

Ofcom's Second Public Service Broadcasting Review – Phase One: The Digital Opportunity

Response from Ofcom's Advisory Committee for Scotland

The Advisory Committee for Scotland (ACS) recognises the importance of this second Review of Public Sector Broadcasting (PSB) and is pleased to submit a response to the consultation paper. Our response concentrates on issues that have particular resonance for Scotland.

Cost-benefit of PSB status

A key premise of Ofcom's approach is that the value of PSB status is diminishing. Ofcom has attempted to predict a timescale in which current licensees might justifiably argue the costs outweigh the benefits.

While ACS acknowledges the current pressures, it questions the time it is likely to take for the cost of PSB obligations to exceed the benefits of PSB status, particularly within Scotland. We believe that, while the analysis is broadly right in suggesting that the relative costs to benefits ratio of PSB status will deplete over time, there will continue to be significant value in PSB status for the short to medium term.

We are concerned that management and operational factors relating to the current licence-holder, rather than wider market conditions, have affected the assumption that the current PSB model is not sustainable in Scotland beyond 2010. In fact, SMG plc reported operating profits of over £11m for 2007¹. This represented a decrease of £4.7m from the previous year but, given that the company incurred exceptional expenditure relating to restructuring its television business amounting to £5.6m, we consider that in fact, profitability held up reasonably well. Revenues from the television business fell by around 5% from £126m to £119m ("ITC qualifying revenue" fell by 3% from £97m to £94m). But, at the time of reporting, the company also indicated that it was exceeding its target of achieving a 25% regional advertising market share by 2010, was on track to achieve 50% increase in sponsorship revenue by 2010 and was set to achieve targets relating to cost-cutting in the television business.

We are reasonably confident that were the PSB licence to be offered to the market, there would be interest from new entrants seeking to gain market share and brand value through PSB status in order to secure a favourable future position in the Scottish market. Moreover, as indicated by the consultation paper, we consider that there is continued value in PSB status, including prominence on the EPG and preferential allocations on the DTT multiplexes.

The continued value of the PSB brands is seen in Ofcom's recent findings² which show that while audience shares for the main PSB channels have continued to decline in multi-channel homes (falling 2.9 percentage points of share between 2003 and 2007), the share for PSB

¹ SMG Plc, *Annual Report 2007*

² Ofcom, *The Communications Market: Nations and Regions 2008 Scotland*

portfolio channels has more than made up for this fall (gaining 8.6 percentage points of share in the same period).

For these reasons, we consider that Ofcom should hold firm against pressures from the incumbent licence holders to make rapid changes to the licence conditions or funding regime and that there might even be a case for considering whether 'Model 1' (see below) might be viable for a few years at least beyond 2014.

Scottish culture and broadcasting

We welcome recent moves by the BBC (and Channel 4) with respect to their commitment to commission programmes from Scotland³. However, we are concerned that this should cover more than just Scottish-originated content but also Scottish-relevant content. By this, we mean that some of Scotland's originated content should include the kind of perspectives on Scotland's people and cultures that Scottish people can relate to and that may address concerns that current delivery fails to "portray my region well to the rest of the UK". We have reservations about introducing further quotas which can be a rather blunt instrument. There is probably a case for a further refinement of the quota system to better serve the nations. But at the same time we consider that Ofcom could find other ways to work with stakeholders in developing skills and opportunities in the production sector, thereby influencing improvements in both the level and quality of Scottish-originated content. At the same time, Ofcom should aim to get a firm commitment from PSB broadcasters to pursue both goals.

According to research commissioned by Ofcom⁴, Scottish audiences value local content and are concerned about the way that Scotland is portrayed through broadcasting to the rest of the UK. 70% of respondents placed a high level of importance on the portrayal of [my region] to the rest of the UK compared to just 59% in England, contrasting with overall satisfaction relating to the same statement of just 30%. Some programmes made in Scotland may help support the sector without portraying Scotland or Scottishness.

The issue of Scottish culture is a hot topic generally – with the Scottish Government's Creative Scotland Bill, presently being scrutinised in the Scottish Parliament, and being more widely debated. There are opportunities for PSB broadcasters to take advantage of this renewed domestic interest in (and resources for) Scottish culture and make programmes that feature Scottish events, history and heritage that will appear in Scotland, across the wider UK and in international markets (particularly the USA, Australia, Canada, New Zealand, Japan, Africa, etc.).

Within broadcasting, the Scottish Broadcasting Commission's (SBC) Interim Report on the Cultural Phase⁵ has raised specific concerns relating to the current fulfilment of the PSB purpose of "Reflecting UK cultural identity" with respect to both the quality and scope of programming by both the BBC and SMG.

