Call for Input: Review of Broadcast Regulation
Response from COBA
Jan 2026

Overview

1. As Ofcom's review of public service media last year made clear, non PSB broadcasters and on-demand services play an important role in providing high quality UK content for UK audiences. The Transmission Critical paper stated:

   "Global streamers and other UK broadcasters also contribute to the rich variety of PSM that audiences enjoy."[1]

2. As Ofcom noted in the same document, non PSB broadcasters and on-demand services invest £1.5 billion a year (excluding sport) in the creation of first-run UK content. Much of this has a clear public service value, from Prime Video's Clarkson's Farm to Say Nothing on Disney+, through to Sky's Artist of the Year and Sky and CNN's trusted news, amongst many other examples.

3. Ofcom's Transmission Critical paper suggests this investment is of a lesser value in public service terms due to often being accessed via a subscription, but this not the case for a significant part of non PSBs contribution to the UK public service ecology. In addition to free-to-air services such as Sky News and Sky Arts, Ofcom's own figures illustrate how non PSBs play an important role in funding PSB content as co-financiers at production stage. Ofcom's accompanying analysis for Transmission Critical shows that third-party investment into first-run PSB shows (including tax breaks and other sources outside COBA membership) was worth £676m in 2024.[2] This is investment in free-to-air PSB shows.

4. To highlight the specific contribution from commercial broadcasters and VoD services as co-producers or co-financiers, COBA has commissioned separate analysis to break down this Ofcom figure in drama and children's[3] in two different reports. In PSB drama, commercial broadcasters and streamers provided £143m in 2023 (the latest available year), up from £78m in 2018. For context, PSBs spent £360m from their own content budgets on first-run

[1] https://www.ofcom.org.uk/siteassets/resources/documents/public-service-broadcasting/public-service-media-review/transmission-critical-the-future-of-public-service-media.pdf?v=400631, page 4
[2] https://www.ofcom.org.uk/phones-and-broadband/service-quality/communications-market-report-2025-interactive-data
[3] Oliver & Ohlbaum for COBA, Sizing PSB Co-Production Investment, 2024, and Oliver & Ohlbaum for COBA, Sizing PSB Children's Co-Production

drama in 2023, according to Ofcom.[4] Put another way, non PSB broadcasters and streamers provided PSBs with drama investment worth 40% of their own spend.

5. The story is similar in children's — a public service genre which Ofcom identified as vital in Transmission Critical. Total third-party investment including tax breaks and other sources in first-run PSB children's shows was worth £83m in 2024, according to Ofcom – more than the PSBs themselves spent on their own content in this genre in that year (£77m).[5] Within this £83m, according to analysis for COBA, COBA members and other commercial broadcasters and on-demand services provided £25m as co-financiers — almost a third of what PSBs spent themselves. This, we estimate, is more than the commercial PSBs spent combined, and helped fund many of the shows on 5's Milkshake strand (Nickelodeon, or in the case of Pip and Posey, Sky), ITVX's animated Mr Bean (Cartoon Network), and BBC shows such as Epic Pranks (MGM Alternative).

6. In this way, non PSBs have helped sustain the PSB system.

7. To be clear, none of this is to suggest that investment from PSBs or their public service role is not crucial; we merely wish to set out how non PSBs play a part in sustaining this system. Even beyond the direct value, there is an indirect benefit for public service providers, such as growing the overall talent base and building critical mass in creative clusters outside London. It is no coincidence that, after 60 years, the BBC cast its first black Dr Who, Ncuti Gatwa, after he built up a global following amongst younger audiences on Netflix's Sex Education.

8. As is clearly set out in Transmission Critical, the UK media market is rapidly changing, and COBA members are facing dramatic increases in competition for audience attention, e.g. from VSPs and social media services. These changes warrant a more flexible and proportionate approach to regulation across the board, and not just for the PSBs.

