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Ofcom Consultation Document
Second Public Service Broadcasting Review
Phase One: The Digital Opportunity

Before responding to the specific questions posed in the consultation document, we would like to comment on the purposes and characteristics of PSB (public service broadcasting) as set out in para.2.8. These are presumably intended to be Ofcom's interpretation of s.264 (4) and s.246 (6) of the Communications Act 2003. However, in the process of distillation, some of the prescribed purposes and characteristics seem to have been lost sight of or elided, as follows:

- * Diversity of subject matter – see s.264 (4)(a);
- * Balance, important in the context of the claims by various political and religious lobbying groups that some public service broadcasters are biased – see s.264 (4) (c);
- * Editorial integrity, important in the context of the many revenue raising phone-in scams carried out by public service broadcasters – see s.264 (4) (d) (iii);
- * Religion and other beliefs – see s.264 (6) (f) and (g);
- * Children and young people (though this aspect of PSB is dealt with in the body of the consultation document) – see s.264 (6) (h);
- * The range and proportion of programmes made outside the M25 (though this is also dealt with in the body of the consultation document) – see s.264 (6) (j).

ICPB is a consultancy wholly owned by Jeremy Mitchell, providing research and advice on consumer policy and legislation to international organisations, governments and consumer groups. Jeremy Mitchell is a Member of the Ofcom Consumer Panel, but this response does not represent the views of the Panel in any way.

It is suggested that, in accordance with the remit given to Ofcom in the Communications Act 2003, the above factors should be explicitly taken into account in the review of PSB.

There is also the issue of universal access to public service broadcasts. This is not mentioned specifically in the Communications Act 2003. However, in the past, this has customarily been held to mean that public service television broadcasts should be available to everyone, free at the point of consumption. For example, the Broadcasting Research Unit's statement *The Public Service Idea in British Broadcasting – Main Principles* (1985) defines geographic universality as its first main principle – '...broadcast programmes should be available to the whole population'. We ourselves have previously suggested that the first criterion of a television system responsive to the interests and needs of viewers should be 'Universal availability of a core of diverse and high-quality programming services'.¹

In the consultation document (para.2.8) this principle of universal availability has become diluted to 'Widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it'. This prompts the question: what constitutes a large majority? Is it, say, 98.5%? 88.5%? 78.5%? The answer is critically important for hundreds of thousands, possibly millions, of consumers and citizens, especially in view of the possible contraction in the number of transmitters and relays on the introduction of HDTV.

It is suggested that Ofcom should adopt the principle of universal availability of PSB. If there are technical constraints that prevent this, these should be specified and a definition more precise than the vague 'a large majority of citizens' should be adopted.

The concept of consumer and citizen 'choice' in television broadcasting needs to be examined carefully. Choice of channels is not necessarily equivalent to choice of types of programme, especially in relation to public service broadcasting. Recent years have seen an explosion in the number of channels available. However, it is debatable whether there has been any increase in the quantity, range or diversity of public service broadcasts, let alone the quality. The contribution that new, non-PSB channels make to original public service programming (as distinct from repeats, or programmes derived from other media) is small. Indeed,

¹ Mitchell, Jeremy & Jay G Blumler (1994): *Television and the Viewer Interest*, p.237. London: John Libbey.

channel proliferation tends to put pressure on the whole concept of public service broadcasting. Segmentation of the viewing audience means that smaller resources are available for individual programmes. Associated with this, there is increasing commoditisation of and trade in programmes, with an increasing proportion of programmes being bought in by broadcasters. These market-based trends tend to work against sustainable public service broadcasting and policies need to be put in place to ensure that they do not undermine it completely.

It is suggested that Ofcom should not rely on channel proliferation as any part of the answer to the question as to how public service broadcasting can be sustained in the future.

Our responses to the specific questions asked in the consultation document are set out below.

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

i) *Do you agree with Ofcom's assessment that television continues to have an essential role in delivering the purposes of public service broadcasting?*

Yes. As well as being a primary source of entertainment for the UK's citizens and consumers, television is a significant definer and transmitter of political, social and cultural values.

ii) *Do you agree that UK-originated output is fundamental to the delivery of public service broadcasting services?*

Yes, though the distinction between UK and non-UK originated PSB output is unduly simplistic. It is worth noting that Ofcom's own research shows that there are only four programme genres – news, current affairs, national/regional news and serious factual programmes – where more than a quarter of respondents considered it is most important that they are made in the UK². The distinction also begs the question of the need to have a variety (geographically and otherwise) of sources of output within the UK.