³ Speech given at opening of BBC Scotland's new headquarters at Pacific Quay, Glasgow, September 2007

⁴ Ofcom, *Public Service Broadcasting: Annual Report 2008*, p94

⁵ Scottish Broadcasting Commission, *Interim report on cultural phase*, March 2008

There is a particular issue in Scotland relating to sport. While there are some sports fixtures on a UK level that are reserved as “crown jewels” that must be available for viewing on PSB channels, there is currently no Scottish equivalent. For example, in research carried out for the SBC⁶, 84% of respondents thought that competitive matches played by the Scottish national football team should be shown on free terrestrial television. In Scotland the problem is exacerbated by the fact that many of the key football matches are shown only by Setanta and are not available on a “pay per view” basis – but only through a full subscription to the service. We believe that a list of sporting events with “national resonance” should be drawn up with the interests and culture of the mainstream Scottish population in mind – i.e. those events that draw interest and support beyond the serious fan-base (who would subscribe to the specialist channels). We recognise that there could be financial consequences to the rights holding sports organisations involved.

Another particular issue for Scotland is the provision of local news in the Scottish Borders area. On balance we consider that the boundaries of the franchise areas should be re-drawn so that Border is located within an all-Scotland franchise which has ‘opt-outs’ at a more local level particularly for news. Audiences are clear in their preference for news that relates to both their local area and to Scotland.

Access

As we move towards the digital age, some of the provision that was previously delivered through analogue TV will become relevant to a greater selection of platforms – including online channels. However, there is a danger of exacerbating a growing “digital divide” that may exclude some licence fee payers from access to PSB content.

Broadband access is growing in both urban and rural locations – research from Ofcom⁷ shows that 59% of households in Scotland in rural areas had taken up broadband compared to just 52% in urban areas by 2008. While these are encouraging take-up figures, they still show significant minorities of households without broadband access. Moreover, these figures are based on definitions of broadband that include basic services of 512kb/sec (all that is available in some rural areas) but are not suitable for downloading media files or for streamed content like BBC iPlayer. The quality of services available varies considerably between urban and rural areas and this gap is set to widen in the short to medium term as exchanges are unbundled in urban areas, giving access to higher bandwidth services. However, in rural areas the lack of competition and longer distances from local exchanges mean that there can be limited or no availability of more basic services. This is, as always, a particular challenge for areas of Scotland where geography and a low population density make access difficult.

Making certain PSB type content available only in the online environment will also exclude disadvantaged groups such as some elderly and disabled people and those on low incomes who do not have access to PCs or do not have the skills to operate the equipment and to locate the relevant content. It makes the licence fee relatively poor value for those who do not, or cannot access certain services. There may be particular examples with respect to

⁶ Scottish Government/Scottish Broadcasting Commission, *Public attitudes to broadcasting in Scotland*, May 2008

⁷ Ofcom, *Rural broadband households overtake urban for the first time*, Ofcom press release, 22 May 2008

equality of access - for example, where access to educational material depends on families with school age children having access to broadband-connected PCs. We recognise that broadband and other delivery methods are increasingly relevant to a PSB strategy, but we would be concerned if too much reliance were put on alternatives to easily accessed traditional methods.

It is relevant in this context to highlight the importance we place on Media Literacy. We note with approval the increased prominence given to this by Ofcom and see a continued role for Ofcom in furthering media literacy goals and in supporting the development of public sector initiatives to improve access opportunities.

A communications strategy for Scotland?

The final report of the SBC is likely to result in a broadcasting strategy or action plan for Scotland and it seems likely that it will refer to the potential for a Scottish digital TV channel of some kind. An interim option (as referred to in the Ofcom consultation) might be to place some Scottish material on the new Gaelic channel, though it must not 'substitute' for Gaelic programmes in peak time. There appears to be some public support for such a channel, but whether the audience would ultimately choose to watch it in large numbers is an open question. Options for funding such a service need to be explored further. Ofcom should leave room for such an option to develop.

While this would in part address the need for locally-relevant programmes for Scottish audiences, it would not however fulfil the desire to see Scotland more fully portrayed in the rest of the UK.

Alongside the SBC's work, the Minister for Enterprise, Energy and Tourism, Jim Mather, is leading the development of an ICT strategy for Scotland. Were the two strategies to be brought together in the spirit of convergence, this would result in a "Communications strategy for Scotland".

While broadcasting and telecoms are both currently reserved powers, they are also both matters regarding which the Scottish Government has some influence through its existing powers – broadcasting, for example, through its direct funding of the Gaelic Media Service, and telecoms through its economic development agenda. Formal devolution is not, therefore, necessarily the only route to responding to Scottish needs and concerns. If there is a willingness to cooperate, the UK and Scottish governments can work together within the existing statutory framework to deliver a Scottish agenda.

We would encourage Ofcom to work with its Scottish stakeholders to push for an integrated approach to communications – one that addresses issues relating to broadcasting and culture particularly as these relate to the delivery of media content., as well as the availability, take-up and use of telecoms services.

If broadcasting or wider communications were to be devolved, there would be significant implications for regulation, for funding (both in Scotland and the UK), for the provision of network programming and for the structure of the industry. It is essential to think in terms of optimal outcomes – how do we ensure that audiences (consumers and citizens) get the best

value from PSB and that any devolution of broadcasting and communications leaves audiences and consumers at least as well off as they are now?

