

## **INDEPENDENT PANEL ON BBC CHARTER REVIEW**

### **SEMINAR: PUBLIC PURPOSES OF THE BBC**

#### **PAPER: Some Current Provisions Relating to Public Service Broadcasting**

This paper sets out some of the current provisions relating to the BBC's public purposes and, where relevant, those of other public service broadcasters in the UK. The BBC's document, 'Building Public Value', presents the Corporation's view of its public purposes. This paper contains extracts from other sources to provide a useful backdrop to the question "What is the BBC for?"

We have drawn material from the following sources for inclusion in this paper:

- The BBC's Royal Charter and the supporting Agreement
- Section 264 of Communications Act 2003
- Phase 1 of the 'Ofcom review of public service television broadcasting'

This material is presented solely to stimulate debate and does not represent any view or conclusion of the independent panel.

## BBC's ROYAL CHARTER

The Royal Charter is the founding document of the BBC and sets out the objects and purposes of the Corporation for the current Charter period. Particularly relevant sections are:

### **Provision Of The Public Services**

2.1 The Corporation shall be independent in all matters concerning the content of its programmes and the times at which they are broadcast or transmitted and in the management of its affairs.

2.2 Without prejudice to the generality of subclause 2.1, the Corporation undertakes to provide the Home Services primarily by means of:-

- (a) two television programme services available for general reception throughout the United Kingdom, which may include regional variations;**
- (b) five sound programme services and supplementary services available for general reception throughout the United Kingdom;**
- (c) an additional sound programme service for general reception in each of Scotland and Northern Ireland respectively and two additional sound programme services for general reception in Wales;**
- (d) a number of local sound programme services for general reception in certain parts of the United Kingdom, subject to such minimum and maximum numbers as may from time to time be agreed with the Secretary of State.**

2.3 The Corporation may, subject to the prior agreement of the Secretary of State, vary the number or geographical coverage of its national television and sound programme services.

2.4 The Corporation may, subject to the prior agreement of the Secretary of State, provide multiplex facilities for digital television and sound broadcasting frequencies.

### **Programme Content**

3.1 Without prejudice to the generality of clause 5, the Corporation undertakes to provide and keep under review the Home Services with a view to the maintenance of high general standards in all respects (and in particular in respect of their content, quality and editorial integrity) and to their offering a wide range of subject matter (having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are shown) meeting the needs and interests of audiences, in accordance with the requirements specified in subclause 3.2.

3.2 The requirements referred to in subclause 3.1 are that the Home Services –

- (a) are provided as a public service for disseminating information, education and entertainment;**
- (b) stimulate, support and reflect, in drama, comedy, music and the visual and performing arts, the diversity of cultural activity in the United Kingdom;**

**(c) contain comprehensive, authoritative and impartial coverage of news and current affairs in the United Kingdom and throughout the world to support fair and informed debate at local, regional and national levels;**

**(d) provide wide-ranging coverage of sporting and other leisure interests;**

**(e) contain programmes of an educational nature (including specialist factual, religious and social issues programmes as well as formal education and vocational training programmes);**

**(f) include a high standard of original programmes for children and young people;**

**(g) contain programmes which reflect the lives and concerns of both local and national audiences;**

**(h) contain a reasonable proportion and range of programmes for national audiences made in Northern Ireland, Scotland, Wales and in the English regions outside London and the South East.**

3.3 The Corporation shall transmit an impartial account day by day prepared by professional reporters of the proceedings in both Houses of Parliament.

