and vulnerable. Our research shows that 20% of all UK adults currently make little or no use of the internet<sup>12</sup> (which we term ‘narrow-’ or ‘non-’ internet users); free and easy access to broadcast television is extremely important to many of these individuals.
- creates shows that cover challenging contemporary topics like *‘It’s A Sin’* and *‘I May Destroy You’* which engage audiences who may not naturally default to broadcast TV when exploring vital societal issues.
- supports families with engaging UK-originated content and services for children of all ages and has helped parents with home-schooling through, for example, Bitesize daily.

31. In summary, public service media unites the nation like no other medium. It has been, and will continue to be, a vital part of a balanced ecology of broadcasters, producers and platform operators that make up the UK media ecosystem.

**However, technology has revolutionised the way we watch TV, with both positive and potential negative consequences for viewers. The pace of change is accelerating, fuelled by global media and technology organisations. Before responding to Ofcom’s consultation questions, Digital UK sets out below its direct experience of these changing market dynamics, and how we anticipate they may play out.**

32. Over the years, the PSB system has faced progressively stronger competitive headwinds, from the introduction of platform competition, to the proliferation of broadcast-based channels and content distributed over the internet.
33. Overall, these waves of disruptive market entry have seen the viewer benefits outweigh the costs to the industry or to the PSB system. They have led to an age of great choice in content, a buoyant devices and platform market, a thriving and globally competitive production sector, underpinned by creative and technological innovation – in which the PSBs have continued to take an important lead.
34. However, in more recent years, we have observed the growing popularity of internet-connected TVs, and the emergence of new entrants that run these devices’ operating systems (OS). Digital UK, in its role in managing the Freeview TV service, has extensive experience working with and negotiating with a range of global organisations which make up this new TV landscape, in particular the new media and technology companies from the US west coast. These global organisations are driven by different commercial incentives and business models to traditional PSB partners and can exploit global economies of scale. They have the potential to materially disrupt the future PSM ecosystem by eroding the value PSM delivers to UK viewers.
35. Over time, we believe, these organisations will risk turning our existing UK based content providers, including PSM providers, into content wholesalers. They meanwhile will act as gatekeepers, controlling the consumer / viewer relationship and seeking to monetise multiple points along the value chain including discovery, advertising, and data.

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<sup>12</sup> Digital UK research on Non and Narrow Internet users, May 2020. N.B. “Narrow” users are defined as those who identify as doing 3 or fewer online/internet-based activities from a pre-defined list. For the purposes of this research, those narrow users **must not** have selected “watching TV content” as one of those activities.

36. This belief is supported by the Ofcom commissioned report on Connected TV Gateways which concludes that “Google and Amazon will emerge as significant players across the value chain and able to sustain a connected eco-system through access to data, provision of cloud, and other service and content.”<sup>13</sup> (See Figure 1 for reference)

**Figure 1: Presence of key players in market segments in the UK<sup>14</sup>**

Presence of key players in market segments in the UK								
Market segment	Content production	Aggregation	Content delivery infrastructure	Distribution	Additional hardware	Screen	OS	UI
Apple	Y	Y	Y		Y	Y	Y	Y
Google		Y	Y	Y	Y	Y	Y	Y
Sky	Y	Y	Y	Y	Y		Y	Y
Amazon	Y	Y	Y		Y		Y	Y
BT		Y	Y	Y	Y		Y	Y
Virgin	Y*	Y	Y	Y	Y		Y	Y
Netflix	Y	Y		Y				Y
Roku		Y	Y		Y		Y	Y
Samsung					Y	Y	Y	Y
LG					Y	Y	Y	Y
Panasonic					Y	Y	Y	Y
Sony	Y				Y	Y	Y	Y
Microsoft			Y	Y	Y			
Freesat		Y	Y	Y	***	***		***
Freeview		Y	Y	Y	***	***		***
ITV	Y	Y	**					
BBC	Y	Y	**					
Youview		Y			Y			

Source: Mediatique. \* Virgin produces some drama content but not on the same scale as others listed. \*\* As shareholders in Freesat, Digital UK (and Freeview), ITV and BBC participate in content delivery (the BBC stakes are through the public service, and not BBC Studio). \*\*\* Freeview and Freesat are not manufacturers but set out standards for using their kitemarks on hardware, and that can affect UI layout within smart TVs and connected hardware. Freeview has developed a standard (Freeview Play) to govern how on demand content from the broadcasters is presented/discovered on compatible devices; Freesat has a similar standard – Freetime.