Section 4. The changing market environment

i) *Do you agree with Ofcom's conclusions about the way that other digital channels and interactive media contribute towards the public purposes?*

It is not clear in the consultation document what Ofcom's conclusions on this are.

In any event, the fact that there is some public service content on new digital channels and interactive media does not lessen the need for a sustainable system of public service broadcasting on television.

² PSB Review Survey, cited on p.32 of the consultation document.

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

i) *Do you agree with Ofcom's assessment of the implications of different economic scenarios for the UK TV market for the future prospects for delivery of the public purposes?*

On the whole, yes. However, great caution needs to be exercised about making longer term forecasts, especially about the development of new platforms and technologies. It is difficult to predict technological developments – and perhaps even more difficult to predict the public's take up of new technologies.

ii) *Do you agree with Ofcom's analysis of the costs and benefits of PSB status?*

It is ominous for the future of PSB that the government has decided that the BBC's income should be flat or declining in real terms after 2010 at the same time that commercial PSBs' revenue from advertising and sponsorship seems likely to continue to fall. It raises the question as to how committed the government itself is to the principles of PSB. So far as the non-BBC public service broadcasters are concerned, they derive considerable financial benefit from their PSB status, notably in relation to access to analogue spectrum and universal multiplex coverage. Unfortunately, the consultation document does not include any detailed figures of costs and benefits and only limited information about the methodology used, so it is not possible to agree or disagree with Ofcom's analysis.

Section 6. Meeting audience needs in a digital age

i) *Do you agree with Ofcom's vision for public service content?*

We agree in general terms with the approach adopted in paras 6.3-6.5.

ii) *How important are plurality and competition for quality in delivering the purposes of public service broadcasting, and in what area?*

We are quite surprised by the importance that respondents to Ofcom's survey research seemed to place on plurality and wonder whether it should be taken at face value. It is, after all, a yea-saying characteristic: it would seem to be quite odd to say that one didn't believe in plurality. The consultation document states that plurality delivers diversity of voice and enhanced reach and impact. These attributes are difficult to dispute, but the idea that plurality brings competition for quality, which is also put forward, seems on the face of it to be much more contestable. In the context of PSB, competition might just as easily induce a deterioration in quality as an improvement. In the absence of evidence one way or the other, it is suggested that this is not a factor which should be taken into account.

iii) *In maximizing reach and impact of public service content in the future, what roles can different services and platforms play?*

As stated above, the fact that new digital channels and interactive media may sometimes (though rarely at present) include public service content does not lessen

the need for a robust system of public service broadcasting on television.

iv) *Do you agree that the existing model for delivering public service broadcasting will not be sufficient to meet changing needs in the future?*

Sadly, yes.

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

i) *What are your views of the high-level options for funding public service content in future?*

ii) *Are the proposed tests of effectiveness for future models for public service broadcasting the right ones?*

iii) *Of the four possible models for long term delivery of public service content, which, if any, do you consider the most appropriate and why? Are there any alternative models or combination of models that could be more appropriate, and why?*

Model 1 - Evolution. This may well be the most appropriate model in the short run – that is, to c.2011 or such time as a new Communications Act is passed by Parliament. Of course, it is always an easy way out to say that developments are in such a state of flux that no radical decisions should be taken now, but there is a strong case for saying that this is particularly true at present, with DSO in its very early stages.

Model 2 – BBC only. In spite of the caution that we have expressed above about the concept of plurality, there must be a case for saying that any change of this kind would eliminate the possibility of plurality altogether. This model would also mean a significant reduction in the quantity – and possibly also the range – of PSB. We therefore reject it.

Model 3 – BBC/C4 plus limited competitive funding. In this model, a crucial element is whether the funding for extending Channel 4's remit and any other PSB agreements with providers would be taken out of the licence fee or not. If the former, then any increase in PSB by Channel 4 and other providers would be offset by a reduction in the BBC's PSB output. Also, this model would entail a revision of s.265(3) of the Communications Act 2003. It is difficult to see how such a legislative change could be introduced without precipitating a major reconsideration of the whole system of broadcasting and its regulatory structure – in other words, a new Broadcasting Bill rather than a minor amendment to the existing Act.

