



**EQUITY SUBMISSION TO OFCOM'S SECOND REVIEW OF PUBLIC  
SERVICE BROADCASTING -  
PHASE 1: THE DIGITAL OPPORTUNITY**

**Introduction**

1. Equity is a trade union representing 37,000 performers and creative personnel who work across the whole spectrum of entertainment in the UK. Our members work in a range of media and the creative industries including visual broadcasts, sound recordings and film, principally in drama, comedy or entertainment roles.
2. Any decisions regarding the future of public service broadcasting (PSB) will have a direct impact on the production, distribution and funding of our members work, as well as the creative process and the content of programmes in which they are involved.
3. This submission does not provide a response to all of the issues raised in this inquiry, but seeks to address the matters most relevant to Equity's membership.

**Background**

4. The main public service broadcasters (PSBs) are the most important source of UK-originated television production featuring the work of Equity members. In particular BBC, ITV and Channel 4 play an essential role, both in meeting the demands of audiences and as the nation's most significant employers of actors, performers and creative talent.
5. The BBC is especially important as it provides a broad choice and a diversity of high-quality programmes on television, radio and more recently online. It plays a central role as what Ofcom continues to describe as "the cornerstone of public service broadcasting" supported by licence fee funding. Equity welcomes Ofcom's overall assessment of the BBC's continuing role, due to the BBC's unparalleled reach and impact in providing a broad range of programming for audiences. It also serves an important role in supporting the creative industries, both as an employer and as a key provider of education and training.
6. However, while we would clearly support a strong ongoing role for the BBC, it is the future activity of the commercial broadcasters (particularly ITV, Channel 4 and Five) that provides the biggest and most immediate challenge. In 2004 Ofcom's first PSB review identified the need to

determine the ongoing role for the commercial PSBs, given falling revenues, fragmenting audiences and the reduction of implicit subsidies.

7. Equity's position – and consequently our approach to this review – is guided by the need to ensure that both the BBC and commercial PSBs can continue to contribute positively to PSB as much as possible in the digital age. The broadest possible range of PSB content provides competition for quality, is in the interests of audiences and the future of the broadcasting industry in the UK.

### **Section 3. How well are the public service broadcasters delivering public purposes?**

8. It is clear that there have been significant changes in media consumption habits, especially among younger audiences – and that there are more ways than ever of accessing a broader range of content through different sources. Most notably “the internet is emerging as an important platform and the most important medium for young people” (para 3.19), as demonstrated in Figure 6.
9. Despite this, a broad range of PSB provision still remains an important consideration to audiences overall. Moreover, it is notable that TV is actually a very resilient platform for delivery of content, regardless of the explosion of new platforms. For example, Figure 5 illustrates that the main television channels remain the most important media source for news, entertainment and information.
10. While recognising the challenges facing all PSBs, Equity nevertheless remains concerned at the way in which the commercial PSB channels (most notably ITV) have been able to reduce a number of their commitments with the tacit approval of Ofcom, since the last PSB review.
11. However, Equity believes it is significant that there is clear evidence that audiences consider the basic principles of PSB as important. Our experience in drama, comedy, films, children's programming and light entertainment means that we have a specialist interest and knowledge of original production, which makes full use of domestic and regional talents and creativity. However it is heartening that Ofcom's detailed research has found that the public share our view that these programmes make an important contribution to the purposes and characteristics of PSB.
12. It is evident from Ofcom's research that programmes featuring the work of Equity members, which are made in the UK remain a high priority for audiences. In particular a high proportion of audiences consider it important that dramas, soaps, films, children's and comedy programmes take place and are produced in the UK (Figure 8, p32).
13. Similarly it is also clear from the research that there is a desire for competition and plurality amongst broadcasters in the provision of children's programmes, dramas, comedies and sitcoms made in the UK

(Figure 10, p.34). The high importance of plurality in these areas is something that is evident from the deliberative study (Figure 11, p.36).

14. It may be tempting for regulators and policy-makers to consider such entertainment programming as a desirable addition to PSB, rather than as a core part of its provision. Yet this research confirms Equity's view, that in actual fact such programmes are central to the public's attitude towards PSB and that it is insufficient to suggest that such demand can be satisfied simply by enabling access to the "worlds best" imported and acquired programming (para 3.26).
15. Other than programming that can be broadly categorised as news and current affairs, the production of UK-originated entertainment programming of this nature is central to the demands of audiences and the purposes of PSB, both now and in the future. It is clear that the current PSB channels remain best placed to deliver this content across all platforms.

