

**SUBMISSION FROM VOICE OF THE LISTENER &
VIEWER TO OFCOM'S *SMALL SCREEN: BIG DEBATE*
CONSULTATION, THE FUTURE OF PUBLIC SERVICE
MEDIA**

16 March 2021

About VLV

The Voice of the Listener & Viewer Limited (VLV) represents the citizen and consumer interests in broadcasting and speaks for listeners and viewers on the full range of broadcasting issues. It uses its independent expertise to champion quality and diversity in public service broadcasting (PSB), to respond to consultations, to produce policy briefings and to conduct research. VLV has no political, commercial or sectarian affiliations and is concerned with the issues, structures, institutions and regulations that underpin the British broadcasting system. VLV supports the principles of public service in broadcasting. It is a charitable company limited by guarantee (registered in England and Wales No 4407712 - Charity No 1152136).

Executive Summary

1. VLV's aim is to ensure that the interests of UK citizens, who are the intended beneficiaries of public service broadcasting (PSB), are represented in the policy debate.
2. VLV highlights the distinction between citizens and consumers. Consumer interests are based on individual benefit, whereas citizen interests are based on societal benefit. Citizen interest broadcasting is not just provided to people who can afford it; it goes beyond the choices of individuals, to provide broader benefits to democracy, culture, identity, learning, participation and engagement; and it benefits those who do not even make direct use of it, in much the same way as schools help create an educated society.
3. The UK's PSB system is considered to be one of the best in the world, providing a plural, universally accessible supply of high quality UK-specific content. This is being eroded by the fragmentation of the market and increased competition, especially from over the top services (OTT). It is crucial that the PSB system in the UK is not allowed to fail as a result of unregulated market forces which are based on consumer and commercial interest alone.
4. The Digital Terrestrial TV system (DTT) needs to be supported for the foreseeable future because there is no other platform which provides stable universal access to PSB content which is free at the point of consumption.
5. VLV welcomes Ofcom's analysis of the benefits of PSB to UK society and notes with concern that PSB investment in content has progressively declined since 2006.
6. VLV suggests that the best solution to improve the sustainability of PSB in the UK is to reform regulation so that it better supports the existing PSB institutions (BBC, ITV, STV, Channel 4, Channel 5 and S4C). The PSB institutions are an essential element in the successful delivery of PSB and should continue to provide the basis of the PSB system, but VLV believes the PSB compact needs to be reviewed so that delivery of PSB becomes more sustainable.

7. VLV would oppose any loosening of the definition of PSB to allow PSB benefits, such as funding or prominence, to be provided to other entities. Such a move will diminish the value of PSB status, fragment PSB delivery and undermine the PSB compact.
8. Regulation should be updated so that the PSB compact properly balances the benefits and obligations placed on the PSB institutions in the digital age. VLV recommends that regulation should be platform-neutral for PSB prominence, advertising and carriage. The PSBs should receive fair value for the content they provide to other platforms and PSB content should be identified as such. The Terms of Trade requirements should also be reviewed to ensure that they support the PSB system effectively, providing a better return on PSB investment in content.
9. The PSB Video on Demand (VoD) players should be improved so that they are destinations to browse and not just sites to search for specific content. Personalisation algorithms on PSB VoD platforms should promote a wide range of high quality PSB content and aim to replicate the experience of serendipity found in the linear schedule.
10. VLV would not support the reduction of existing PSB quotas because it believes that they support PSB delivery. As part of its PSB Review VLV recommends that Ofcom should address the decline in the provision of important genres of PSB, such as arts and religious content, which have been consistently under-delivered since 2006 and it should consider whether quotas should be assigned to them to ensure their future delivery.
11. If these aspects of regulation are updated so that they properly support delivery of PSB, VLV considers the balance between the PSB obligations and benefits will be more proportionate, removing the need to reduce existing quotas for the existing PSB institutions.
12. VLV supports the proposal that the PSBs should be afforded greater flexibility to provide content across a range of platforms on the proviso that they maintain PSB delivery on their main DTT channels. This will be important to ensure the sustainability of the DTT platform and also to maintain the reach of PSB.
13. VLV would welcome more qualitative research, such as that provided by an 'outcome focused' approach, to evidence impact (social, economic, equity of access etc) if it is *additional* to existing quantitative metrics.
14. Ofcom should be mandated to demand data from platforms which host PSB content and the provision of data to the PSBs by platforms should be agreed during negotiations so that quantitative assessment of PSB delivery can be guaranteed.
15. VLV would welcome the approach of the PSBs writing annual statements of media policy and reporting their performance as long as this is used *in*

addition to the existing extensive independent quantitative and qualitative research into PSB delivery conducted by Ofcom

16. The PSBs should offer live and time-shifted audio and TV-like content for the full range of audiences across the UK from different age groups, ethnic backgrounds, gender identities and with different tastes and interests. It should represent the different regions and Nations of the UK. PSB content should deliver all the PSB priorities set out in the 2003 Communications Act. This content should be universally available and free at the point of consumption. Additionally the PSBs should promote training and development of skills and support the UK independent production sector.
17. The PSBs should make their players available free of charge to all content distribution platforms and manufacturers of hardware which are used by a significant number of viewers in the UK as a main way of watching TV. PSB players should replicate the PSB VoD apps available on the Freeview/Freesat platforms and be standardised across all devices so that audiences can access the same content regardless of which device they are using. The format of what the PSBs offer to platforms must be clear and consistent. The exchange between platforms/devices and the PSBs should be on a 'zero net basis', mirroring existing regulatory arrangements between the PSBs and major UK broadcast platforms. The PSBs should be required to provide their players according to international technical standards and should freely provide metadata and key information associated with content. The PSBs should also continue to support legacy versions of their player apps so that owners of older devices do not lose access to PSB VoD services over time. Since audiences are increasingly accessing content through search, PSB content as well as PSB players should be afforded appropriate prominence by search and recommendation algorithms.
18. Public funding for the provision of PSB content for UK audiences by the BBC and S4C should be at a level to allow them to deliver the full range of services consistent with their PSB missions. The process of negotiating this funding should be reformed because it is unacceptably opaque and unaccountable. VLV holds that TV licence income should be ring-fenced for the BBC and S4C and should not be 'top-sliced' to fund other projects.
19. Other sources of income to fund PSB content could be explored, but VLV is concerned that these could lead to further fragmentation of PSB content delivery and distort PSB motivations. An extension of tax relief to support genres which are currently under-delivered by the PSBs should be considered.
20. Collaboration between the PSBs and other institutions with an interest in PSB-type content should be encouraged.
21. VLV has significant concerns about the viability of contestable public funding to support the provision of PSB content. Contestable funding in other countries, such as Ireland, Canada and New Zealand has not successfully delivered the outcomes the UK is seeking to achieve.