Model 4 – Broad competitive funding. The same point about legislation applies to this model. However, it is difficult to see how this model could be designed and implemented without a complete alteration to the objectives, functions and structure of the BBC, involving a massive dilution of its role as a public service broadcaster, not to mention bringing into question the whole concept of the BBC

Charter. We therefore reject it.

Section 8. Options for the commercial PSBs

i) *What do you think is the appropriate public service model for Channel 4 in the short, medium and long term? What do you think of Channel 4's proposed vision?*

Channel 4's intention to free up £35m. per annum for uk-originated content and to reduce its annual expenditure on acquired programmes is welcome. The request for a further £100m. per annum from public funding might be justified if Channel 4 makes a commitment to a significant increase in its televised PSB offering and does not spend all the money on new digital media.

ii) *Which of the options set out for the commercial PSBs do you favour?*

It is difficult to see if there is a stable PSB status for the commercial PSBs, especially ITV1, between the current situation and the complete loss of PSB obligations and advantages implies by Models 2, 3 and 4. We wait further exploration of this in the next phase of the consultation.

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

i) *To what extent do you agree with Ofcom's assessment of the likely future long term issues as they apply to the nations, regions and localities of the UK?*

ii) *Which model(s) do you think will be most appropriate in each of the nations and in the English regions in the long term, and why?*

iii) *What are your views on short/medium-term issues referred to, including the out-of-London network production quotas?*

iv) *What are your initial views on the preliminary options set out relating to ITV plc's regional news proposal? (Please note that Ofcom will put forward firm options on these issues, and consult also on ITV plc's regional news proposal, in phase 2 of this Review.)*

In Scotland, there is widespread dissatisfaction with some of the arrangements for PSB. For example, expression of this was virtually unanimous at the recent Voice of the Listener and Viewer Edinburgh Conference on the future of broadcasting in Scotland. Dissatisfaction focuses on the London-centric character of news and, especially, current affairs programmes. It is not so much that there is an unrequited demand for news and current affairs programmes about Scotland, as a virtually complete absence (with the exception of the Gaelic language programme, Eorpa) of Scottish perspectives on UK, European and international news and current affairs. The BBC and other public service broadcasters fail to recognize this – or, at least, to do anything about it.

Also, there is a notable gap in the coverage of televised local news and current affairs. BBC Scotland is organized on a Scotland-wide basis. ITV covers Scotland in two and a half regions (North, Central and part of Border). C4 has no Scottish dimension. The consultation document points to the vulnerability of national (and, in England, regional) television broadcasting by non-BBC PSBs. However, it gives only cursory attention to the possibilities for the future of a radical expansion of local television. Ofcom's own research shows that local news and local information are the most valued services that people want introduced³. This is not surprising. Certainly in England, there are many pointers to regional (as distinct from local) identity being generally weak, while a local sense of identity is strong.

We suggest that Ofcom should, so far as its approach to PSB in Scotland is concerned, wait on the forthcoming report of the Scottish Broadcasting Commission, established by the Scottish government, which will undoubtedly precipitate a major public debate.

Section 10. Prospects for children's programming

i) *Do you agree with our assessment of the possible short term options available relating to children's programming: are there any other options available?*

We agree with Ofcom's assessment that there is unlikely to be a market-based solution to the declining investment by commercial PSBs in children's programming. It appears that Ofcom does not have powers to deal with the commercial PSBs exit from this genre of PSB. It is difficult at this stage to know what weight to put on Channel 4's intention to pilot a new service for older children and teenagers. We await with interest the report of the BBC Trust on the BBC's provision for children and young people. It is difficult to find a solution to a complex set of problems associated with this genre of programming. Perhaps the possibility of dedicated funding by government needs to be explored.

Section 11. Timetable for implementing a new model

i) *Do you agree that new legislation will need to be in place by 2011 in order to ensure continued delivery of the public purposes in the medium and long term?*

The question is whether the current PSB system will be able to hold out until 2011. On the other hand, if major legislation is to be enacted and in place by 2011,

³ Holden Pearmain and ORC International (2006) A report of the consumer research conducted for Ofcom.

preparation for it should begin now.

Jeremy Mitchell
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