37. This is not to say that the presence of, or partnerships with, these organisations does not have value. We welcome competition within the market as it brings opportunities and benefits to both UK viewers and the wider UK media ecosystem. There are many positive examples of this, Freeview Play’s recent deals with Amazon and Google being just two. But our concern is that growing disintermediation by global media and technology organisations, alongside increased online viewing behaviour, has exposed the limitations of a regulatory framework designed for linear broadcasts and non-smart TVs. Without regulatory support, the partnerships in place today, with a finite lifespan, will be difficult to renew on anything approximating the favourable terms we have managed to secure this time around on prominence and inclusion. What we have right now should be regarded as the ‘high water table’ of what we are likely to achieve.

<sup>13</sup> See Mediatique Report on “Connected TV gateways: review of market dynamics” commissioned by Ofcom

<sup>14</sup> See Mediatique Report on “Connected TV gateways: review of market dynamics” commissioned by Ofcom

**We agree with Ofcom that these market changes demand new ways of working. Greater collaboration between organisations within the PSM ecosystem is an essential part of this, and the regulatory environment must modernise to accommodate it.**

38. As we will outline in our detailed response to question 6 (paragraphs 55-71), collaboration among PSBs has been a proven success over many years and greatly benefits UK viewers. However, further collaboration alone – whilst important - is not sufficient on its own to address these global challenges. To maximise the viewer benefits that strategic partnerships can deliver, the regulatory environment must also adapt to sustain the delivery of important PSM goals.

39. Overall, we support Ofcom's desire for a modernised regulatory regime that will be flexible enough to both accommodate future market changes such as changing patterns of distribution and consumption, and allow PSBs to respond effectively to a rapidly changing market landscape. But that regime must not compromise the delivery of important PSM goals through the inadvertent weakening of impact that PSM providers can have.

40. Any future regulatory regime should be developed with an eye on preserving the health of the wider ecosystem, and ultimately the delivery of PSM outcomes. To insure against this, we believe this process of modernisation must be guided by the following four key principles:

**a) Sustains and strengthens the fundamental principle of universality**

We are pleased to see Ofcom recognise that universality will still be necessary to deliver PSM benefits in future.<sup>15</sup> This means ensuring viewers have access to PSM content which is free at the point of consumption. The availability of, and investment in, DTT plays an important role in fulfilling this goal. That said, we cannot take for granted the long-term sustainability of DTT as a driver of universality, as global Operating Systems (OS) providers will divert attention away from live viewing. Continuing to sustain universal access to PSM content free at the point of consumption is critical in whatever form this new world takes.

**b) Ensures easy PSM content discovery for viewers, and access on fair terms for PSM providers, in a market increasingly influenced by content aggregation and disintermediation**

There *will* be a battle to control the viewer relationship with the TV screen as this offers the greatest commercial benefit to the global organisations operating in this space. This not only means that prominence will be sold to the highest bidder, but worse still, the global operating system providers will be in pole position to determine the means by which viewers engage with content, and how this engagement is monetised. Alongside an updated prominence regime, it is critical that PSM services are included within all major user interfaces, particularly those from global tech providers, and that this inclusion delivers fair value for investment in UK content.

**c) Ensures PSM institutions continue to be well funded**

Ofcom has identified the need for financial stability in the future PSM model to allow for innovation.<sup>16</sup> As part of this, we believe the future PSM system must guard against the dilution of core PSM funding in the pursuit of creating a larger market of PSM providers. Without stable sources of funding at a reasonable level, we risk a reduction

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<sup>15</sup> See [Ofcom Consultation: The future of Public Service Media](#), paragraph 3.25 – 3.31

<sup>16</sup> See [Ofcom Consultation: The Future of Public Service Media](#), paragraph 5.8

in quality and / or quality of PSM content investment which could harm the viewer interest.

This principle also means ensuring the gatekeepers observed in paragraphs 32-37 cannot impose on PSM providers commercially onerous partnership terms that make continued delivery of PSM goals economically unsustainable.