22. VLV is concerned that during financially challenging times the most likely source of public funding is TV Licence income. If TV Licence income is used to support contestable funding this would further undermine the BBC's ability to deliver its mission as set out in the Charter, therefore we would oppose it.
23. VLV is also concerned that if a PSB benefit, ie funding, is made available to non-PSBs, this will reduce the value of PSB status which will undermine the PSB compact. It is also likely to lead to greater fragmentation of PSB delivery, which which will reduce the impact and reach of the existing PSBs. If it is decided that contestable funding should be made available for specific genres which are at risk, VLV is not convinced that it is possible to prevent recipients from becoming dependent upon such funding in future. VLV believes that there is a high risk that all content supported by contestable funding is likely to be substitutional to some extent.
24. If contestable funding were to be made available in the UK, VLV would advise that it should be accompanied by quotas for the specific output it aims to support and it should only be offered on a multi-year basis, otherwise provision will become piecemeal and it will only constitute a short-term solution.
25. VLV opposes subscription as a funding model for PSB because this would undermine its universality. The UK's universal broadcasting system ensures equality whereby all citizens have access to high quality PSB content, regardless of where they live or their income. A subscription system would favour the better-off in society. It would undermine many of the key societal benefits of PSB.
26. VLV welcomes the possibility of the PSBs collaborating. The continuation of existing forms of collaboration would be welcome, including in the co-commissioning of live sport and the co-production of expensive genres. Other collaboration might be possible, such as in advertising sales and research and development of technology, although we recognise there might be competition concerns if such co-operation is considered to provide them collectively with too much power in the market. VLV would oppose the consolidation and rationalisation of the existing PSB institutions because this would reduce the plurality in supply of PSB for audiences.
27. VLV opposes the Ofcom suggestion that the PSB system should be opened up to allow new providers and distributors of PSB. VLV believes this will undermine the existing PSB system, not guarantee impact or delivery of the PSB purposes and will fragment PSB delivery.

Introduction

28. VLV welcomes the opportunity to contribute to Ofcom's fourth PSB Review, *Small Screen: Big Debate*.
29. VLV's primary aim in making this submission is to ensure that the interests of UK citizens, who are the intended beneficiaries of public service broadcasting (PSB), are represented in the policy debate. As a market intervention PSB aims to ensure that a series of societal benefits are delivered equitably to all citizens through the broadcast of radio and television. In an ever more globalised media world, large transnational commercial corporations are increasingly powerful. VLV's concern is that all changes instituted as a result of this Review should aim to benefit citizens.
30. VLV holds that PSB should provide a range of content which improves citizens' lives. It should *'enrich individuals with knowledge, culture and information about their world, to build more cohesive communities, to engage the people of the UK and the whole globe in a new conversation about who we are and where we are going ...put to work to the sole benefit of the public'*¹.
31. The consultation identifies a number of challenges to PSB and suggests a range of solutions. The primary challenge it seeks to address is how to increase investment in PSB content which has declined since 2006 as the market has fragmented with the arrival of digital terrestrial television (DTT), online and subscription services. Since 2006 regulation has not been updated to reflect the digital transformation of broadcasting and no longer adequately supports PSB provision.
32. The PSB system was established when there were far fewer channels and platforms on which to view content. There were fewer platforms available on which advertisers could market their products; as a result commercial PSB revenue was virtually guaranteed. The share and reach of the PSBs was likewise virtually guaranteed. This afforded significant value to PSB status which meant that the benefits of being a PSB were balanced with the obligations imposed on the PSBs.
33. While the digital explosion has benefitted citizens by providing them with greater choice, it has undermined the PSB compact – the balance between the benefits and obligations placed on the PSBs. Alongside this there has been a significant reduction in public funding to the BBC and S4C.

Citizens & Consumers

34. It is important to consider the distinction between the needs of citizens and consumers in the context of broadcasting. This distinction is at the heart of the 2003 Communications Act and Ofcom's duty to represent both citizen and consumer interests.

¹ *Building Public Value*, BBC 2003

35. There has been consensus in the UK since the 1920s that broadcasting should be regulated to benefit society as a whole, rather than allowing it to be driven purely by consumer forces. Consumer interests are based on individual benefit, whereas citizen interests are based on societal benefit. Citizen interest broadcasting is not just provided to people who can afford it; it goes beyond the choices of individuals, to provide broader benefits to democracy, culture, identity, learning, participation and engagement; and it benefits those who do not even make direct use of it, in much the same way as schools help create an educated society. It is crucial that the UK's PSB system, highly regarded around the world, is not allowed to fail as a result of unregulated market forces which are based on consumer interests alone.
36. It is clear from Ofcom research² that there is still widespread public support for PSB in the UK and VLV welcomes the emphasis in the consultation and accompanying research placed on the behaviour and the needs of audiences.
37. The strength of the UK PSB system is due to the co-existence of five parallel systems, providing PSB and non-PSB content, which deliver citizens universal access to a plural supply of PSB and foster healthy competition among providers. These five parallel systems are as follows:
- The BBC and S4C funded by TV licence fee income, governed by the BBC Charter and S4C statute.
 - The commercially-funded PSBs which commit to provide PSB content in return for PSB benefits.
 - The online availability of previously broadcast PSB programmes on PSB VoD players.
 - Independent Local Radio output which provides certain societally beneficial content in return for ILR licences.
 - A range of commercial television and radio, both domestic and foreign, available across a range of platforms.
38. The benefits of PSB were expressed well in the conclusion of the 2019 Lords Communications Committee report *Public Service Broadcasting: as vital as ever*:
- If the UK is to continue to be a world leader in the creative industries, public service broadcasters must be enabled to thrive in the digital world. They provide a stable flow of investment for a wide range of content, made for UK audiences, and available to all. They must be held to account for their obligations, afforded full access to the commensurate privileges, and supported to ensure that the important work they do remains financially viable in an ever-more competitive environment...Public service broadcasting remains essential to the UK media and losing it would leave UK society and democracy worse off. Public service broadcasting can bring the nation together in a way in which other media cannot and can 'raise the level' of quality, as well as*

² *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 5

*ensuring continued investment in original UK content across a range of programming.*³

39. VLV welcomes Ofcom's audience research which highlights the benefits of PSB to the UK population:

- The provision of trusted and accurate news which promotes well-informed democratic engagement.
- The ability to bring audiences together by creating shared national experiences. This not only brings individuals into groups, but it also establishes inter-generational connections.
- PSB reflects the UK's diversity across nations and regions.
- PSB enables vulnerable groups and those who don't have access to the internet to access a broad range of information and entertainment.
- PSB underpins the UK's creative economy.

40. During the past 12 months the Covid pandemic has shown the vital importance and continuing relevance of PSB in the UK. At a time of national crisis, the public service broadcasters have provided reliable news and information as well as offering entertainment, drama and children's educational support.

41. Universal access is crucial if the benefits of PSB are to be maintained. VLV therefore welcomes Ofcom's analysis of the key elements of universality and its recognition that universality is essential: *We consider there are essentially three aspects to universality – availability, relevance and public accountability – which will continue to lie at the heart of effective PSB for the next decade*⁴.

42. While the PSB Review and Ofcom Annual PSB Reports focus on television, VLV welcomes Ofcom's acknowledgement that radio plays an *important role contributing to the PSB objectives*⁵. VLV believes that radio's importance should not be overlooked, even though an assessment of radio is not included in the PSB Review.

Broadcasting policy at a crossroads

43. The UK is at an important policy crossroads. How should the PSB system be reformed so that its societal benefits are maintained while ensuring that those who choose to pay more for more greater choice are able to do so, allowing the market to thrive?

44. Ofcom's research demonstrates that the PSB system is under significant financial pressure due to a reduction in public funding and fragmentation of the market which has led to increased competition for advertising revenue and

³ <https://publications.parliament.uk/pa/ld201919/ldselect/ldcomuni/16/16.pdf>, paragraph 31.