#### **Section 4. The changing market environment**

16. Equity agrees with Ofcom's broad conclusions about the role of interactive media. As the trade union representing actors and performers featuring in a wide range of drama, comedy and entertainment productions, we have first hand experience of the explosion of digital media and the impact that these new platforms has had on the availability of our members work.
17. Consequently we will continue to play our part in ensuring that agreements are in place, which enable this key PSB content to be available to a wide audience in a variety of new and exciting ways, while ensuring that performers and rights holders are properly rewarded for the use of their work. This is in the interest of audiences, broadcasters, producers as well as the rights holders such as our members. Much of the detail of Equity's work in this area is available on the dedicated website [www.tvischanging.com](http://www.tvischanging.com).
18. For example, Equity has made a number of agreements with broadcasters and producers to enable the use of both audiovisual material and sound recordings on new technology and new platforms. This has included negotiated arrangements providing payments to performers for the use through video-on-demand, as well as online "catch up" services, such as BBC i-Player and similar arrangements with Channel 4 and ITV.
19. This important work will continue within the context of the changes outlined by Ofcom, in order to ensure that broadcasters can meet the demand for UK-originated output, which must remain a priority if broadcasters are to deliver on the PSB purposes and respond to what audiences want.
20. In future we believe that it will be the providers with a reputation for producing the best content that will achieve the greatest success in attracting an increasingly fragmented audience to the new technology and platforms. Therefore the success and popularity of new technology will

depend heavily on the quality of original production – and especially programmes that feature the work of Equity members. In short, technology is nothing without content.

21. With this in mind Equity has also been actively pursuing opportunities for increasing levels of production with non-PSBs broadcasters, as well as in online productions. However we note the tiny contribution of these overall, with the proportion of spend on network UK originated programmes by non-PSBs relatively static at 10% and falling in terms of actual investment to £268m in 2007 (Figure 26, p.55). This is reflected in Equity's own experiences, where there are only ever very occasional UK-originated drama or comedy productions for any of the major cable and satellite channels. Any such programmes for digital channels are usually produced or commissioned by the major PSBs in any case in order to attract audiences to their own family of channels (e.g. E4, BBC3).
22. It is therefore a matter of concern that commercial PSBs are being permitted to reduce their commitment in some areas (e.g. children's programming, regional news), yet there has been no corresponding increase in investment from non-PSBs. This only emphasises the importance of supporting the PSBs. While understanding the limits of non-PSBs due to the current reach and impact of their channels, it does also perhaps provide a case for greater incentives for these broadcasters in future.

## **Section 5. Prospects for the future delivery of public service content**

23. It is not possible for Equity to provide a detailed critique of the research carried out by Ofcom or its consultants. However, it is fairly evident from the analysis that there is likely to be increasing pressure on the ability of commercial PSBs to continue to deliver public service content in future, with particular pressure facing certain genres (including children's programming and regional news).
24. While there is inevitably a great deal of uncertainty as to the way in which the UK television market will develop in the next few years, the scenarios outlined seem to be based on the best information currently available. Therefore while all of the analysis is currently hypothetical, it is very difficult to challenge the assumptions being made.
25. The precise timing of the point at which the costs of holding a PSB licence may exceed the benefits is an important consideration for all of the commercial PSBs. However, Ofcom must also bear in mind that this is not the issue that is occupying the minds of citizens and consumers to whom it owes its statutory obligations.
26. While it is clearly important that Ofcom understands the changing economic reality facing PSBs, we would argue that this information should be not be used as a means to determining the end of PSB commitment by

certain commercial channels, but instead as a basis of action to secure their ongoing role in order to meet the demands of audiences.