**d) Allows for recognition and attribution of the plurality of PSM brands**

PSM brands carry weight with their viewers – they have built, over many years, high levels of brand awareness and trust with their audiences. Ensuring these brands therefore remain prominent to their audiences is important because (i) viewers will expect it and (ii) because it maintains the viewer confidence that comes from content provided by brands they know, respect and trust. Anything that homogenises the existing brands would lessen their impact with different audiences and, therefore, their ability to deliver PSM goals.

41. To summarise, and above all, regulatory reform must focus on protecting viewer interests and the continuing successful delivery of the PSM system outcomes for the long-term – even under scenarios where, long into the future, the interests of PSM and those they partner with may be increasingly divergent.

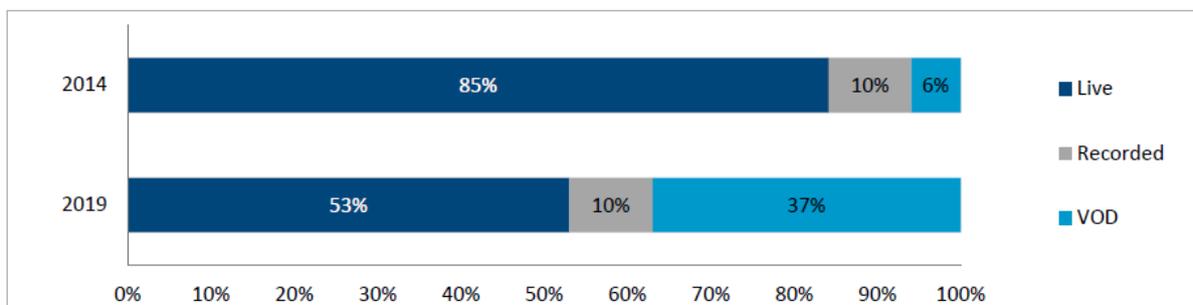
## Detailed Question Responses

### **Question 1: Do you agree that a new regulatory framework for PSM delivery should support a more flexible ‘service neutral’ delivery approach that is more outcomes focused?**

**Viewer habits are changing rapidly and a new regulatory framework for PSM delivery should accommodate this shift.**

42. Ofcom recognises in its consultation document that viewers are no longer bound to broadcast-based television schedules, and are increasingly getting their content from a range of different providers and platforms.<sup>17</sup> Video-on-Demand (VOD) share of viewing increased from 6% to 37% in the years 2014-2019 (see figure 2), and although we strongly believe that live will continue to have a substantial core audience for the foreseeable future, we expect this trend towards VOD viewing will continue.<sup>18</sup>

**Figure 2: Share of total video viewing by category, % (2014-2019)<sup>19</sup>**



43. As a result, we agree that a new regulatory framework for PSM should reflect this shift in viewer behaviour and support a more flexible PSM delivery model.
44. However, focus should remain on delivering PSM purposes/outcomes. What this more ‘service neutral’ approach will achieve is a gradual move away from being prescriptive about the means of delivery.
45. For distribution infrastructure, we support a regulatory regime that allows for a hybrid distribution approach that maximises viewer reach, maintains provider relevance/popularity, and thereby sustains continuing support for PSM. In so doing, we would wish to see the regulator recognise the complementary and important roles that live/linear and VOD/online will continue to play.
46. Our Freeview Play service, launched in 2015, has demonstrated the success of this approach. It is a hybrid broadcast / on-demand platform, and is now installed on 2.8 million main sets, with 13 million devices sold since 2015.<sup>20</sup> It attracts over 7 million users every month. Freeview Play offers viewers the flexibility of live TV alongside 30,000 hours of free-to-view content from our content provider player apps.<sup>22</sup>

<sup>17</sup> See [Ofcom Consultation: The Future of Public Service Media](#), page 24

<sup>18</sup> Mediatique report “A challenged future for public service broadcasting in the UK”, commissioned by Digital UK, page 26

<sup>19</sup> Mediatique report “A challenged future for public service broadcasting in the UK”, commissioned by Digital UK, page 26, figure 20

<sup>20</sup> Digital UK Consumer Research

<sup>21</sup> Digital UK estimates

<sup>22</sup> Digital UK estimates

**However, proportionality is key to the continued delivery of a universal PSM service, and new options to deliver service obligations via a greater range of platforms, must balance greater reach and relevance with commercial viability.**