⁴ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 3.26

⁵ *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 6.

viewers. The BBC's income has declined by 30% since 2010⁶ and the commercial PSB's revenues declined by 3.8% per year since 2014-2018⁷.

45. The reduction in PSB income has led to a reduction in investment⁸ in an increasingly consumer-oriented marketplace. This is especially the case in genres which are less commercially viable such as religious programming, children's content, local and regional broadcasting. Mediatique research shows this trend is likely to continue in the coming 5-10 years unless regulatory changes are instituted.⁹
46. Additionally there are concerns that the increased globalisation of media is leading to a reduction in the distinctiveness of some UK programming. VLV notes that a reduction in distinctiveness is one of the key elements of PSB performance which audiences say they are unhappy with.¹⁰
47. While VLV welcomes the increased choice for consumers provided by the streaming video on demand (SVoD) services, their unhindered growth is undermining the PSB system. Their impact on the distinctiveness of UK content has been recently highlighted in research by Enders Analysis¹¹. In addition they are inflating production costs and influencing the licensing landscape.¹² The SVoDs provide mainly, but not exclusively, entertainment and drama. This is no adequate replacement for PSB services. SVoD business models are mostly designed for global, not national, audiences and priorities. They will never match the PSBs in their contribution to UK society and culture. It is not in their interest to reflect UK culture or society, supply impartial news and UK factual content.
48. VLV is also concerned about the wider threat, not mentioned in the review, to the current and future availability of free-to-air public service broadcasting if the existing DTT system is not fully supported during the coming decade. Whilst internet platforms and subscription channels both offer opportunities to provide a greater range of content for those willing and able to pay for it, only the current PSB system on DTT provides a technologically reliable platform with a full range of *UK-produced, universally available* programmes at a much lower cost per viewer-hour than pay TV. There should be no further erosion of spectrum for free to air broadcasting.

The shift to PSM

49. Ofcom refers to 'PSM' throughout the consultation document and VLV is concerned that 'PSM' is not adequately defined. VLV considers there are

⁶ <https://www.vlv.org.uk/news/vlv-research-shows-a-30-decline-in-bbc-public-funding-since-2010/>

⁷ *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 5

⁸ *Communications Market Report 2020*, Ofcom, 30 September 2020, page 6

⁹ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, Figure 4.22

¹⁰ 72% of all PSB viewers highly rate the importance of showing 'new programmes, made in the UK'. *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 19

¹¹ *Outsourcing culture: When British shows aren't 'British'*, Enders Analysis, March 2021

¹² *Public service broadcasting: as vital as ever* (House of Lords Select Committee on Communications and Digital, 5 November 2019)

significant risks if the definition of PSB, as defined in the Communications Act, is loosened. In particular it should not include providers other than the existing PSB institutions.

50. VLV broadly agrees with the list of features of PSM¹³ cited by Ofcom, but we would want Ofcom to specify that PSM should be free at the point of access.

51. In order to make VLV's position clear, for the purposes of this consultation, VLV defines PSM as follows:

Public Service Media is content which is provided by the PSM providers - the institutions which currently provide the PSB channels as specified in the Communications Act 2003.¹⁴ PSM should not be restricted to TV and radio output on specific platforms as it is now. Providers of PSM should fulfil the existing PSB purposes and objectives as set out in the Communications Act 2003 (Section 264)¹⁵.

52. In this submission we refer mainly to PSB and to the PSBs, meaning the institutions which provide the PSB channels as defined in the Communications Act, in light of the fact that PSM has not yet been formally defined.

53. As stated above, VLV strongly disagrees with opening up qualification as a 'PSM' to 'smaller players with a narrower focus, or larger companies that focus only part of their business on PSM content'¹⁶. Our concern is that this will fragment the market further which will reduce the impact of PSB. It does not recognise the importance of the PSBs as institutions with specific responsibilities to society. It will dilute the existing audience association between high quality, UK content and the PSB institutions. In turn, it will further reduce the value of PSB status and undermine the PSB system.

Solutions

54. Having considered all available evidence, VLV believes that solutions are available to better support PSB. The primary solution VLV recommends is that the PSB compact should be rebalanced through regulatory reform.

55. VLV believes that regulation should support the existing PSB institutions, which provide the PSB channels defined in the Communications Act, so that they are able to adapt to the digital landscape. They should be afforded updated benefits, such as platform-neutral prominence, in return for fully delivering the PSB purposes as set out in the 2003 Communications Act.

¹³ Ofcom says the key features of PSM need to be: 1. A broad range of high-quality content that meet the needs and interests of diverse audiences; 2. Content that is widely available, and which audiences can find easily; 3. Some companies with scale to compete and reach audiences; 4. Financial stability to allow for innovation. *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 5.1

¹⁴ *Communications Act 2003*, Section 265

¹⁵ *Communications Act 2003*, Section 264

¹⁶ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 5.7

56. VLV recognises that this is a significant market intervention. In order to justify it, PSB delivery of public service media needs to be improved so that it better engages the whole population of the UK and provides all the elements of PSB as set out in the Communications Act, which it has failed to achieve to some extent during the past 18 years.

57. VLV identifies the following priorities for the reform of the PSB system:

- The PSB compact should properly balance the benefits and obligations placed on the PSB institutions in the digital age. Regulatory reform should include platform-neutral regulation of advertising, prominence, PSB carriage terms and Terms of Trade with independent producers. Please see paragraphs 65 – 70 below.
- Fragmentation of PSB delivery should be avoided. Support for PSB institutions should be prioritised to ensure that the relationship between them and audiences is not undermined. Please see paragraphs 57 to 64 below.
- Regulation should be updated so that PSB content is increased in genres which are under-provided.¹⁷ Please refer to our response to Question 3 below.
- PSB content should be available and regulated on all the platforms where audiences wish to view it. When PSB content appears on other service providers' platforms, it needs to be fully accredited and prominent so that its impact is maintained and brand awareness of the PSBs does not decline. Please refer to our response to Question 4 below.
- The PSBs should ensure that their VoD platforms are designed as destinations to browse and not just sites to search for specific content. Personalisation algorithms on PSB VoD platforms should promote a wide range of high quality PSB content and aim to replicate the experience of serendipity found in the linear schedule.
- Public funding for the provision of PSB content for UK audiences by the BBC and S4C should be at a level which permits them to supply a full range of PSB services. Please refer to paragraphs 124-127 below.
- Other sources of income to fund PSB content should be explored, but VLV is concerned that these could distort PSB motivation. Please refer to our response to Questions 5 and 7.
- Audiences should continue to have universal access to PSB. VLV proposes that this should be via the DTT system which ensures guaranteed delivery of free to view content for all citizens. The PSBs should continue to deliver a full range of PSB content on their DTT channels to ensure DTT viability and maintain PSB reach.

¹⁷ There is limited availability of specific programme genres on the PSB channels. Original arts and classical music (310 hours in 2018), and religion and ethics (112 hours in 2018) both remain low, and these genres declined further between 2014 and 2018 (by 21% and 6% respectively). Formal education remains the least well-served genre in terms of original programming on the PSB channels (65 hours in 2018), although this is up by 25% since 2014 and has shown some fluctuation over the five-year period. *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 21

- Collaboration between the PSBs and other institutions with an interest in PSB-type content should be encouraged. Please see response to Question 6 below.

