

Ofcom Advisory Committee for Northern Ireland (ACNI)

Consultation Response

Phase Two of Ofcom's Second Public Service Broadcasting Review

Preamble

The Ofcom Advisory Committee for Northern Ireland (ACNI) welcomes the opportunity to comment on a future model for the provision of Public Service Broadcasting in the nations which is not tied to a one size fits all paradigm. There may, of course, be similarities with the other devolved nations but the specific characteristics of Northern Ireland as far as PSB is concerned must be addressed. Simply put, the objective must be to maintain plurality of public service broadcasting (including that provided by Republic of Ireland broadcasters available in Northern Ireland) in order to obtain acceptable levels of portrayal of Northern Ireland and of production in Northern Ireland and to have a sustainable model for the production of indigenous language programming more in line with Wales and Scotland and the Republic of Ireland.

Such a model should be robust and sustainable - it needs to be neutral towards the short-term fortunes of UTV and the ITV sector; it needs to be relevant to the opportunities of digital media and must therefore enjoy a source (or sources) of sustainable funding similar to that enjoyed by the BBC (and indeed by non-BBC providers in terms of "free" spectrum up to 2012/14).

This model, to complement the BBC, must be similarly sustainable in terms of funding source(s) but with greater flexibility to more easily accommodate new directions and genres and it must be attuned to the political and social realities of Northern Ireland.

In terms of Ofcom's three models, it is perhaps a variant of model 3, a refined competitive funding model, with one sustainable source of government funding plus other sources, and with an independent body to administer it through competitive tendering, with ringfenced allocations to ensure delivery of indigenous language content and local content services.

The specific consultation questions are now addressed in appropriate detail.

Consultation Questions

Section 4: Models

- 1) *Do you agree that public service provision and funding beyond the BBC is an important part of any future system?*

The Advisory Committee for Northern Ireland (ACNI) agrees that the BBC should remain the cornerstone of public service content but that it is essential to ensure additional options for audiences. Otherwise, the market beyond the BBC may succumb to the lowest common denominator in terms of programming depending on audience figures, advertising revenues and/or economic exigencies.

It is absolutely essential, therefore, that public service provision and funding beyond the BBC continues to form part of any future system. This will ensure the best outcome for audiences throughout the UK in terms of plurality, choice and accessibility to a range of quality, diverse programming. This is also the best way to ensure that the audio-visual creative industries are fostered in the UK. Without public service provision and funding beyond the BBC, there is no certainty that the market would deliver plurality for audiences particularly in the genres of news, current affairs, factual and children's programming.

It is important that public service provision and funding beyond the BBC is not confined solely to delivery via the traditional linear TV platform given the increasingly fragmented broadcasting ecology. Alternative methods of delivery of content to audiences should also be encouraged particularly in the light of the possibilities emanating from the digital dividend review (DDR).

Since Northern Ireland is unique in the UK in sharing a land border with another country, unique circumstances prevail in Northern Ireland whereby additional plurality is generated for local audiences through access to Republic of Ireland broadcasters. With digital switchover (DSO) fast approaching in 2012, it is essential that there is joined up thinking between the respective regulators Ofcom, ComReg and the BCI and the governments in both jurisdictions to ensure a seamless transition to DSO so that audiences on both sides of the border can access the various channels. This has implications for public service provision and funding in Northern Ireland since it is conceivable that UTV could form an alliance with a broadcaster in the Republic of Ireland. It is also highly likely that the refined competitive funding model which ACNI favours would lead to Republic of Ireland broadcasters accessing UK funds where they could demonstrate sufficient reach in Northern Ireland. There is a precedent for this with a legacy of broadcasters on both sides of the border accessing the Broadcasting Commission of Ireland's Sound & Vision fund and Northern Ireland Screen's funds.

- 2) *Which of the three refined models do you think is most appropriate?*

ACNI believes that model three (the refined competitive funding model) is the most appropriate. This model is best placed to deal with the challenges of digital media

and the increasingly competitive market. This model would ensure that a mix of public service content is delivered in a transparent manner across a range of providers.

The competitive funding model should be administered by a UK-wide independent body which would enable both content delivery providers and the production sector to bid for funding to deliver public service content including TV, radio and digital media content. This national body should be replicated in the nations and regions with localised independent bodies administering the funding. Part of the overall funding should be ringfenced to ensure delivery of public service content which the market would not otherwise deliver in the areas of indigenous languages and local content services.

Both the national and the localised structures must be structured in ways to ensure that the production sector throughout the UK is fostered and that portrayal of the nations and regions on the networks becomes the norm rather than the exception.