## **Section 6. Meeting audience needs in a digital age**

27. Ofcom has developed a detailed and compelling vision of the public service broadcasting environment in a digital age. It acknowledges that the existing PSB system is coming to an end, due to the fragmentation of audiences and changes to the model of implicit subsidy.
28. However, Equity welcomes Ofcom's continued focus on the benefits of plurality for audiences – particularly in terms of the diversity of different voices, enhanced reach and impact and the positive role of competition in spurring innovation and quality in PSB. As noted previously, all the evidence suggests that this focus on plurality and choice is also highly valued by the audiences themselves, with UK drama, comedy and children's programming ranking highly and supporting the case for intervention to support PSB in future (Figure 45, p.84),
29. It is therefore disappointing that the legislative support for PSB is actually quite weak in terms of the specific requirements in these areas. Aside from its overall responsibility in Section 264(3) of the Communications Act 2003 of *"maintaining and strengthening the quality of public service television broadcasting"*, Ofcom also has clear obligations under s.264(6b) to ensure *"that cultural activity in the United Kingdom, and its diversity, are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy and music, by the inclusion of feature films in those services and by the treatment of other visual and performing arts"*.
30. The fact that the statute only refers to such PSB services "taken together" has enabled broadcasters to initiate a reduction in the provision of this type of "Tier 3" content. In particular, there has been a notable decline in children's programming, with no obvious mechanisms to address the deficit.
31. If Ofcom is unable to intervene to prevent such dramatic changes then it could be argued that the legislative support for PSB is insufficient. It seems reasonably clear that the intention of the legislation was to ensure that audiences continue to have access to a choice of high quality programmes in these key areas.
32. We continue to believe that Ofcom's stated desire to maximise reach and impact of public service content in future will continue to be best met by providing audiences with what they continue to demand. It is clear from Ofcom's research that this means the production of high quality UK-originated programmes. It is also clear that BBC, ITV and Channel 4 are best placed to continue to be the main source of content of this nature, both on traditional and new platforms for some time to come.

33. For this reason – and within the context of the proposed models for funding public service content and incentives (below) – Equity would support tougher legislation that would provide greater regulatory powers to enable Ofcom to act in order to prevent reductions in PSB output. This should be part of an overall framework aimed at enabling key PSB broadcasters to meet the demands of audiences, rather than enable continual managed decline.

## **Section 7. Future models for funding and providing public service content**

34. Equity notes that Ofcom has identified a growing funding gap facing commercial PSBs in the face of fragmenting audiences and other pressures. However, we welcome the recommendation that in light of its statutory duties “new funds should be found to replace the current declining implicit subsidy” (para 7.16) and would offer the following comments on the options for future PSB funding being considered

- Direct public funding

35. We remain opposed to the use of direct taxation to support a grant-in-aid for PSB. Such a move would not be politically sustainable with the public if this was in addition to the licence fee. It would also lead to inevitable questions about the impartiality and independence of programme makers if they were directly accountable to HM Treasury. However other methods of public investment should not be ruled out completely. Indeed consideration of spectrum awards and the proceeds of spectrum auctions would seem to reflect the possibility of a more indirect contribution, while utilising assets that were previously used to support the PSB system in any case.

- Licence fee

36. Equity rejects the various proposals for redistributing or “top-slicing” the BBC licence fee. This would constitute a lazy approach that is fraught with dangers. It would not only constitute a failure to secure any additional funding for PSB purposes, but would also sever the important link between BBC services and the licence fee payer. A further reduction in licence fee funding available to the BBC will also undermine its ability to continue to fulfil the important role outlined earlier in this submission, as the cornerstone of PSB and driver of the UK’s creative industries. Moreover, such a move would undermine the investment in the broad range of the BBC’s activities – including radio and online – in order to support a narrow range of PSB television production.

37. It is also important to note that the existence of a supposed “excess licence fee” has been strongly disputed by the BBC and most recently by the Chairman of the BBC Trust. While there is currently funding that is being utilised to assist in the process of digital switchover, there has been no decision that such funding should continue to be available after this is

complete in 2012. Moreover the BBC will continue to have significant obligations under its own public purposes, including building digital Britain.

38. Rather than continuing to pursue this approach Ofcom may wish to examine ways in which it could be possible for the BBC to do more to work in partnership with other broadcasters and content providers, by providing access to its facilities and infrastructure.

- Regulator assets

39. Equity would certainly support further investigation of how regulatory assets could be used most effectively in future as a means to support and incentivise PSB programming. While it is clear that access to broadcasting spectrum is not as valuable as it was in an analogue world, it still has a significant value that should not be disregarded. Similarly prominence on the electronic programme guide (EPG) is a distinct advantage to broadcasters that should be used as leverage to encourage broadcasters to do more in return to meet audience demands, whereas increased advertising minutage should also be considered as a means of providing additional revenue for commercial PSBs.