PSB Institutions

58. As stated above, VLV believes that a key solution to preventing further decline in PSB provision is to support the existing PSB institutions (BBC, ITV, STV, Channel 4, Channel 5 and S4C). VLV considers them to be an essential element in the successful delivery of PSB.

59. VLV notes the findings of Ernst and Young in its report which accompanies *Small Screen: Big Debate*. It is clear from this research that the UK's PSB institutions play a crucial role in the successful delivery of the PSB purposes:

PSBs operate in a mission driven way. Whether they are commercially funded or publicly funded, there is a higher sense of purpose and mission, which ultimately leads PSBs to make decisions around how to serve audiences best.
- Heaton Dyer, CBC/Radio-Canada¹⁸

60. As Professor Philip Schlesinger notes, broadcasting institutions 'contribute to the establishment of a common culture both within the production community and the wider public...[Ofcom] research also demonstrates clear expectations about the roles of the different channels...the present television architecture is well understood as linked to a range of specific purposes and social values'.¹⁹ While Professor Schlesinger acknowledges there are risks of stultification in the institutional approach, he concludes that there are significant benefits in the institutional approach to providing PSB.

61. VLV considers the PSB institutions valuable because:

- They have the greatest reach among UK audiences and therefore provide the greatest impact of PSB.
- They set a high benchmark in quality standards, both in terms of technology and content, which has an impact on standards on the market as a whole.
- They generate significant dynamic societal and economic value.
- They have an established track record.
- They sustain creative clusters.
- They are more economically resilient, able to take risks and innovate because of their scale.

62. The UK's PSB system is based on audiences understanding the relationship between certain institutions/channels and their output. They know where to find high quality UK PSB content. VLV is concerned that this relationship will be undermined if new entrants are afforded PSB or PSM status, as suggested

¹⁸ *International Perspectives on Public Service Broadcasting, EY Report for Ofcom*, October 2020, page 17

¹⁹ *Do Institutions Matter for Public Service Broadcasting?* Professor Philip Schlesinger, 2004

https://www.ofcom.org.uk/data/assets/pdf_file/0016/38500/wp2schles.pdf

by Ofcom in the consultation document. Such a move would weaken an important characteristic of the existing PSB system.

63. Additionally, extending PSB or PSM status and benefits to other entities will reduce the value of PSB status which will undermine the PSB compact.

64. VLV welcomes the increased investment by internet-based platforms and non-PSB channels in original UK programmes²⁰. However a consistent supply of such content is not guaranteed without such outlets having PSB obligations and some of this content is not free to access. Non-PSB commercial channels are motivated to provide returns for shareholders, rather than to provide public value. When commercial needs and public value coincide, that is extremely welcome, but this cannot form the basis of policy for a guaranteed supply of PSB.

65. VLV considers that extending PSB status to non-PSB providers is more likely to help the commercial market sector than support the PSB system as a whole. To disrupt the existing PSB system in this way offers little guarantee of solving the problems we face and is certain to undermine the existing PSB institutions which have provided significant public value for decades.

Rebalancing the PSB Compact

66. As highlighted Mediatique²¹, the PSB compact will only continue to support the delivery of PSB if significant regulatory changes are made.

67. The existing PSB compact includes benefits such as:

- funding (for the BBC and S4C)
- access to free spectrum
- prominence on the linear EPG

In return it imposes obligations on the PSBs such as:

- providing a minimum level of new, original UK content
- providing genres considered to be publicly valuable
- commissioning content from independent producers
- ensuring that production is generated from across the UK

68. There are two options to reform the PSB compact – either to reduce the PSB obligations or to reform regulation so that it improves the sustainability of the PSB system. VLV supports the latter option because this is the only way to maintain PSB delivery at existing levels and to improve it.

69. Since the PSBs are not guaranteed prominence on platforms or hardware and advertising regulation favours online platforms, as Lord Hall, former Director

²⁰ *Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014-18)*, Ofcom, 27 February 2020, page 20

²¹ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 5.22

General of the BBC, said in 2018 the PSBs are effectively competing with their 'hands tied behind their backs'²². A range of regulation needs to be reformed so that it applies more equitably to both linear broadcasting, online and OTT platforms. On demand regulation needs to mirror provisions in the existing linear broadcasting regime.

70. The following regulation needs to be updated if the PSB compact is to be effective in the digital era:

- As recommended by Ofcom, regulatory assessment of PSB delivery should be platform neutral, although the existing PSB channels (as defined in the Communications Act 2003) will continue to be crucial in delivering the PSB purposes.
- PSB prominence regulation should be platform neutral and apply to platforms as well as hardware²³. It should be flexible to allow for technological changes and ensure prominence is transparent, so it is clear why content is promoted.
- Fair value must be paid for PSB content by all platforms; carriage obligations must be maintained; the PSBs should retain control of the curation of their content on other platforms; PSB content should be identified as such.
- Advertising regulation should become platform-neutral.
- SVoDs and online platforms should be included in all Ofcom analyses of the broadcasting market.
- The DTT multiplex licences should be renewed until 2034²⁴.
- An extension of tax relief to support genres which are currently under-delivered by the PSBs should be considered.
- Terms of Trade regulation should be reviewed so that it better supports the PSB institutions.

71. If these aspects of regulation are updated so that they properly support delivery of PSB, VLV considers that the balance between the PSB obligations and benefits will be more proportionate, removing the need to reduce existing quotas for the existing PSB institutions.

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?

72. VLV's comments in response to this question are based on VLV's definition of PSM as set out above – ie content provided by the existing PSB institutions. In this submission we refer mainly to PSB and to the PSBs, meaning the institutions which provide the PSB channels as defined in the

²² <https://www.bbc.co.uk/news/entertainment-arts-45551136>

²³ <https://www.vlv.org.uk/news/vlv-argues-that-prominence-is-essential-for-psb/>

²⁴ <https://www.vlv.org.uk/wp-content/uploads/VLV-submission-to-DCMS-Consultation-on-DTT-Multiplex-Licence-Renewals-February-2021-final.pdf>

Communications Act, in light of the fact that PSM has not yet been formally defined.

Platform Neutral Approach

73. VLV agrees that as the distinction between the main PSB channels, the PSB portfolios and online platforms diminishes, the PSB institutions should have greater flexibility to choose how they distribute public service content. We therefore agree that a more platform-neutral approach should be used when regulating PSB. This means that content from the PSBs across all platforms should be taken into account when Ofcom assesses delivery of the PSB purposes and objectives. This will mean that all existing regulation and standards of PSB should be extended to these platforms.

74. While allowing a more platform-neutral approach for the regulation of PSB, it's important that the PSBs maintain their commitment to deliver their PSB obligations on their main, linear channels which have the greatest reach. This will ensure delivery of the PSB purposes. VLV would not wish a platform neutral regulatory approach to be an opportunity for the PSBs to move content which is considered less commercially viable onto less prominent platforms or into time slots which are less commercially valuable. Public service content needs to remain prominent and discoverable in order to be recognised as *significantly contributing* to a PSB's public purposes. We would not agree to any PSB content being distributed on any platform which is not free at the point of access for its first viewing window.

Outcome Focused Approach

75. VLV disagrees with Ofcom's 'outcome focused' approach as set out in the consultation document because it appears to be overly reliant on qualitative research.

76. We understand this shift in approach is due to two factors: the challenge of measuring PSB delivery on platforms where it has not been measured before and the desire to improve assessment of the impact of PSB provision.