47. It is important that we take a proportionate approach to this flexibility, and not abandon the principles outlined in paragraph 40: (i) upholding universality (the ability of everyone to access the core PSM proposition for free, regardless of their ability to pay) and (ii) ensuring that the PSM system is well-funded enough to deliver its public policy goals.
48. Delivery via DTT plays a vital role in ensuring universality and will continue to do so for the foreseeable future. Video viewing forecasts (including live, BVOD, SVOD and YouTube / Other) indicate live as continuing to be a substantial mode of viewing, with over 40% of viewers watching live broadcasting in 2027.<sup>23</sup> We have already highlighted in our submission to DCMS on DTT relicensing that DTT is and will continue to be an important tool for delivering PSM policy outcomes.
49. At the start of 2020, our research indicated that 20% of the UK population did not use, or were limited users of the internet.<sup>24</sup> Free-to-view television is extremely important to this group, many of whom are elderly, living alone and/or living with a disability or long-term illness. Although the COVID-19 pandemic (which began after our research) has encouraged many more people to get online or use the internet in new ways, charities such as Age UK and the Centre for Ageing Better have identified that the pandemic has in fact further exposed and deepened the digital divide.<sup>25</sup>
50. Our research suggests that despite a downwards trend in those making limited or no use of the internet, a smaller subset of digitally excluded users has emerged, with more entrenched views.<sup>26</sup> The 2020 Lloyds Bank UK Consumer Digital Index found that almost half (48%) of those digitally excluded said ‘nothing’ could motivate them to get online.<sup>27</sup> This underlying cohort will find it hard to cross the digital divide without external support and intervention. Therefore we believe a shift in focus towards service neutral delivery must be proportionate; these viewers must not be left behind as the regulatory focus shifts beyond broadcast schedules, and the principle of universal access and free at the point of consumption must be sustained.
51. At the other end of the spectrum, we recognise that younger viewers are consuming content in radically different ways. Today’s PSBs are already able to reach young people online and on-demand as well as via third party platforms such as YouTube, Snapchat and TikTok where it makes sense to do so.
52. However, our wider market observations in paragraphs 32-37 highlight that commercial partnerships with global technology organisations, with different underlying business models, must be approached with due care and attention, mindful of the long-term sustainability of PSM. Potential distribution platforms for PSM which seem to have superficial appeal (i.e. they reach an underserved audience) must be commercially viable and partnership terms fair, to avoid situations where distribution costs swamp the costs of content investment, or where PSM income is curtailed owing to (for example) advertising revenue sharing arrangements.

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<sup>23</sup> Enders Analysis - Video Viewing Forecasts: Trends Accelerated [2021-016], page 7

<sup>24</sup> Digital UK research on Non and Narrow Internet users, May 2020. N.B. “Narrow” users are defined as those who identify as doing 3 or fewer online/internet-based activities from a pre-defined list. For the purposes of this research, those narrow users **must not** have selected “watching TV content” as one of those activities.

<sup>25</sup> See [Centre for Ageing Better briefing on “How has COVID-19 changed the landscape of digital inclusion?”](#), page 2

<sup>26</sup> Digital UK research on Non and Narrow Internet users, May 2020.

<sup>27</sup> See [Lloyds Bank Consumer Digital Index 2020 Report](#), page 18

53. We therefore believe that any shift towards a more service-neutral approach in PSM delivery and regulation must be balanced against the suitability of different mediums to deliver the intended outcomes such as universal access and free at the point of consumption, and the potential commercial impact of alternative distribution partnerships.

### **Question 2: Do you agree with our proposals for a clear accountability framework?**

**Any accountability framework should be focused on outcome and impact, irrespective of the balance between quantitative and qualitative measurements**

54. It is for the PSBs to comment on the detailed measurements within a new accountability framework, however we agree that any new framework should be underpinned by robust and transparent accountability measures including regularly published information. Irrespective of the balance between qualitative or quantitative measurements, the focus should always be on output and impact. It is also important to continue assessing PSM delivery of public policy outcomes as a whole, alongside individual PSM provider performance.