- Industry funding

40. Further work should also be carried out to investigate the type of industry funding approaches that could be adopted in the UK, by building on the experiences of models for supporting PSB in other countries (e.g. France, Canada, Spain, Italy). There are likely to be clear benefits to such models, as well as the possible use of investment quotas across a range of broadcasters, which could expand on requirements of the EU Audiovisual Media Services Directive. However, Equity is not aware of any recent examples of detailed independent research in the UK to examine the practical impact of these approaches.

41. Ofcom should commission specific research into alternative methods of funding based upon the contribution of the industry, including, but not limited to, the approach outlined by President Sarkozy in France. This research should take place between now and the second phase of the PSB review in autumn 2008.

42. Equity would also ask that Ofcom considers ways in which to adopt the approach we proposed in response to the last PSB review in 2004. At that time Equity and other stakeholders argued that a charge could be applied to licensed broadcasters operating in the UK. This approach would require a higher contribution from successful broadcasters with low PSB commitment, with lower financial requirements from broadcasters with an identifiable PSB output. This method of operation could act to ensure that funding for PSB is either provided directly by existing broadcasters (or other platform operators) that have so far failed to provide significant investment in original UK production, or indirectly through the reallocation of industry funding.

43. In the context of these high-level options for funding Ofcom has developed four possible illustrative models for the long-term delivery of public service content.
- Model 1 - Evolution
  - Model 2 - BBC only
  - Model 3 - BBC/C4 plus limited competitive funding
  - Model 4 - Broad competitive funding
44. Equity does not intend to comment in detail on each of these proposed models. Nevertheless, it should be clear from the position we have outlined elsewhere in this document that an approach based broadly on “Model 1 – Evolution” is really the only model that could offer the prospect of the kind of ongoing PSB provision that we would support.
45. Under Model 2, plurality in PSB would no longer exist and the BBC would be forced to operate within a ghetto of worthy public service output. With Model 3, while there would be a PSB competitor of sorts, this could not be truly described as plurality. It would also introduce the unappealing prospect of additional bureaucracy in the PSB system, with a new funding agency whose remit and criteria are unclear. Model 4 suffers the same problem but on a larger scale with even greater risks to PSB provision, due to the lack of PSB requirements.
46. Overall Equity is concerned that important funding options remain unexplored by this consultation. In particular Ofcom should consider carrying out more research into models that have been applied successfully in other countries. For example, there is no detailed consideration of the way in which investment quotas for new content could be applicable to the UK. Such an approach could benefit a broad range of stakeholders and most importantly would help to meet the needs of audiences expressed above.

## **Section 8. Options for the commercial PSBs**

47. As stated previously in this submission, the established PSBs are the only content providers that currently have the necessary reach, impact and ability to provide the best and most valued content for audiences. While viewing habits are undoubtedly changing and evolving, it is clear from Ofcom’s research that the vast majority of audiences depend on linear television – and will continue to do so, at least for the foreseeable future. Even the success of new platforms will depend on the investment in high quality content from these key broadcasters.
48. In that context Equity welcomes Channel 4’s future vision as outlined in its *Next on 4* initiative. The emphasis on new talent, alternative voices and UK-originated content provides a sound basis for its future role within the PSB framework. We believe that audiences will be best served by this approach, rather than a gradual and managed decline and reduction in PSB commitment. However, the implementation of this vision is clearly



dependent upon its funding needs, which Channel 4 estimates at around £150m – while the Ofcom/ LEK research indicates it is expected to become loss making by 2010.

49. Nevertheless, the launch of *Next on 4* should be supported as a bold strategy that seeks to re-state the original purposes and remit of Channel 4 for the digital age. For Equity, the role of Channel 4 should be to commission risky, innovative and challenging work to complement and compete with the larger and better funded public service broadcasters.
50. In some ways Equity members see this role as being similar to that of independent theatre, where new and original work is often generated. In contrast the BBC plays a role not dissimilar to a major national theatre company, such as the National Theatre or the Royal Shakespeare Company, which are the major publicly funded producers of excellent, high quality work.
51. In addition measures need to be taken (using the approaches outlined above) to ensure that ITV is able to continue to retain its PSB status. Despite recent changes to its output ITV continues to be well placed as a PSB provider, and its current business model is still broadly committed to a large volume of high-quality UK-commissioned and UK-made programmes. While recognising the costs associated with significant public service obligations, it should be possible to consider ITV's role under a variation of Ofcom's "evolution" model. However further work will need to be done to identify the value of any benefits extended to ITV.
52. In contrast Five is responsible for a very narrow range of PSB output. Its contribution to key PSB genres such as UK-originated drama and comedy is negligible. Since it took the decision in 2005 to cancel its continuing drama *Family Affairs*, this contribution has declined still further. Unless Five demonstrates its intention to commit to UK-originated production in a broader range of areas, Equity sees little point in it continuing to operate as a public service broadcaster and benefiting from the regulatory assets and EPG prominence it currently enjoys.
53. That said our preference would be to see if Five could build on its investment in UK-originated content, for example in children's programming, as well as explore ways in which it could do more to meet a broader range of PSB purposes including a contribution to drama production.