9. Given this increased competitive pressure, we welcome Ofcom's move to examine whether regulations may no longer be appropriate. It is concerning, though, that the focus in Ofcom's consultation is on public service broadcasting. We note that Ofcom has a statutory duty to ensure a healthy mix of non PSB channels and on-demand services alongside PSBs, with its duties including ensuring:

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[4] https://www.ofcom.org.uk/phones-and-broadband/service-quality/communications-market-report-2025-interactive-data

[5] https://www.ofcom.org.uk/phones-and-broadband/service-quality/communications-market-report-2025-interactive-data

"[T]he availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests and [...] the maintenance of a sufficient plurality of providers of different television and radio services."

10. In this regard, Ofcom should assess the overall regulatory framework and reduce regulations wherever possible to ensure fair competition in the evolving media landscape, while recognizing the distinct role of PSMs, commercial providers, and VSPs in the media eco-system.

11. Below, we address the three areas Ofcom has identified where rules might be relaxed or updated.

Licensing

12. There may be scope for a radical rethink of the licensing and notification regime to consolidate and streamline requirements and reduce unnecessary regulatory and financial burden for commercial companies, while maintaining effective regulatory oversight. For example, reporting might be permitted across a media group rather than on a channel-by-channel basis. Ofcom should also consider whether it is possible to move to a single annual notification of data to simplify the process, as well as avoid duplication.

13. Certain individual reporting duties are in our view of debateable use. In our previous response to Ofcom's recent Media Literacy consultation, we stated:

    "We also ask Ofcom to reconsider the recommendation for businesses to publish an annual statement on their media literacy activities. Aside from the effective cost and the commercial sensitivities, this seems at odds with the Government's drive to decrease regulatory burden for businesses."

Advertising

1. COBA provided detailed representations in 2023 outlining the negative impact on PSB news of harmonizing COSTA rules, and we provide updated independent analysis for this call for inputs, as we will detail. Since 2023, Ofcom has repeatedly stressed the importance of protecting PSB news. Transmission Critical, published only last year, repeatedly noted the importance of news as a vital public service genre that needed to be protected. The paper stated:

"Audiences' access to accurate local, national and international news they trust provides the foundation for civic debate and democratic society."[6]

2. And:

   "PSBs remain the most trusted sources of news."[7]

3. And:

   "Audiences continues to see high quality [PSB] news as important, with 49% of adults ranking the provision of trusted and accurate UK news in their three most important attributes for PSBs to deliver to society overall."[8]

4. And:

   "[I]f there is to be new funding, we recommend that it should prioritise genres that are socially valuable but commercially less viable and attract lower advertising revenues, such as news, local news, and children's."[9]

5. There are many more examples.

6. As recently as September 2023, Ofcom reviewed the COSTA advertising rules between PSB and non PSB broadcasters and decided that harmonization would harm PSB news. The regulator's statement said:

   "We also took into account that proceeding would mean that viewers would be likely to see increased advertising in "peak" evening hours which contain news. This in turn could lead to a reduction in news minutes, which risks diminishing a particularly important genre of PSB content with high societal value."[10]

7. This remains the case today. As mentioned above, we have commissioned new research (provided with this response) that confirms that harmonization would lead to a loss of 26 minutes per weekday of peak-time news across ITV and Channel 4 – a loss of 110 hours of peak-time news in a year.

8. As was the case in 2023, under a harmonized regime, commercial PSBs only "spare" advertising minutes in peak would be around news. Since Ofcom's news quotas apply to the whole hour, not just editorial minutes, commercial

[6] https://www.ofcom.org.uk/siteassets/resources/documents/public-service-broadcasting/public-service-media-review/transmission-critical-the-future-of-public-service-media.pdf?v=400631, page 4
[7] Ibid, page 21
[8] Ibid, page 21
[9] Ibid, page 6
[10] https://www.ofcom.org.uk/tv-radio-and-on-demand/advertising/update-on-our-review-of-advertising-rules

PSBs would be able to reduce editorial minutes to accommodate any additional permitted inventory, without breaching any news quotas.

9. This means that harmonizing COSTA would contradict Ofcom's overarching objective in this current consultation as we understand it, i.e. identifying regulation which hampers the creation of public service content. The direct result of harmonization would be to dimmish output in perhaps the most important PSM genre.

10. Importantly, we also note that the PSBs themselves did not unanimously support the harmonization of the COSTA rules in Ofcom's 2023 review — and this remains the case.