Outcomes vs Quotas

77. Ofcom states that 'broadcasters and audiences would benefit from a more flexible framework'²⁵ and there is suggestion in the consultation document that PSB quotas and quantitative metrics should be reduced. While we agree that the new framework will need to be more flexible, we would disagree with any reduction in the use of quotas or quantitative metrics.

78. While there is significant value in qualitative research, VLV remains unconvinced that audiences will benefit from an approach based mainly on 'outcomes'. We believe the opposite could be the case, because the

²⁵ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 5.17

accountability of the PSBs to deliver concrete PSB obligations, measured by quantitative metrics, will be reduced.

79. Qualitative research is valuable because it can provide greater nuance and understanding of impact through analysis of audience reaction and appreciation, but VLV would not want to see such research *replace* the quantitative measurement of PSB delivery (hours, spend, audience consumption etc). We would welcome qualitative research to evidence impact (social, economic, equity of access etc) if it is *additional* to existing quantitative metrics.
80. VLV considers that quotas remain an important element in the PSB compact. While there has been a decline in spend for all genres since 2003, the decline for genres which have no quotas, such as religion, education, children's and arts/classical music content, is startling. Spend and hours²⁶ for these genres have declined more rapidly than they have for other genres. Mediatique's research predicts that investment in these genres is only likely to decline further in coming years²⁷.
81. In VLV's view the decline in these at risk genres is partly due to the fact that the commercial PSBs have not been required to deliver them by quotas, even though they are set out as PSB priorities in the Communications Act. It's notable that some PSBs broadcast little or no content from these genres in 2019.²⁸ VLV recommends that as part of its PSB Review Ofcom should address the decline in these important genres of PSB and reconsider whether quotas should be assigned to them to ensure their future delivery. The PSBs need to be encouraged to be imaginative in their approach to delivering these genres. Successful series such as *Grayson's Arts Club* demonstrate that when the right format for a programme is found, it can be very popular as well as providing inspiring PSB. Without quotas, VLV does not believe that there is adequate commitment to these genres at a regulatory, commissioning or editorial level.
82. While VLV agrees that other quotas on the main linear PSB channels may need to be reduced slightly, to allow greater flexibility for the PSBs to deliver content across a range of platforms and channels, there will need to be a 'back-stop' quota for the main PSB DTT channels which have greatest reach to ensure PSB impact is maximised. VLV questions how many of the commercial PSB quotas can be reduced on their main DTT channels without the delivery of the existing public service purposes being undermined.

²⁶ *Communications Market Report 2020*, Ofcom, 30 September 2020 <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2020/interactive>

²⁷ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 4.22

²⁸ No provision of religion on Channel 4 or Channel 5 in 2019 and no Arts content on Channel 5 in 2019. 1 hour of religion on ITV in 2019. <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2020/interactive>

83. As stated above, if regulation is reformed so that it better supports the existing PSB institutions, VLV considers there is no need for the PSB responsibilities, in the form of quotas, to be reduced.

Challenge of measuring PSB delivery across a range of platforms

84. VLV acknowledges that a new potentially more complex set of metrics might be required to assess whether the PSB objectives are being delivered if regulation becomes platform neutral²⁹ since there is currently no standardised approach to measuring PSB delivery on platforms other than TV channels. While it will be a challenge to obtain such data from platforms and to establish a standardised method to assess PSB delivery, this should not preclude Ofcom from measuring PSB delivery using quantitative metrics. Ofcom should be mandated to demand such data from platforms and the provision of data to the PSBs by platforms should be agreed during negotiations.

85. Ofcom says that 'quantitative requirements designed for broadcast schedules do not necessarily translate well to the online world'³⁰. VLV would disagree with this statement, except in the case of 'off peak' and 'peak' requirements which are less relevant in an online environment. VLV considers that in theory it should be easier to measure audience usage and the impact of PSB on these platforms since far more granular detail is available for digital online platforms.

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

86. VLV agrees that a clear accountability framework will be required if Ofcom is to ensure that the benefits of PSB continue to be delivered.

87. However VLV is concerned with the approach set out in the consultation to allow the PSBs to effectively 'mark their own homework' by writing annual statements of media policy and then reporting their performance to Ofcom.

88. VLV considers there is a risk that this could lead to an overly complex system with different metrics being employed by different PSBs to evidence their impact. VLV believes that the metrics used to assess the delivery of PSB should be standardised so they apply to all the PSBs.

89. If this approach is used *in addition* to the existing extensive quantitative and qualitative research into PSB delivery conducted by Ofcom, it might be acceptable but it should not replace Ofcom's existing independent analysis.

²⁹ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 5.17

³⁰ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 5.18

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

90. VLV understands this question to mean what content should the PSBs deliver and on what platforms should this content be assessed in the future regulation of PSB.

Content

91. The PSBs should offer live and time-shifted audio and TV-like content for the full range of audiences across the UK from different age groups, ethnic backgrounds, gender identities and with different tastes and interests. It should represent the different regions and Nations of the UK. The burden for the delivery of the PSB purposes should lie most heavily on the BBC. This content should be universally available and free at the point of consumption. Additionally the PSBs should promote training and development of skills and support the UK independent production sector.

92. PSB should deliver all the PSB priorities set out in the 2003 Communications Act, i.e. impartial and accurate international and national news and current affairs, nations, regional and local content, children's content, arts and religious programmes, educational programming, UK drama, entertainment, a range of sports programmes.

93. Existing content quotas should be maintained, although, as stated above, there could be greater flexibility in how these are delivered across a range of platforms.

94. In addition, as stated above, VLV considers that Ofcom should review how to improve provision of content which is specified as core PSB content in the Communications Act but which has been in decline since 2003. This includes religious programming and arts and classical music programming. We recognise that Ofcom has recently taken action to improve provision of children's PSB content and we look forward to finding out whether this has increased PSB provision and impact.

95. The Communications Act requires that the PSB system should provide content about 'matters of international significance'³¹, VLV notes that despite this being a PSB purpose Ofcom has never tracked the provision of international content by the PSBs. VLV considers this omission regrettable since Ofcom has no data to show whether this important aspect of PSB has been delivered adequately. VLV would urge Ofcom to consider requesting the PSBs to tag international content so that its provision can be tracked from now on. While news bulletins provide information about international events, this is no adequate substitute for a full range of programmes across all genres which provide in-depth information and analysis of what is happening in the wider world.

³¹ *Communications Act 2003*, Section 264 (6f)

Platforms

96. VLV supports the proposal that the PSBs should be afforded greater flexibility to provide content across a range of platforms on the proviso that they maintain delivery on their main DTT channels. This will be important to ensure the sustainability of the DTT platform and also to maintain the reach of PSB.
97. Content which is considered to be niche or needs to be targeted at more specific age or demographic groups could *also* be made available in a different format on other platforms in a more targeted way but this has to be *additional*. The core PSB purposes have to be delivered on the main PSB DTT channels, catering for the full range of different audience age groups and providing for a range of different audience tastes.
98. The PSBs should also continue to provide a full range of content on their VoD players which should be accessible to audiences free of charge. The PSBs should ensure that their personalisation algorithms support the PSB objectives and aim to replicate the experience of serendipity and 'hammocking' found in the linear schedule.