### **Question 6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven't identified?**

**Question 3: What do you think should be included in the PSM 'offer'?**

**Question 4: What options do you think we should consider on the terms of PSM availability?**

*N.B. We will answer these three questions together as we believe collaboration is closely tied to partnerships and therefore to the terms of agreement which includes the offer and availability.*

**PSM providers have successfully collaborated with each other and with non-PSM providers for many years. Further collaboration should be encouraged among PSM providers in particular, with a regulatory framework which allows them to better address viewer needs and respond to the globalised competitive forces they now face.**

55. There are several historic examples of the PSM institutions collaborating successfully to increase their relevance and reach with UK audiences. Freeview, along with other joint ventures such as FreeSat and Youview, are some of the most prominent.

56. Digital UK, jointly owned by BBC, ITV and Channel 4, acts as a coordinating body for UK multiplex licensees, and leads the operations and strategy of Freeview, the UK's biggest TV platform. This collaborative venture, underpinned by strong brand development and commercial partnerships upstream and downstream, has led to the availability of this free-to-view TV service in over 17 million homes in total. This has sustained PSM reach and the impact of the associated public policy aims.

57. PSM providers also regularly collaborate on content production and distribution. ITV studios now produces content for BBC (and vice versa); Britbox was launched as a joint PSM subscription video-on-demand (SVOD) offering, and co-production and / or distribution partnerships with SVODs such as Netflix and Amazon are becoming increasingly common.

58. We know that viewers value this collaboration and want to see more of it. Digital UK's 2019 research into 'choice-rich TV environments' showed that household TV ecosystems are often comprised of a patchwork of different devices, platforms, and services. When faced with the complexity of competing screens, operating systems, content gateways and walled gardens, viewers are left confused and frustrated. This often results in the under-utilisation of the resources available to them.<sup>28</sup> It has been made clear by this study, and others since, that viewers greatly benefit from collaboration that leads to simplicity, relevance, and greater control for the viewer.<sup>29</sup>
59. With that in mind, Digital UK has been focused on evolving its Freeview Play proposition to better suit viewer needs, and we will continue to work closely with our shareholders to further evolve Freeview in the future. We therefore agree with Ofcom that PSM providers must "collaborate to compete"<sup>30</sup> and that PSM providers must be able to work closely together in future, responding at pace where needed. This will secure the longevity and success of the PSM system.
60. We therefore believe that the conditions should exist for further PSB collaboration to take place, and recognise the fundamental shifts taking place in the scale and scope of the competition faced by the UK media sector as a whole. This will ensure that viewer benefits are delivered (and cost-savings realised) in a timely fashion and, ideally, at a rate comparable to their global competitors.

**However, regulation that creates an environment enabling easier routes to collaboration between PSM providers must not inadvertently lead to the homogenisation of PSM brands and/or content.**

61. The more the regulator can do to create the conditions to facilitate collaboration that more closely meets audience needs, the better. But we ought not to confuse collaboration with homogenisation. There is great value in the plurality of providers within the PSM system. As Ofcom highlights in its consultation document, there are established viewer relationships for each PSM brand, built up over many years, connecting to different demographic groups.<sup>31</sup> Therefore, the conditions should be created to enable PSM providers to offer viewers easy access to multiple brands easily; to allow them to find and experience both depth **and** breadth of PSM content types depending on what is most suitable / relevant to them.
62. Regulation that inadvertently allows for, or even suggests, that these brands be unified to the extent that they are consolidated behind a single unified entry point (such as one overarching PSM tile on the home screen of a smart TV) will result in both the loss of value of this plurality of brands, and greater competition for viewer attention due to loss of overall home screen real estate.

**Collaboration between PSM providers and those outside the system is also important in delivering viewer benefits, but there are differences in the dynamics must then be understood.**

63. In paragraphs 32-37, we highlighted that the growing presence of global media and technology organisations in the UK's media market value chain was significantly altering market dynamics. Because of this, we believe it is important for the regulator to draw a

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<sup>28</sup> Digital UK research on Freeview Play in Choice Rich Environments, 2019

<sup>29</sup> Digital UK research on Freeview Play in Choice Rich Environments, 2019 and Digital UK research on IP-only Homes, 2019

<sup>30</sup> See <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/british-tv-digital-age>

<sup>31</sup> See [Ofcom Consultation: The Future of Public Service Media](#)

clear difference between collaboration among PSM providers and the commercial relationships that PSM providers strike with large, international organisations.