### **Programme Standards**

5.1 The Corporation shall do all it can to secure that all programmes broadcast or transmitted by or on behalf of or under licence from the Corporation as part of the Home Services:-

- (a) provide a properly balanced service consisting of a wide range of subject matter;**
- (b) serve the tastes and needs of different audiences and, in particular, in order to show concern for the young, are placed at appropriate times;**
- (c) treat controversial subjects with due accuracy and impartiality, both in the Corporation's news services and in the more general field of programmes dealing with matters of public policy or of political or industrial controversy, and do not contain any material expressing the opinion of the Corporation on current affairs or matters of public policy other than broadcasting and matter contained in programmes which consist of proceedings in either House of Parliament or proceedings of a local authority or a committee of two or more local authorities;**
- (d) do not include anything which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feeling;**
- (e) do not involve improper exploitation of any susceptibilities of those watching or listening to its religious programmes or any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination;**

**(f) do not include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons watching or listening to the programmes without their being aware, or fully aware, of what has occurred.**

## Communications Act 2003

The Communications Act sets out, for the first time in legislation, an overall definition of Public Service television, which the Public Service Broadcasters (BBC, ITV, Channel 4 and Five) are between them expected to fulfill. Ofcom is required periodically to report on how well this remit is being fulfilled:

### Section 264

...

(4) The purposes of public service television broadcasting in the United Kingdom are-

(a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing;

(b) the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable;

(c) the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and

(d) the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to-

(i) the contents of the programmes;

(ii) the quality of the programme making; and

(iii) the professional skill and editorial integrity applied in the making of the programmes.

...

*[These purposes should be fulfilled in a manner which ensures that]*

(a) that the relevant television services (taken together) comprise a public service for the dissemination of information and for the provision of education and entertainment;

(b) 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;

(c) that those services (taken together) provide, to the extent that is appropriate for facilitating civic understanding and fair and well-informed debate on news and current affairs, a comprehensive and authoritative coverage of news and current affairs in, and in the different parts of, the United Kingdom and from around the world;

(d) that those services (taken together) satisfy a wide range of different sporting and other leisure interests;

(e) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of programmes on educational matters, of programmes of an educational nature and of other programmes of educative value;

(f) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of programmes dealing with each of the following, science, religion and other beliefs, social issues, matters of international significance or interest and matters of specialist interest;

(g) that the programmes included in those services that deal with religion and other beliefs include-

(i) programmes providing news and other information about different religions and other beliefs;

(ii) programmes about the history of different religions and other beliefs; and

(iii) programmes showing acts of worship and other ceremonies and practices (including some showing acts of worship and other ceremonies in their entirety);

(h) that those services (taken together) include what appears to OFCOM to be a suitable quantity and range of high quality and original programmes for children and young people;

(i) that those services (taken together) include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom;

(j) that those services (taken together), so far as they include programmes made in the United Kingdom, include what appears to OFCOM to be an appropriate range and proportion of programmes made outside the M25 area.

## **Ofcom review of public service television broadcasting**

The following is taken from the Phase 1 report of Ofcom's first statutory review of public service television broadcasting, published in May 2004. Ofcom's remit for the review was established by Parliament in the Communications Act and was:

- To assess the extent to which the main terrestrial TV channels, taken together, are fulfilling the purposes of public service television broadcasting set out by the Communications Act
- To make recommendations on maintaining and strengthening the quality of PSB television in the future

The following are the most relevant extracts from that report; the full report is available from Ofcom's website at [www.ofcom.org.uk](http://www.ofcom.org.uk)

### **The definition and purpose of Public Service Broadcasting**

TV broadcasting and its regulation evolved over decades without always having a clear rationale. But we believe there are two simple aims behind the historic regulation of terrestrial broadcasters:

- Helping the broadcasting market work more effectively to deliver what consumers want to watch or want to have an option to watch.
- Providing the programming that as citizens we want as many people as possible to watch, and to be widely available. Such programming secures the wider social objectives of UK citizens by making available TV which has broad support across the UK, but which would be underprovided or not provided at all by an unregulated market.

### **Consumer rationale**

Most markets routinely provide the products consumers value and want to purchase. But in a world with only a limited number of free-to-view TV channels, an unregulated market is unlikely to provide such an outcome. Regulation was designed to ensure that a sufficient range and balance of programmes was provided on each terrestrial TV channel, alongside programmes that catered for minority as well as for mass audiences. As digital take-up progresses, with multichannel provision, encryption systems and a wide variety of different models of consumption, the market failures associated with consumers not being able to watch the programmes they would willingly buy are diminishing fast.