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

99. VLV understands this question relates to the 'must carry/must offer' rules for PSBs and the rules governing negotiations between platforms and the PSBs.
100. VLV notes the appendices provided by the PSBs and Tech UK.
101. VLV considers that clear rules to secure the availability of PSB, however it is consumed, are crucial because they will provide greater certainty for the PSBs, distribution platforms and hardware manufacturers which will be beneficial for UK society, the economy and the creative industries.
102. There are a number of issues which influence PSB availability and we will cover these individually.

Prominence

103. VLV agrees that existing regulation which only covers prominence on the linear EPG needs to be updated so that it encompasses all platforms where TV and TV-like content are consumed. As stated in previous consultations on PSB prominence³², VLV supports a platform and hardware neutral approach to PSB prominence regulation which should apply to both PSB players as well as PSB disaggregated content.

³² <http://www.vlv.org.uk/wp-content/uploads/vlvsubmissionoofcomreviewofrulesforprominenceofpsbsandlocaltv2.pdf>

104. VLV welcomed and supports the recommendations on PSB prominence made by Ofcom to the government in July 2019.
105. As PSB content is increasingly accessed through bespoke players, it is important that PSBs retain control over how that content is used. This will prevent platforms from disaggregating content for their own purposes without prior permission and will ensure that the PSBs have full control over content curation, personalisation of their own players and attribution of programme origin.
106. VLV believes that if legislation is passed which ensures easy access to and standardised, guaranteed prominence of PSB content across all platforms and devices sold in the UK, audiences will benefit because it will be easier to find their favourite programmes; UK society will benefit because PSB will deliver public value; and content distribution platforms will benefit because PSB will drive audiences to their platforms. Without such legislation the universality of PSB will be undermined which will fundamentally undermine the PSB system.

Fair Value

107. The PSBs should be receive fair recompense for their content from distribution platforms so that the UK PSB system is supported. This should include them being provided with access to data and full attribution for all content.

Must Offer/Must Carry rules

108. Rules governing deals between the PSBs and platforms need to be flexible, but there must be a 'must carry' backstop rule to ensure universality.
109. The PSBs should make their players available free of charge to all content distribution platforms and manufacturers of hardware which are used by a significant number of viewers in the UK as a main way of watching TV.
110. The PSB players offered to content distribution platforms should replicate the PSB VoD apps available on the Freeview/Freesat platforms and be standardised across all devices so that audiences can access the same content regardless of which device they are using. This will ensure the universality of PSB and make it easier for audiences to navigate the PSB VoD apps. Operationally they should be consistent with those on the Freeview/Freesat platforms.
111. The format of what the PSBs offer to platforms must be clear and consistent. We support the PSB's proposal on this issue.
112. The exchange between platforms/devices and the PSBs should be on a 'zero net basis', mirroring existing regulatory arrangements between the PSBs and major UK broadcast platforms.

113. VLV considers that the PSBs should be required to provide their players according to international technical standards and should freely provide metadata and key information associated with content.
114. The PSBs should also provide manufacturers with assurances that they will continue to support legacy versions of their player apps so that owners of older devices do not lose access to PSB VoD services over time.
115. Since audiences are increasingly accessing content through search, so that choices are based on pieces of content rather than on apps, PSB content as well as PSB players should be afforded appropriate prominence by search and recommendation algorithms.
116. Additional issues such as ad-skipping, downloading to mobile, recording, access to additional data or content which is additional to that found on Freeview/Freesat should be subject to negotiations between the individual PSBs and hardware manufacturers.

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

117. VLV notes the findings in reports commissioned by Ofcom from Mediatique and Ernst and Young which explore future models for the delivery of PSB and international perspectives on the UK's PSB system respectively.
118. We note Ernst and Young's conclusion that the UK broadcasting system provides citizens with good value for money, compared with other countries' provision, and that its content 'is recognised globally for being among the best in the world in the world in terms of quality'³³.
119. VLV agrees with the EBU's guidance on the features which matter when public funding is provided for PSB, as cited in the consultation document³⁴. These are that public funding should be:
- stable and predictable
 - it should be independent from political interference
 - it should be fair and objectively justifiable
 - it should be transparent and accountable
120. The consultation document highlights a range of sources of funding for PSB. These include public funding, advertising income, in-house production and the exploitation of intellectual property (IP) rights. A range of potential additional sources of funding are assessed by Mediatique and Ernst and Young, including direct funding by government, contestable funding, content

³³ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 6.16

³⁴ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 6.20

funding levies open to all providers and the expansion of the tax relief regimes.

121. VLV comments on the funding options individually below.

Advertising

122. VLV would oppose the relaxation of television advertising minutage rules because there is no evidence that this would enhance investment in PSB programming. As Mediatique highlights in its research, 'There is a risk that levelling up, for example, would materially increase the number of commercial impacts, reduce prices and ultimately lead to net revenue declines. Most market participants believe that the ultimate market outcome is at best uncertain'³⁵.

123. However, as stated above, in order to support the commercial PSBs VLV would like other advertising regulation to become platform neutral because currently online platforms are afforded significant advantages in competing for advertising revenue. VLV considers that a statutory backed regime for online advertising regulation should be introduced to both protect citizens and ensure a more level playing field between TV advertising and online advertising.

Public Funding

124. While public funding for the BBC and S4C is not in scope for this consultation, Ofcom acknowledges that the BBC is central to the delivery of PSB in the UK.

125. As the cornerstone of PSB, VLV holds that the BBC should continue to be funded by a universal fee along with S4C whose funding has derived from TV Licence income since 2010. VLV believes that in the longer-term this public funding should not be linked to a specific device, such as a TV, but based on households and that it should be progressive. VLV opposes the BBC and S4C being funded by direct taxation because this would undermine their already fragile independence from the political process and government.

126. VLV believes the current process of negotiating this funding should be reformed because it is unacceptably opaque and unaccountable; this has led to the perception of BBC independence being undermined since 2010 and the top-slicing of TV Licence income to pay for government projects which were previously funded by direct taxation. The process has been criticised by both the House of Commons DCMS Select Committee and the Lords Communications Committee³⁶. VLV notes that current negotiations between the BBC and S4C and the government are being conducted more transparently than they have been previously, however we reaffirm our

³⁵ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 5.25

³⁶ *Future of the BBC*, Culture, Media and Sport Committee, February 2015, Para 246,255, 256, 92 and *Public Service Broadcasting: As Vital as Ever*, Lords Communications Committee, November 2019, paragraph 203

recommendation that an independent body should be established to oversee the process for setting BBC funding³⁷.

127. VLV supports a multi-year settlement for the BBC and S4C which allows them to take greater creative risks and provides longer term certainty both for them and for the creative industries sector. VLV holds that TV Licence income should be ring-fenced for the BBC and S4C and should not be ‘top-sliced’ to fund other projects. Public funding for PSB provision should be maintained so that the BBC is able to fully deliver its commitments as set out in the Charter. This point was highlighted by the Lords Communications Committee in 2019³⁸.

Direct government funding

128. VLV opposes direct government funding because it is likely to undermine the independence of UK broadcasters and as a result undermine public trust.

Carriage fees

129. Ensuring that carriage fees are paid for the retransmission of PSB content will provide additional funding for the PSBs. As stated above, we believe that platform providers, including online aggregating platforms, should pay for any content they show and this revenue could provide the PSBs with extra funding for content creation.

Broadcaster initiatives

130. We welcome all the PSB’s efforts to diversify their income streams. We particularly note Channel 4’s new digital strategy, announced in December 2020, and welcome Channel 4’s initiative, the Format Fund, by which it will retain IP rights to formats which are sold globally.