64. Whilst UK media organisations without a PSM remit may or may not agree that the existing UK media ecosystem of PSM and non-PSM providers operates in a way best designed to collectively benefit viewers, they at least understand that system and the way that it operates. It is a far greater challenge for international organisations, aiming to strike global deals, to appreciate, and therefore act to sustain this ecosystem, particularly when doing so will sometimes involve acting against their own commercial interests. Profitable business models operating at a global level are the priority for these parties and in some cases, this will lead to partnerships being offered with terms which are counter to the goals of PSM (e.g. monetising prominence; gatekeeping access to content and unviable ad revenues for commercial PSM providers).
65. These partnerships all have value to the UK viewer; there are several successful examples (e.g. Freeview Play distribution deals with Amazon and Google) and we believe that each is an important component in the UK's media ecosystem. However, we would emphasise that the commercial reality for PSM providers is that the delivery of UK PSM outcomes comes second to sustaining a successful and profitable global business model.

**Collaboration alone will not be enough to respond to changing market forces. Regulation needs to be updated to keep PSM viable and delivering public policy outcomes sustainably.**

66. As we explained in paragraph 39, we support Ofcom's desire for a modernised regulatory regime. One that will be flexible enough to accommodate future market changes like the changing distribution models and patterns of consumption, and allow PSM providers to respond effectively to that rapidly changing market landscape.
67. Ofcom's 2019 advice to Government on prominence remains pivotal. We strongly support the recommendation to extend prominence regulations beyond the EPG in line with changing viewing habits. However, until these recommendations are implemented by Government, prominence remains an area of significant concern for Digital UK. For the avoidance of doubt, we believe reform of this policy area will become an increasingly urgent issue as the new entrant global providers of operating systems reach market maturity.
68. However, an updated prominence regime alone is not enough and Ofcom is right to consider how the existing must offer / must carry regulations ought to be updated. The new regime should address the inclusion of PSM services and the terms on which inclusion takes place, to ensure PSM providers receive fair value for their investment in UK content.
69. We do not comment on the detail of specific options and carriage terms for the PSM "offer" and "terms of availability". PSM providers are best able to propose what will allow them to continue delivering PSM outcomes to UK viewers, and have already done so in their joint proposal published alongside Ofcom's consultation. However, we would wish to emphasise the overall thrust of this 'offer' and 'availability' argument as it would apply to Freeview Play and other UK-based service providers – that we must not, in our negotiations with platform providers, be prevented from gaining fair and reasonable access to platforms run by global OS providers, which might otherwise harm UK viewer interests and the delivery of PSM outcomes.

70. Digital UK believes that any new regulatory regime must adhere to the principles outlined in our opening statement, and repeated here below for reference:

- Sustains and strengthens the fundamental principle of universality;
- Ensures easy PSM content discovery for viewers, and access on fair terms for PSM providers, in a market increasingly influenced by content aggregation and disintermediation;
- Ensures PSM institutions continue to be well funded; and
- Allows for recognition and attribution of the plurality of PSM brands.

71. Together these principles will ensure that the viewer interest remains at the heart of this programme of reform, and that PSM outcomes can be delivered sustained in the long-term.

### **Question 5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?**

#### **A well-funded PSM system is essential in fulfilling public policy goals in an increasingly competitive, global market.**

72. In line with the principles outlined in our introduction, a well-funded PSM system, drawing on a range of different business models, is vital in ensuring the longevity and success of PSM in fulfilling its public policy goals.

73. A reduction in total funding, dilution of funding by offering the same funding to a greater number of providers, or instability caused by uncertainty of future funding guarantees, all act as detrimental forces against the PSM system as a whole. Without a stable source of funding at a reasonable level, we risk existing PSM institutions needing to cut quantity and / or quality of content. This will damage the PSM brands and ultimately PSM effectiveness by contributing to a vicious cycle of viewer disengagement until PSM providers are unable to deliver the agreed public policy goals due to reduced reach and relevance with UK viewers.

74. As highlighted in paragraph 32-37, the changing market landscape is leading not only to global competitors with far deeper pockets, but partners with sufficient negotiating leverage to ask for terms which chip away at PSM business models (such as commercially unviable percentages of ad revenue in exchange for distribution). It is therefore crucial that adequate funding is maintained now more than ever, and gives further weight to the argument that we need an updated regulatory regime.