- 3) *Do you agree that in any future model Channel 4 should have an extended remit to innovate and provide distinctive UK content across platforms. If so, should it receive additional funding directly, or should it have to compete for funding?*

ACNI believes that Channel 4 should have an extended remit to innovate and provide distinctive UK content across platforms. However, it should have to compete for funding beyond its existing regulatory assets instead of obtaining additional funding directly. ACNI does not consider that a special case for direct funding should be made for Channel 4 compared with the other commercial public service broadcasters (PSBs) since it does not have any stronger track record particularly in Northern Ireland than the other broadcasters Channel 3 and Five in delivering public service content.

- 4) *Do you think ITV1, Five and Teletext should continue to have public service obligations after 2014? Where ITV1 has an ongoing role, do you agree that the Channel 3 licensing structure should be simplified, if so what form of licensing would be most appropriate?*

ACNI believes that ITV1, Five and Teletext should continue to have public service obligations after 2014. These obligations could be delivered by the broadcasters accessing a competitive fund. The advantage of continuing to impose public service obligations on these broadcasters would ensure that audiences could continue to easily access this content given the established nature of these broadcast outlets and their track record in terms of delivering high quality output.

Where ITV1 has an ongoing role in terms of delivering public service content after 2014, the Channel 3 licensing structure should be simplified to 5 licences for England, Scotland, Wales, Northern Ireland and the Channel Islands. Ofcom's audience research indicates that "Channel 3 has a symbolic value in the devolved nations and is seen to represent national identity in ways which other TV channels do not." ACNI considers that it is important that this should be retained in a new Channel 3 licensing structure. Obviously as part of this restructuring, the PSB

licences would have to be reviewed since the costs are rapidly outweighing the benefits for the commercial PSBs.

- 5) *What role should competition for funding play in future? In which areas of content? What comments do you have on our description of how this might work in practice?*

ACNI believes that competitive funding for public service content is the best way forward in order to ensure plurality for audiences. The competitive funding model should have two objectives – to fund genres that the market alone would not provide and to support the indigenous production sector. This would ensure support for UK-originated content and would foster the audio-visual creative industries in the UK.

The competitive funding model should consist of a national fund administered by an independent body covering the UK as a whole which could be accessed by content delivery providers and the independent production sector to produce TV, radio and digital media content. The national fund should be replicated at the level of the nations and the regions with local accountability forming an integral part of the model. Ringfencing of part of the fund is key to ensuring delivery of indigenous language content and local content services.

In terms of the content which competitive funding could support, this should encompass all genres that the market alone would not provide.

The competitive funding model would work best if it consisted of a small number of large long term contracts to deliver public service content particularly in terms of news. Flexibility should be built into the system so that small short term contracts could also be awarded where deemed appropriate. Experience of competitive funding models in both Northern Ireland and the Republic of Ireland shows that it works best when an independent body administers the funding through competitive tenders with part funding from the content delivery providers and when editorial control remains with the content delivery provider.

Section 5: Long-term: Nations & Regions

- 1) *Do you agree with our findings that nations and regions news continues to have an important role and that additional funding should be provided to sustain it?*

ACNI believes that nations and regions news from a variety of sources is essential and that additional funding should be provided to sustain it. The BBC cannot become the sole preserve of nations and regions news. News coverage is particularly critical in the nations considering the paucity of news from the nations on the networks and the varying arrangements in place in the nations under devolution. Funding for delivery of news could be delivered via long term contracts under the competitive funding model.

While broadcasting is currently a reserved matter for Westminster, the arrangements created under the competitive funding model in the nations should ensure local accountability while also guaranteeing no political interference.

- 2) *Which of the three refined models do you think is most appropriate in the devolved nations?*

ACNI believes that the refined competitive funding model is the most appropriate for Northern Ireland. This model has the capacity to deliver increased portrayal of Northern Ireland on the networks; to foster the production sector in Northern Ireland and to ensure appropriate funding is provided in areas where the market would not otherwise deliver for Northern Ireland – indigenous language content (for which there is no long term public funding) and local content services.

It would be essential to ensure that funding would be ringfenced to particularly benefit the audience, the production sector and the content delivery provider in Northern Ireland, irrespective of the model which is ultimately selected.

It should be noted that Northern Ireland has the lowest national programming spend in the UK at £3.85 per capita compared to a UK average of £32 (Ofcom Communications Market Report 2007 Nations & Regions (NI)). It is imperative that due cognisance is taken of this spending deficit in the implementation of a competitive funding model.

