

Maria Schlee
Media Team
Department for Culture, Media and Sport
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13th September 2009

Dear Maria,

Sustainable independent and impartial news; in the Nations, locally and in the regions

Please find UKTV's response to the above consultation.

UKTV is a major industry player and one of the most important and successful multi-channel providers in the UK. Formed in 1997, it is an independent commercial joint venture, between Virgin Media and BBC Worldwide, the commercial arm of the BBC.

Attracting 36.5 million viewers each month, the network offers a broad range of quality programming across its entertainment, lifestyle and factual offerings – Watch, G.O.L.D., Dave, Alibi, Eden, Blighty, Yesterday, Home, Really and Good Food.

UKTV currently operates 17 broadcast streams when multiplexes (+1s) and broadband are taken into account, and complementary websites for every channel brand. The success of UKTV is based on its programming including award-winning shows from the BBC and an increasing number of original commissions (currently 750 hours a year) and acquisitions. Overall, UKTV do believe that Public Service Broadcasting should continue within the UK. We believe that the provision of news services has been a cornerstone of the success of the broadcast model that has evolved over the decades of British broadcasting. Alongside that, it has also been the premise that television remains independent of government and political intervention, and it is this core principle which makes some of the recommendations contained within this report unacceptable. Back in the 1950's when commercial public service television was first a reality, Lord Reith spoke openly about his distrust and his disgust of such an abomination, most recently we have the 'Murdochian' philosophy espousing that profit is the only guarantee of independence. Therein, lies the root of this problem – can we truly mandate for commercial services to provide non-profitable services on behalf of consumers or will shareholder value always come first?



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The current commercial PSB provision is unsustainable and should be reviewed.

However, this needs to be done in the round rather than piece meal. Holistically, ITV as a body has had the exclusive rights to the commercial market for decades; it has provided for and competed with the BBC successfully and has forged a position in the UK television advertising market place that is envied by most other commercial broadcasters. It has alongside Ch4 and multichannel television supported and grown the UK Independent Production to the position on the global platform whereby our output is the envy of the world.

However, the PSB licence has over recent years become a debate that has focused upon its sustainability, and it is this focus that needs to be addressed. ITV, alongside other PSB services still enjoy guaranteed carriage status; prominence on EPGs guaranteed; and overall has been afforded dominance within a market place that is now a shared market. Government intervention into this market needs to be clear and consistent – it is not acceptable for Government to bolster up dominant players in this market without clear parameters being introduced to ensure that there is no undue discrimination afforded. In some regards, the debate is quite straightforward – have ITV and other PSB providers satisfied the licence conditions under which they operate – or have they failed to do so? What are the consequences of failing to provide – are there sanctions regulatory or financial or do they lose their status as PSB providers?

The intention behind the PSB licences was such that they would be provided with guaranteed spectrum at a discounted rate alongside other commercial advantages which would in effect provide for the loss of monies associated with providing this output. If the point has now been reached whereby commercial loss determines that the valuation is no longer sustainable then in the first instance what were the conditions imposed upon ITV etc by the regulators to ensure this provision would continue, and what were the consequences of failure to do so?

If ITV etc wish to renege or hand back their licence then this should also be provided for.

Does this address the objective of ensuring that there will continue to be a healthy and wide choice in relation to news providers, and will this also provide for local and nations coverage? In our view, again the question that needs to be answered in the first instance is whether ITV and those obligated to make this provision will continue to do so – and, if not, then what happens to their PSB status and to the licences under which they currently operate?

With the expansion of digital broadcast services and the explosion of on-line media it is safe to assume that there will be numerous sources of news provision globally and nationally.

With regards to local and nations – those markets currently have dedicated print and radio services, and broadcast have the BBC to rely upon. Diversity within these markets from a broadcast perspective is something that the markets have demonstrated to be unprofitable, that is not the case across all



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of the regions, however, we would contest that if the market ultimately does not provide and the demand is not there, then this is a voice that also must be recognised and heard.

Pro-active intervention to create a false market using public money will either mean that public funds are paying twice to provide for competition in a market that would not be sustained without this intervention. This would potentially compromise independence of the services in that there is now a tension created to compete for these funds and therefore indirect government intervention and influence; this intervention will not guarantee quality of this provision; and lastly, the concept of this paid for provision being commercialised by ITV and allows them to sell commercial airtime around this output is nonsensical.

1. Do you agree that securing plural sources of impartial news for the Nations, locally and in the regions should be a key priority?

We are of the view that greater clarity needs to be provided in relation to why this situation has arisen in relation to the original obligations placed upon current PSB providers.

We would also question the consequences of non-compliance to these original conditions.

We are of the opinion that currently this should not be a key priority for DCMS.

2. Do you agree that sustainable, impartial news in the nations, locally and in the regions is likely to require some top-up public funding?

It remains to be demonstrated that ITV would be willing to surrender their PSB licence and status as a consequence of the obligation to provide these news services.

We do not consider that currently there is the demand within the nations and the regions that if the BBC print and radio services are maintained that there would be a need for further intervention.

We would also question if the public would be willing to pay twice for differing suppliers, or if they would expect that those that originally agreed to provide these services should be allowed to cede this responsibility without any consequence.

3. Do you agree that the Television Licence Fee should be used to support impartial news in the Nations, locally and in the regions in addition to BBC services?