131. We welcome the diversification of the PSB portfolios, outlined in the consultation document³⁹, which provides a wider range of content for audiences, some of which is PSB-type content, and also generates further advertising income for the commercial PSBs.

132. VLV notes that targeted digital advertising is proving successful for the commercial PSBs.

³⁷ <https://archive.vlv.org.uk/press-releases/new-body-for-licence-fee.html>

³⁸ *Public Service Broadcasting: As Vital as Ever*, Lords Communications Committee, 5 November 2019, paragraph 265
<https://publications.parliament.uk/pa/ld201919/ldselect/ldcomuni/16/16.pdf>

³⁹ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 6.4

Terms of Trade

133. VLV has made a separate submission to the Ofcom *consultation Public Service Broadcasters and the UK Production Sector*⁴⁰. VLV considers that the government should review the 2003 Terms of Trade requirements so that they provide more revenue to the PSBs.
134. When first introduced the Terms of Trade requirements aimed to address an imbalance in the bargaining power between independent producers and the PSBs, which had considerably more power than the independent producers, and to improve the competitiveness of the UK production sector. It is clear that the balance of power in the market has now shifted away from the PSBs. It is no longer a buyers' market as more outlets have been created, reducing PSB power.
135. VLV notes that the Terms of Trade requirement applies only to the PSBs which disadvantages them when other platforms are allowed to negotiate freely with independent producers.
136. VLV supports the suggestion by Mediatique that 'there is scope for policy makers to take a more targeted approach...For example, Terms of Trade could be applied only to productions made by companies below a certain size that would be deemed worthy of greater regulatory protection'⁴¹.
137. In conclusion, VLV believes that the Terms of Trade need to be revised so that they do not discriminate so heavily against the PSBs and they better support the PSB system which is under financial pressure due to declining income. Such a change would be an effective means to help improve the sustainability of the PSB system. If the PSB system fails this will be disastrous for the independent production sector and for UK citizens, therefore VLV considers it is in the interests of independent producers to be open to these proposals.

Industry Levies

138. In the past VLV has supported the introduction of industry levies if the income generated is used to support the delivery of the PSB objectives. Digital corporations and SVoDs benefit from access to UK markets but many have successfully avoided paying significant amounts of corporation tax on the revenues raised in the UK; they also do not contribute to support the wider objectives of PSB in the UK. In return for access to UK markets VLV believes these sectors should contribute more.
139. VLV welcomed the introduction of the Digital services tax in April 2020, however we note it only applies to search engines, social media services and online marketplaces and does not apply to video streaming services. VLV is

⁴⁰ <https://www.vlv.org.uk/wp-content/uploads/VLV-response-to-Ofcom-Call-for-Evidence-Small-Screen-Big-Debate-PSBs-and-the-production-sector-March-2021-16-March-2021-Final.pdf>

⁴¹ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 5.32

disappointed that the government has made no commitment to use this income to fund additional PSB.

Tax relief

140. VLV would support the extension of tax relief benefits to provide an incentive to producers to make content in PSB genres which are at risk, such as cultural and religious programmes and current affairs.
141. We welcome the tax relief already introduced by the Government in high end production, children's animation and children's factual content. We believe these tax breaks provide an additional incentive for UK production companies to make content in the UK which is culturally specific to UK audiences.
142. However VLV notes the suggestion⁴² that the existing high end TV tax relief should be reviewed because there is a risk that it is inflating production costs. VLV considers that it should be tapered in from £800,000 to remove the incentive to spend more to reach the £1million/hour threshold. Similar measures should be included if new tax breaks are introduced to prevent inflation in production costs.

Contestable public funding

143. VLV has a number of significant concerns about the viability of contestable public funding to support the provision of PSB content.
144. It appears that contestable funding in other countries, such as Ireland, Canada and New Zealand has not successfully delivered the outcomes the UK is seeking to achieve. In Ireland it is widely accepted that diverting licence fee revenues away from RTE has diminished its ability to invest in public service content. In Canada where contestable funding has been used since the mid-1990's to fund PSB content, there are concerns that the funding is fragmented across too many different distributors, resulting in less impact and less ambitious content. It has also proved to be expensive to administrate. In New Zealand critics of the fund run by New Zealand on Air say that fragmentation of delivery of PSB has made it difficult for audiences to find PSB content which was previously provided by TVNZ.⁴³
145. VLV notes research⁴⁴ which shows that where contestable funding supports the provision of less commercially viable genres, it works most effectively when content supported by the funding is also mandated by output and investment quotas. If contestable funding were to be made available in the UK, VLV would recommend that it should be accompanied by quotas for the specific output it aims to support.

⁴² *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, page 46

⁴³ *Policy Solutions and International Perspectives on the Funding of Public Service Media Content for Children: A Report for Stakeholders*. University of Westminster, Steemers, J. H., & Awan, F. (2016)

⁴⁴ *Ibid.*

146. VLV is concerned if an additional PSB benefit, ie funding, is made available to non-PSB providers, this will reduce the value of PSB status which will undermine the PSB compact. It is also likely to lead to greater fragmentation of PSB delivery, which which will reduce the impact and reach of the existing PSBs.
147. As stated above, the success of the UK's current PSB system is built on institutions which are identified by the public with PSB delivery. They are expert at balancing the popular with PSB, are guided by PSB missions and have PSB instincts at heart. If they are undermined, this will weaken the PSB system as a whole. Please also refer to our response to Question 7 on these points.
148. One option would be to make contestable funding available only to the PSBs, rather than to the whole market. While this might be attractive to the PSBs, there is a risk it could lead to dependency on additional public funding among the PSBs to deliver certain at risk genres.
149. **Source of contestable funding:** Although there are a number of potential additional sources to fund PSB, such as levies, VLV is concerned that in financially challenging times the most likely source of public funding is TV Licence income. If TV Licence income is used to support contestable funding this would further undermine the BBC's ability to deliver its mission as set out in the Charter, therefore we would oppose it. VLV fears that the Treasury is highly unlikely to agree additional funding for PSB, even if it is raised by levies on media platforms. This is especially likely to be the case in the near future since the government faces a significant deficit due to the Covid pandemic.
150. **Broadcaster dependency:** If it is decided that contestable funding should be made available for specific genres which are at risk, VLV is far from convinced that it is possible to prevent recipients from becoming dependent upon such funding in future. Once broadcasters have benefitted from commissions effectively being co-funded by the government, why would they commission such content in future unless it is again supported by public funding?
151. **Additionality:** VLV considers it almost impossible to evidence that content commissioned as a result of contestable funding incentives is additional rather than substitutional. How it is possible to ascertain whether a broadcaster would have commissioned a programme had contestable funding not been made available? VLV believes that there is a high risk that all content supported by contestable funding is likely to be substitutional to some extent.
152. **Uncertainty:** Since all government funding is vulnerable to spending cuts, VLV would consider contestable funding a dangerous approach unless the funding is guaranteed on a long-term basis with specific policy goals in mind. If contestable funding were to be made available for PSB, it should only

be offered on a multi-year basis, otherwise provision will become piecemeal and it will only constitute a short-term solution.

Subscription

153. VLV opposes subscription as a funding model for PSB because, as Ofcom highlights, this would undermine its universality⁴⁵. The UK's universal broadcasting system ensures equality whereby all citizens have access to high quality PSB content, regardless of where they live or their income. A subscription system would favour the better-off in society. It would undermine many of the key societal benefits of PSB.