## **Section 9. Scenarios for the UK's nations, regions and localities**

54. Equity shares the views expressed by UK audiences, who clearly believe that the portrayal of nations and regions to the rest of the UK is an important matter (Figure 54, p.125). While we do not have any direct interest in the provision of regional news provision, we do share an interest in ensuring that there is a significant level of out-of-London production of other types of public service content from all parts of the UK. This is

because we believe in a fair geographical distribution of original production, which is able to ensure that the true nature and diversity of the UK is reflected adequately.

55. It is also only fair the broadcasters spread their operations so that a greater proportion of production employment comes from outside of the M25. The BBC in particular has the ability to work across the UK to create a positive impact of the production base and workforce. However, all broadcasters could do more to access the talent base of performers in other parts of the country, by exploring opportunities for production and accessing local talent in nations and regions where there is currently very little non-news programming.
56. All channels should be encouraged to a greater spread of commissioning and explore long-term methods of developing and sustaining regional production bases. Indeed, it is acknowledged that one of the best ways in which this can be achieved is by the establishment of returning drama serials. The fact that this genre of production has a distinct long-term benefit for the regional production base means that it should be subject to particular encouragement.
57. Given the lack of progress in this area since the last PSB review Equity would support the application of uniform quotas for network production from Scotland, Wales and Northern Ireland. To that end we support moves by the BBC to introduce greater uniformity in measurement.

## **Section 10. Prospects for children's programming**

58. Equity provided a comprehensive response to Ofcom's earlier consultation on the future of children's programming. This response is available at: <http://www.equity.org.uk/Campaigning/Submissions/1173.aspx>
59. This response supported the case for tax breaks as a relatively swift short-term measure that could boost UK-originated production in this area. However, the other short-term options being considered should also be explored. It is especially welcome that Channel 4 is seeking to increase their commitment in this area.
60. Given that so much work has already been completed into the future provision of children's television programming it is unfortunate that this has now become so intrinsically linked to the broad questions raised in the PSB review. While it is clear that a number of the challenges facing children's television are the same as those facing PSB overall, it is also clear that the crisis facing children's television is already starting to bite. Consequently Equity would urge Ofcom to reconsider its stated approach of conducting a further consultation in the autumn 2008, when it will examine the detailed options for children's programming.
61. It is Equity's view that such a consultation has already been conducted and that the crisis in children's television is so acute that it should propose

specific action as soon as possible. These options can then be pursued by Ofcom and by Government without further delay, ahead of the application of medium and long term solutions.

## **Section 11. Timetable for implementing a new model**

62. Equity would not support any early moves to introduce legislation that could undermine the ability of the PSBs to meet audience demands for high quality UK-originated production from a range of providers. Therefore we would oppose any moves by the Government to pursue a model based upon a narrower range of PSB provision (i.e. Models 2, 3 or 4) or a sharing of the BBC licence fee.

63. However, given the risks that have been identified to key areas of UK-originated programming Equity would support some moves to introduce some new legislation before 2011. Indeed, as we have already stated we would support certain measures well in advance of that timetable, particularly given the acute situation facing the production of children's programming.

## **Conclusion**

64. Equity is pleased to have the opportunity to participate in the continuing phases of the PSB review and hope that these comments are acknowledged as a serious attempt to address the difficult challenges that Ofcom has identified. We look forward to further discussions and consultation in the further stages of the review.

65. We acknowledge the thoughtful approach that Ofcom has adopted to this issue, but there are a number of underlying assumptions in Ofcom's analysis which we do not accept. In particular, we remain unconvinced that it is in the long-term commercial interests of citizens and consumers or the future of the broadcasting industry in the UK, for commercial television companies to withdraw from high quality PSB programming.

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