We would have serious concerns if this approach were to be adopted. Government intervention with reference to how the licence fee is expected to be used is already managed effectively via BBC Trust. Whilst there are areas for improvement in this management chain, fundamentally the British public accepts that the BBC is returning value for money; is to be trusted and



is providing an independent and valuable service that they remain proud of.

A major concern that we would have is how this would ensure that the BBC would continue to have adequate funding to provide the service that is already in place – would the public really be willing to pay for news services twice – one in a commercial environment and one without? Further, how would these funds be managed – is the allocation to be determined by Government, and if so, how would the independence of these services be maintained and guaranteed? Further, how would future decisions and allocation of funds be determined – is it acceptable that the Government, which already must approve BBC licence fee conditions, would now be able to take that funding away and direct it where it determines?

In doing so the BBC and the other bodies would be subject to Government determination in relation to allocation of finance – and this is to be discouraged especially when it comes to the provision of news services. It is a widely held belief that if Thames had not broadcast the 'Death on the Rock' investigation, that they would have retained their broadcast licence and that Carlton television would have been unsuccessful. It is this type of dependency that Ofcom and the revised licensing regime managed to remove.

We are fundamentally opposed to this concept – on the basis that we do not believe that this funding arrangement would be in the best interest of the consumer; in maintaining the independence of news provision; and that state funding of commercial news provision would compromise and perhaps have a negative impact upon the local markets.

4. Do you agree that any funding within a contained contestable element of the television licence fee not required for impartial news should potentially be available to fund other forms of essential public service content, or should such funding be limited to news?

Ofcom's recent Broadcast Code review consults upon the opportunity for the provision of Public Information Programming – which is described as programming provided by non-profit making organisations in order to provide programming which is of public service interest.

The concept of contestable funding separate to that of the licence fee is one that needs to be carefully considered – in that the funding must not be used to create an imbalance within the market place; support current PSB providers to create content that they have been obligated to provide for – or to bolster services that the market determines is not necessary.

We are unclear as to how such a fund would be managed, governed and what the objectives of such funding would be. If the intention would be to close gaps in PSB programming, then this could be a method for PSB services to begin to deliberately decrease their output in particular categories which they are finding difficult to commercialise – which would only increase the level of state funding and intervention into broadcast schedules.

We would question the breadth intended behind this type of programming,



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how this would fit in with Ofcom's PIP concept, and also how this would be aligned to COI's objectives in relation to public policy?
 If there is a desire for DCMS to ensure that certain types of programming remain catered for, then we would suggest that DCMS should consider providing some form of contestable funding for the independent production sector perhaps in supporting co-funding for non-PSB service programmes.

5. Are there alternative funding mechanisms that you believe would deliver the above objectives more effectively?

The question assumes that we agree with the objective as being a priority – which is not the position that UKTV has taken. We believe that if such an objective is deemed to be necessary that it needs to be separated from government funding, and that 'top slicing' of the licence fee would be unacceptable.

We remain of the view that we would wish to understand the regulatory position if ITV are unable to provide for the services that their licence requires of them before a state intervention is required.

We also believe that a wider public consultation and information programme would need to be undertaken in order to ascertain the public's willingness to either pay twice for news providers – or perhaps to have BBC funding reduced in order to provide for an alternative provider.

An alternative funding mechanism may be to review the spectrum allocation for PSBs and obligate that they provide broadcast airtime which would not be permissible for them to commercialise, but that the funds derived would be returned for news provision.

Further, perhaps due to the heritage afforded by the market historically, commercial PSB services should have to contribute and create a contestable fund from which news provision could be afforded. There is a view that ITV+1 may be launched soon; that ITV digital extensions may move from free to pay; and that the appetite is ripe for CRR review. All of these would be undertaken purely for commercial opportunities, and yet there is no sense of repayment for the years of dominance afforded to the distribution of ITV brand.

The concern that we have is that regulatory review is not being undertaken collectively or holistically. What we are concerned about is that each of these reviews carried out independently and separately allows greater commercial flexibility for the PSB providers, however, there would appear to be no central body taking into account of all the changes and the aggregated impact that these changes may have on the market.

6. Do you agree with the proposal to set a maximum percentage of Television Licence Fee revenue which could be set aside as a contained contestable element?

UKTV do not accept the premise that funding should be sought from any other source beyond those that are currently obligated to provide for the



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We also believe that with the deregulation afforded to the commercial PSBs that this should be constructed in such a way to bolster the provision that they are intended to provide.

We could accept contestable funding as a direct result of a percentage tax being imposed upon commercial PSB services, but do not consider for all of the reasons given that the licence fee is the correct route forward for this. We accept the changes in relation to media ownership changes within the local and regional markets – however, we would be keen to see that this can be achieved without creating an anti-competitive net effect upon other services within their own regions.

7. Do you agree that amending the BBC Agreement could provide the necessary protection to the BBC's future funding and independence?

We do not accept that the focus should be on the BBC licence fee to support this funding in the first instance.

We do not believe that agreeing a percentage at this point would provide adequate protection for future amendments to this percentage.

Beyond the under spend arising from the Digital Switchover Fund we do not support any amendment to the licence fee in order to deliver these services.

8. Do you agree that the use of any contained contestable element within the Television Licence Fee should be restricted to the public purposes set out in the BBC Charter?

Again, we reject the proposal to include a percentage of the licence fee. We are of the view that any contestable funding should only be provided for PSB programming, but that this should not be afforded through cannibalising the BBC Licence Fee.

Regards,



Ray Blaney
Head of Regulatory Affairs



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