The Models reviewed

The models provide a useful starting point for discussion and we offer some thoughts on each below. But these are only starting points and should not be interpreted as constraints on future thinking.

Model 1: Evolution

While we agree that this model is probably untenable in the long term, we do not consider that changes in either the advertising market or in content consumption necessitate a “knee jerk” reaction. Timing for the sustainability of the current model may be longer than the current projection. An added advantage of this model is that it perpetuates the current licensing regime in some form, allowing for a Scottish license as part of that structure – albeit with a much reduced PSB commitment – essentially providing local news opt-outs for different parts of Scotland.

Model 2: BBC only

The research shows that the Scottish public values plurality or ‘choice’ of supplier, particularly with respect to news and current affairs. The latest research from Ofcom⁸ shows the BBC having 27% of the audience share during the early evening news bulletins, compared to STV with 25%. While Scottish audiences appear to rely on TV news as their main source of local news less than their counterparts in other parts of the UK (41% compared to 46% for UK as a whole), their split in loyalties between the BBC and STV are indicative of a demand for more than one provider.

As the pace of devolution continues (with or without formal devolution of broadcasting) – we will see a continued need for a variety of trusted news sources rather than reliance on the BBC alone. Whatever the dispensation, there will be a democratic need for competing services to ensure a variety of news agendas, and diversity of views. A further concern is that the BBC tends to attract a higher percentage of ABC1 viewers and that PSB delivery might become increasingly narrow in its appeal.

The debate about devolving broadcasting powers to Scotland will continue. Any major change is likely to disrupt present supply and distribution arrangements or at the very least will provoke some far-reaching negotiations. Would Scotland simply retain a pro rata share of the licence fee revenue in the event of major devolution? Might the BBC (partly in response to the recent BBC Trust report on impartiality⁹) move to a more federal structure – with genuine autonomy for BBC Scotland? Broadcasting devolution – whose contours and arrangements at present remain far from clear – would have implications for network commissioning and programming for both Scotland and the UK as a whole.

⁸ Ofcom, *The Communications Market: Nations and Regions 2008 Scotland*, May 2008

⁹ *BBC Trust Impartiality Report: BBC Network News and Current Affairs Coverage of the Four UK Nations*. June 2008

Model 3: BBC/C4 plus limited competitive funding

This appears to be a likely medium-term option in that it maintains some of the established features of the current set-up and introduces further scope for innovation without causing too much disturbance to the market-place. In future, it may be possible to allocate an equivalent level of funding to that which has been used for financing Digital UK and DSO to help support PSB production within Channel 4 and other outlets. However, there has to be a soundly argued rationale for continuing to levy these additional charges from the licence payers once DSO has occurred. In short, there would need to be evidence of a demonstrable market failure relating to the provision of PSB over and above that provided by the BBC or financed through Channel 4's existing mechanisms. It is not sufficient simply to re-allocate these additional resources to other purposes without making clear and testable arguments for such a policy. It is unfortunate that the phrase "top-slicing the licence fee" has become common currency as it implies cutting back on BBC services.

There may be examples of services linked with other government agendas that could justifiably attract separate direct funding, along similar lines to Teachers TV or the Gaelic Media Service. As ideas about PSB are reworked, these might embrace delivery mechanisms for public services – e.g. Skills TV (a learning portal for skills for business), NHS TV (information and training for staff and patients), Culture TV (where cultural organisations provide access to collections, performances and associated learning and commentary).

Model 4: Broad competitive funding

ACS considers that it would be unwise to move directly to a model of broad competitive funding without a period in which the industry can adapt and restructure and in which the further implications of DSO become clearer. For example, this option would very likely result in the BBC losing scale through competitive pressures from new entrants: it might be forced to cut back on its roles in training and developing talent, developing cultural assets (such as its orchestras and the Proms season). Smaller and leaner new entrants would not necessarily pick up such roles. There is a need to consider the potential loss to the overall public good. There would be a self-evident need to replace current support structures were they to disappear (e.g. through direct public sector intervention or training levies on producers or broadcasters).

Some aspects of PSB currently delivered by the BBC might be more efficiently delivered by others, for example, local radio or certain programme genres. Model 4 as a longer-term possibility requires very serious attention to be given to the costs as well as the benefits. It suggests the need for carefully managed change, rather than being a short or medium term option easily reached via Model 3.

And finally...

A word about radio. No review of PSB should ignore the immensely important underplayed role of the senior electronic medium. In Scotland, whereas BBC's Scottish (and Gaelic) services are central to national cultural and public life, the local services run by the independent sector are no less important. Scotland was a pioneer of community radio and

this growing sector could go some way to fulfilling the need expressed by audiences for material about "where I live". Any comprehensive strategy for the delivery of PSB needs to go beyond TV and online media. If contestability were introduced for PSB TV production, for consistency, PSB radio would require similar treatment.

In a more strictly regulatory, rather than programming context, ACS has suggested before that Ofcom could itself look at devolving some of its London-centric business: radio licensing would be an obvious example.

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