#### **Any future funding mechanisms proposed for PSM should ensure independence from politics and corporate lobbying, and continued universality of delivery.**

75. It is not for Digital UK to comment on detailed funding mechanisms for specific institutions. However, we would expect any proposals to allow for independence wherever possible, and to uphold the fundamental principle of universally accessible and free at the point of consumption.

76. Proposed funding mechanisms should be fair, transparent, accountable, and not subject to undue influence by political agendas or corporate lobbying. They should also ensure PSM content remains universally available and free at the point of consumption. We therefore believe that a subscription model, for example, is not a credible option for consideration as it requires users to pay to access content and is not compatible with this principle of universality.

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

**Plurality of PSM is a core part of the system and integral to its success. However, we are not in favour of any change that might undermine the successful delivery of PSM outcomes for the future.**

77. We believe that there is huge public value in the contributions non-PSM providers make to the UK media ecosystem. They act as a competitive spur, and viewers benefit with a variety of content choice that makes the UK one of the most revered television sectors in the world. Plurality is a core feature of the PSM system and offers value to UK viewers by giving viewers access to a variety of service brands which resonate with different audience demographics and contribute to the popularity of the breadth and depth of British content that is currently available. In combination, the current PSM providers and the rest of the UK media sector deliver enormous value to UK viewers, and have done so for many years standing.
78. However, in considering the case for widening the definition of PSM, we must first reflect on how this affects the existing PSB compact – (i) the obligations and benefits that PSM providers work with and (ii) the fundamental principles of PSM that we have highlighted in paragraph 25. We believe the question we must ask is what added value comes from redefining PSM – the combination of PSM outcomes and the huge public value from the rest of the sector is already established, quantified and recognised to be of great benefit to viewers. We must also ask if non-PSM providers would even be willing to accept an appropriate and commensurate level of obligation in exchange for PSM benefits; there is no evidence to indicate they would.
79. Based on this, we are not persuaded that the case for new providers of PSM is made. Even if it were, it is essential that Ofcom ensures that new providers do not compromise the ability of existing PSM providers to deliver PSM outcomes. As we have argued in our response to Question 5 on funding, a well-funded PSM system is vital if it is to be effective. Accordingly, additional PSM providers should not be supported from existing funds because of the dilution of effectiveness that might result from this.
80. There may also be challenges to ensuring PSM discovery if the regulatory regime allows for either a large number of PSM providers and / or a mix between PSM institutions and non-PSM institutions which deliver some PSM content.

## Conclusion

81. In conclusion, we believe that targeted regulatory reform is necessary to ensure that the PSM system can continue to serve the public interest, and sustain the benefits that its PSB predecessor has been so successful at delivering.
82. The reforms are prompted by a changing competitive landscape, and a new category of organisation, operating on a global stage. Their motivation is to monetise viewer engagement and build new gateways in internet-connected televisions. They care little for the public interest nor PSM goals.
83. Guiding those reforms are, DUK believes, four design principles – (i) sustaining the principle of universality (ii) ensuring PSM content remains easily discovered and accessible (iii) ensuring PSM institutions remain well funded and (iv) allowing for recognition and attribution of PSM brands.

84. To preserve the important public-policy goals that drive our PSM institutions to do their best for UK viewers/citizens, we therefore believe the regulatory reform programme should take three forms:
- a. A more **neutral** approach to assessing PSM delivery, across platforms. However, the approach must be proportionate and see the delivery of content through live and on-demand channels as complementary to one another.
  - b. Creating an environment that allows for further PSM **collaboration** to take place – reflecting the scale of global competition ahead, and recognising that the great tradition of PSMs working together in the public interest must continue into the future.
  - c. A **prominence/offer/availability** regime to ensure that when PSMs strike commercial deals with third-parties, the playing field is not by tilted against them.
85. Together, these reforms will ensure that the viewer and public interest is best protected for the long-term. They will enable PSM institutions to remain focused on what they were set up to achieve, and what they do best – to make great and compelling public service content targeting UK viewers, made by the UK's diverse and creative production community, focusing on the issues and topics that are most relevant to UK audiences.