We believe that in the future, public service broadcasting will no longer be needed to ensure consumers can buy and watch their own choice of programming. There may remain concerns about the market power of some broadcasters, but in our view these are better dealt with by the application of competition law than through a large public intervention.

## **Citizen rationale**

Even if the TV market provided all the programming that consumers desired and were willing to buy, it would probably not offer sufficient programmes that are valued by society as a whole. Addressing under-provision by an unregulated market may become more important as the world becomes more complex, and social cohesion, cultural identity and aspects of the democratic process are under pressure. We believe the purposes of programming in this category are:

- to inform ourselves and others and to increase our understanding of the world through news, information and analysis of current events and ideas
- to reflect and strengthen our cultural identity through high quality UK, national, and regional programming;
- to stimulate our interest in and knowledge of arts, science, history and other topics through content that is accessible, encourages personal development and promotes participation in society; and
- to support a tolerant and inclusive society through the availability of programmes which reflect the lives of different people and communities within the UK, encourage a better understanding of different cultures and perspectives and, on occasion, bring the nation together for shared experiences.

Bridging the shortfall between what a well functioning broadcasting market would provide and the wider ambitions of UK citizens is our definition of the enduring purposes of public service broadcasting. It constitutes a continuing rationale for PSB, one which, for the time being, retains widespread public support. But if it is worth doing, it must be capable of reaching audiences and being appreciated by them:

- it must be high quality, original, innovative, challenging and widely available. These are what we refer to as the characteristics of PSB;
- it must be delivered on channels that have a high reach among and impact on their target audiences; and
- if it is to be publicly funded, it must be clear that the market would not deliver similar output, of the same quality, on the same scale.

## **A new framework for public service broadcasting**

PSB should in future be defined in terms of its purposes and its characteristics rather than by specific genres (programme types). Many of the most successful examples of broadcasting over the past five years have defied traditional categorisation. Audiences are, for instance, drifting away from specialist arts, religious and current affairs programming.

The purposes of PSB lie in underpinning an informed society, reflecting and strengthening our cultural identity, stimulating our appetite for knowledge, and in building a tolerant, inclusive society.

The characteristics of PSB must underpin its distinctive contribution. It implies programmes of quality, innovation, originality, challenge and wide availability. These are sometimes hard to measure, but vital to secure in all aspects of PSB.

Producing PSB with appropriate purposes and characteristics is not enough. TV currently plays a unique role in reaching millions of people. It must continue to do so if it is to justify significant public expenditure. This suggests that PSB is likely to have to deploy a creative approach which blends public purposes and popularity, that is serious in intent but accessible in style, and that finds new ways of leading audiences to interesting and challenging material.

PSB must achieve reach and impact to be effective. It must be free to respond to the challenge of accessible but popular programming. This suggests that regulation should break away from narrow obligations specifying hours of certain types of programming across the schedule. Implementing this new approach to PSB will require a new framework of remits, accountability, measurement and qualitative judgement to ensure that programmes and TV channels meet the purposes and characteristics of PSB. Ofcom will work with the commercial broadcasters to develop and to introduce this new framework.

### **"Propositions for the transition to a fully digital world"**

In its report, Ofcom puts forward ten "propositions, which it states are "intended to stimulate debate and provoke responses". The two propositions of particular direct relevance to the BBC's public purposes are:

#### **Proposition 6**

Notwithstanding developments in the market, there is a strong case for the BBC to continue to undertake a wide range of activities to underpin the delivery of the public purposes and characteristics of PSB. But its range of activities needs to be reviewed periodically in relation to core PSB purposes.

- Where a high cost of delivery is associated with low viewing figures, it will be harder to justify continued public intervention. Alternative means of funding, such as subscription, should be considered for these services.
- Other activities, including secondary market distribution, studio and other production resources, and indeed production should be reviewed carefully against their distinctive contribution to PSB purposes.

#### **Proposition 7**

Every programme shown on the main commercial terrestrial channel's schedules need not always reflect PSB purposes and characteristics. In the case of the BBC, however,

with its unique and privileged funding status, programmes should always strive to reflect the broad purposes and character of PSB to some degree.