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

ACNI believes that local content services have an important role to play in ensuring plurality whereby local communities are given a voice in terms of portraying themselves and/or are involved in production of content. ACNI agrees with Ofcom's approach in the digital dividend review, which will enable local content service providers to bid for interleaved spectrum and also potentially through the 'band manager' arrangements, as being the most efficient use of the spectrum. ACNI agrees with Ofcom that broadband offers huge potential for delivery of local content services. Appropriate funding for local content could be secured via the competitive funding model with proper cognisance being given to uptake, availability and reach of local service providers.

Section 6: Funding

- 1) *Do you agree with our assessment of each possible funding source, in terms of its scale, advantages and disadvantages?*

Regulatory assets: ACNI believes that privileged access to the digital terrestrial television (DTT) spectrum will retain some value for commercial PSBs although in the long term, the value of spectrum benefits is uncertain. Where there is residual value in access to the DTT spectrum, ACNI considers this should be used to support the commercial PSBs during the post digital switchover.

Licence fee: ACNI believes that the digital switchover surplus should be used to part fund the competitive funding model. Apart from the surplus, ACNI favours part of the BBC licence fee being set aside as occurred in the Republic of Ireland with the Irish government setting aside 5% of the licence fee per annum to create a competitive

funding model. While ACNI understands that top slicing the BBC licence fee may not be an option in the medium term since the current BBC licence fee settlement runs to 2016, ACNI recommends that this issue should be revisited at that stage.

Industry levies: ACNI believes that industry levies could be used to part fund the competitive funding model which it advocates.

Direct government funding: ACNI believes that this is definitely an option for part funding the competitive funding model. Funding could emanate from Westminster for the national funding structure and from the devolved administrations for the devolved funding structures. However, ACNI also believes that a more imaginative approach than direct funding should also be taken with tax breaks being an additional viable option. Tax breaks are commonplace in the film industry and this approach should be replicated for production of public service content for delivery on TV, radio and digital media platforms.

2) *What source or sources of funding do you think are most appropriate for the future provision of public service content beyond the BBC?*

ACNI favours a combination of sources to ensure the future provision of public service content beyond the BBC. This mix of funding should include topslicing the licence fee, ringfencing the digital switchover surplus during the post digital switchover era, industry levies, direct government funding from the national and devolved administrations and tax breaks.

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

ACNI believes that Channel 4 should retain its existing regulatory assets and be allowed to compete for funding in the competitive funding model. ACNI considers that Channel 4 should not be given additional funding by right since it has not shown to date a stronger commitment to public service provision particularly in Northern Ireland than any of the other commercial PSBs and should therefore not be rewarded by being allocated additional funding by right. Nonetheless, it is essential that the long term funding structure for Channel 4 is secured no later than 2010; otherwise funding uncertainties could have a detrimental impact on its capacity to deliver its existing remit.

Section 7 & Annex 1: Matters for short-term regulatory decisions

1) *Do you agree that our proposals for 'tier 2' quotas affecting ITV plc, stv, UTV, Channel TV, Channel 4, Five and Teletext are appropriate, in the light of our analysis of the growing pressure on funding and audiences' priorities? If not, how should we amend them, and what evidence can you provide to support your alternative?*

ACNI agrees with Ofcom's approach of prioritising prime time regional news on ITV plc by reducing the volume of news during the day. ACNI disagrees with Ofcom's recommendation that non-news output should be reduced to 1 hour 30 minutes per week from 2009 for the non-ITV plc licensees (UTV, stv and ITV Wales). ACNI

considers that the non-news quota should be retained at its current level of 3 hours per week since it believes it is within the capacity of the devolved licensees to retain its commitment at this level. ACNI wishes to emphasise that this quota should be viewed by the licensees as a floor rather than a ceiling in terms of delivery of output. ACNI would suggest that given the relative strength and current viability of UTV, they should be able to fulfil their current commitments to news and other PSB programmes throughout the licence period. Therefore, a reduction in their case would appear not to be justified.

ACNI disagrees with the recommendation that the ITV network quota for production outside the M25 would be reduced from 50% to 35% since production in the nations and regions leading to portrayal on the networks is already unsatisfactory under the existing quota. Any reduction in the quota would only exacerbate this situation. By contrast, ACNI welcomes Ofcom's recommendation that the Channel 4 quota for production outside the M25 should increase from 30% to 35% from 2010. ACNI particularly welcomes Ofcom's recommendation that 3% of this should come from the devolved nations from 2010.

ACNI accepts the minor regulatory adjustments to Five's quota and welcomes its willingness to formalise its commitment to children's programmes while also noting the importance of local portrayal and local production on both a national and regional basis. ACNI accepts the proposed changes to Teletext's PSB obligations.