11. We do not believe that any changes in the advertising market since Ofcom's 2023 review have been so dramatic as to call for a further review. Certainly, the evidence base has not changed sufficiently to warrant a review. If anything, the rationale for a review now is weaker than in 2023, given the level of uncertainty in the market. In its 2023 review, Ofcom maintained that the advertising market was too complex to make an economic impact assessment reliable, stating:

    "It is not possible to predict with any certainty what the impact on the market, or particular broadcasters, would be should the stricter rules that apply to PSB channels be removed." [11]

12. If anything, the impact is more unpredictable today. Currently, compounding the difficulty of predicting the market impact of any COSTA changes, the impact of any potential change to the ownership of ITV is unclear.

13. Additionally, as in 2023, were COSTA to be relaxed in favour of the commercial PSBs, there is no certainty that any changes in rules that resulted in allowing them to generated more revenue would be reinvested in content, as opposed to being returned to shareholders or other areas.

14. Finally, an increase in adverts on PSBs is likely to damage the viewer experience – one of the original rationales for COSTA and one which remains valid today. We provided detailed audience research on this for the 2023 review, demonstrating that audiences do not want an increase in adverts, and are happy to make this available once again.

15. Looking at more minor adjustments to the COSTA rules, such as changes to the length between breaks and the number of breaks, we remain concerned

[11] Quantity and scheduling of television advertising on public service channels, Proposals for removing regulation, Ofcom, April 2023, 1.23

that such changes could have negative consequences at a delicate time in the market. Ofcom should conduct further market analysis before deciding to take any next steps, if it is minded to do so.

16. However, we do see scope for changing certain potentially outdated rules, including:

    - cross-promotion of different parts of a group's activity;
    - the definition of "business interests" relating to sponsored programmes, which is tightly defined for linear but with little or no regulation on VSPs;
    - co-branding, long advertisements, and clarity on commercial references within programmes particularly when they are simulcast from other jurisdictions;
    - advertiser funded shows (see next section).

Content Standards

17. As mentioned above, we believe the time is overdue for a radical simplification of the rules for advertiser-funded content and sponsored content in general set out in Section 9 of the Broadcasting Code (commercial references). The current UK system contains so many different principles and rules, notably around due prominence, that must be weighed up, often with a subjective judgement involved, that it has a chilling effect on the market. Due to uncertainty about what is and isn't permitted, companies often only enter this area if they are willing to shoulder a relatively high level of regulatory risk.

18. Furthermore, we believe the unnecessarily complex nature of the current sponsorship regime is increasingly out of step with audience expectations, given the lighter touch rules for online.

19. The rules should of course continue to comply with the minimum standards set out in the AVMSD, so as not to undermine the UK's de facto compliance, but should be far simpler. This might be refocused on fewer core principles, such as clear and explicit transparency for viewers, but with providers permitted flexibility in delivery. As well as mirroring the principles-led approach to age ratings in the Media Act, this would preserve consumer understanding while helping secure further investment for UK content, which the current regulation is inhibiting.

20. We also support consideration of introducing more flexibility on pin protection. Ofcom has successfully permitted channels to show certain post-watershed content during the daytime behind a pin. This has proved useful for content providers and welcome for audiences. Ofcom should consider the

next step of permitting viewers to opt out of pin protection for a channel in advance, allowing those channels to show post watershed content during the day where viewers have actively granted permission.

21. Finally, in support of broadcast news content, the rules around protection of minors may need updating, given the growth of online news. Broadcast providers are unable to show certain news footage before the watershed without extensive warnings, even though this content may be available online without warnings before the watershed. This can discourage viewers from watching broadcast news content. We recognise that this is a difficult balancing act, but question whether such warnings remain in line with viewer expectations in an online age, particularly for dedicated news channels where audiences are already well aware that content is aimed at adults.

PSB obligations

22. We also believe it may be desirable to update the definition of PSB first-run originations, to ensure that PSBs are not penalised for taking a second window if such an arrangement occurs at the financing stage of a production (careful wording should prevent this change leading to an increase in repeats).