154. As evidenced by Mediatique⁴⁶, if the BBC were to be funded by voluntary subscriptions either the cost to individual users would have to rise significantly or the BBC would have to provide fewer services because its income would be reduced by at least a third.

155. Subscription services are necessarily driven by strategies which prioritise popular content in order to sustain their subscriber base. This means there will always be gaps in provision of less popular content. In contrast the PSBs follow a hybrid model, whereby a balance of popular and quality content is delivered to mass audiences, alongside public service content which has societal value. If the BBC or any other existing PSB became a subscription service, this would distort their PSB motivation.

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?

156. VLV welcomes the suggestions made by Ofcom for collaboration which could help increase efficiencies and reduce the costs of the PSBs.

157. While many of the strategies suggested may be appealing at face value, VLV considers that some may not be practical because the PSB system is inherently competitive; the PSBs will only want to share data with each other, for example, if this doesn't undermine their competitive position.

158. VLV notes and welcomes the collaborative approach suggested by Mediatique to aggregate on-demand distribution of PSB (a player with a single sign-in, combined search and navigation, data sharing)⁴⁷. VLV considers that there might be benefits for audiences in such an approach, were it free of cost to access, because it would simplify access to PSB on-demand content. However, the inherent challenge in such an approach is that the individual PSBs will naturally want to promote their own content, therefore such a collaboration may be impossible to achieve.

⁴⁵ *Small Screen: Big Debate Consultation, The Future of Public Service Media*, Ofcom, December 2020, paragraph 6.26

⁴⁶ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 5.79

⁴⁷ *Future models for the delivery of public service broadcasting*, Mediatique, December 2020, paragraph 5.13

159. VLV also welcomes the possibility of the existing PSBs collaborating in other ways, such as in advertising sales and research and development of technology, although we recognise there might be competition concerns if such co-operation is considered to provide them collectively with too much dominance in the market.
160. VLV would oppose the consolidation and rationalisation of the existing PSB institutions because this would reduce the plurality in supply of PSB for audiences.
161. The continuation of other existing forms of collaboration would be welcome. These include the co-commissioning of live sport and the co-production of expensive genres.
162. VLV considers that the PSBs should be encouraged to maximise the impact of PSB in imaginative ways, by collaborating with other institutions, digital platforms and organisations in the creative industries (e.g. Royal Shakespeare Company and the BBC and C4 News' collaboration with Facebook).

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

163. In the consultation document Ofcom suggests that one solution to the challenge facing the PSB system is to open it up to allow new providers and distributors of PSB. Ofcom highlights that such a shift might encourage greater provision of national/regional content; content aimed at specific audience segments who don't typically engage with PSB; delivering short-form or user generated content; providing public service content in genres which are in market failure.
164. VLV opposes this proposal. We question whether providing incentives, such as funding, to encourage PSB delivery across a wider range of outlets with a wider range of suppliers is wise. VLV believes this will undermine the existing PSB system, not guarantee impact or delivery of the PSB purposes and will fragment PSB delivery.
165. As stated in our introduction⁴⁸, VLV disagrees with opening up qualification as a PSB to 'smaller players with a narrower focus, or larger companies that focus only part of their business on PSM content' for the following reasons:
- This will fragment the market further which will reduce the impact of PSB and be disruptive for audiences.
 - It will dilute the audience's association between high quality, UK content and the existing institutions which provide PSB.

⁴⁸ Paragraph 53

- It will reduce the status of the existing PSB institutions and undermine their sustainability.
- It will reduce the value of the of the PSB licences further.

166. While increased supply of PSB content could be considered beneficial, it is very likely to lead to increased fragmentation of PSB delivery. The success of the UK's current PSB system is built on institutions, as discussed above, and these are likely to be undermined by such a policy shift. They are expert at balancing the popular with PSB, are guided by PSB missions and have PSB instincts at heart.

167. Greater competition in PSB provision may be instinctively attractive to the government, however further market fragmentation will be detrimental for the PSB system, for audiences and for UK society as a whole. Ofcom has repeatedly warned ever since Digital Switchover that fragmentation is problematic for the PSB system. Audiences are already overwhelmed by a choice of platforms on which to view content.

168. VLV would suggest that the best solution to supporting PSB delivery is to reform regulation, as suggested above, encourage the existing PSBs to collaborate and ensure they successfully extend their services across platforms where audiences want to view content. If the PSBs accept the terms of the new PSB Compact they should be firmly held to account to deliver **all** the PSB requirements in the Communications Act.

ANNEX 1: VLV Principles of PSB

VLV Principles of PSB 2021

VLV's Aim

- VLV works to represent the interests of UK viewers and listeners.

VLV's Definition of Public Service Media

Public Service Media is content which is provided by the PSBs - the institutions which currently provide the PSB channels as specified in the Communications Act 2003 (BBC, ITV, C4C, Channel 5). PSB should not be restricted to TV and radio output on specific platforms as it is now. Providers of PSB should fulfil the existing PSB purposes and objectives as set out in the Communications Act 2003 (Section 264).

VLV's Views

- The UK media is a success story. The UK ecology of Public Service Broadcasting is admired throughout the world and popular nationally.
- A plural supply of content which fulfils the PSB purposes and objectives is important.
- Universal reach and relevance are essential to deliver the benefits of PSB. It should be available free at the point of access.
- Independence: PSB should be free from government direct interference and foreign finance.
- Regulation: PSB should not be treated as a commodity – it is a public good.
- Public funding for PSB should be secure and not dependent on the inclinations of the government of the day.
- Greater choice is beneficial for society but PSB needs to be promoted so that audiences can easily find it.
- The institutions which currently provide the PSB channels should be recognised as the PSM Providers. They are committed to maintaining high standards and fulfilling the the existing PSB purposes and objectives as set out in the Communications Act 2002 (Section 264). In return they receive benefits such as prominence, gifted spectrum etc.
- The existing PSB Institutions should be supported to ensure levels of PSB are maintained and promoted. In return, they will have to commit to deliver the PSB purposes as set out in the Communications Act.
- Other organisations may produce public service media type content but they will not be considered PSB or PSM Providers as such.
- Radio: Too little regard is given to the massive contribution of audio content for UK citizens, including the World Service, which is still a repository of significant soft power.

Policies

- Regulation of PSB should be platform neutral – this applies to advertising regulation, content regulation and prominence and this means content on the internet will need to be regulated.

- This will mean that a TV Licence will be required to access any PSB content on any platform.
- Audio output produced by the PSBs should be included in any assessment of the delivery of the PSB purposes.
- Quotas should remain for the PSB broadcast channels to ensure they provide key content which is beneficial to UK society.
- TV Licence income should be ring-fenced for the BBC and S4C and the TV Licence should be a household-based progressive fee, whether or not the household has a TV.
- The process for setting BBC funding should be independent of government, transparent and subject to greater scrutiny by Parliament and licence fee payers.
- Impartiality regulation should be reviewed in light of the fact regulation should be platform neutral.
- The PSBs should have a new responsibility to promote media literacy so that the potential public benefit of high quality media in all its manifestations is maximised.
- Any funding additional to income from TV licences (contestable funding) should support *additional* output and should not substitute existing PSB budgets. It should only be awarded to the PSBs to avoid further fragmentation of the market which would be confusing for audiences.