

Welsh Assembly Government Response to Digital Britain Interim Report

1. Introduction

The Welsh Assembly Government welcomes the opportunity to contribute to and participate in the work being taken forward by the UK Government on Digital Britain.

In the following response to the consultation on the Digital Britain Interim Report produced by DCMS and BERR, the Welsh Assembly Government has been informed by the work of the Broadcasting Advisory Group. The Group was established in October 2008 by the Minister for Heritage and produced a report to the Ofcom consultation on the Future of Public Service Broadcasting in December 2008¹.

In framing this response we have also taken account of the final recommendations of Ofcom following its review of public service broadcasting. We have also considered Ofcom's continuing work on next-generation broadband access, the current review of the mobile marketplace and current and forthcoming work on the release of spectrum as part of the ongoing Digital Dividend Review.

2. Priorities

We recognise that the UK Government will have to prioritise actions and spending in deciding the way forward, but the Welsh Assembly Government is concerned that in this task of prioritisation we should maintain a clear separation between the need to sustain public service content and the need to develop the next generation of digital infrastructure. Both should be important aims of public policy. The one aim should not be pursued at the expense of the other.

3. Work streams

We note that the Digital Britain report envisages the swift establishment of very many work streams to get to the next level of detail. The Assembly Government believes that a high level of involvement with these processes from the nations needs to be established at an early stage. We believe that it will be particularly important for the work to extend the broadband network, in order to draw upon the considerable expertise Wales has gained in this area.

¹ "Communication and Content - The Media Challenge for Wales", Welsh Assembly Government Broadcasting Advisory Group, November 2008.
<http://wales.gov.uk/docs/drah/publications/081203commen.doc?lang=en>

4. Response

4.1 Digital Networks – Communications

ACTION 1

We welcome this commitment to assess the necessary demand-side, supply-side and regulatory measures to underpin existing market-led investment plans. Indeed we raised the need for this work to take place in our response to Ofcom's '*Future Broadband: Policy Approach to Next Generation Access*'² consultation in 2007 where we identified a central role for Ofcom, in partnership with Government and industry, to:

- Conduct an in-depth, quantified study of the economic impact of established NGAs in overseas markets
- Establish a framework to assess the full economic and social value of NGAs within the UK
- Assess the long-term potential for market growth
- Where deployment is already taking place, to assess costs, pricing models, technical options, real-world performance, interest from 3rd parties in developing and delivering services on these networks and end-user demand.

We also believe that consideration must be given to the granularity of the data that is collected on market information relating to supply and demand within the UK. It is currently difficult to identify, compare, monitor and track market trends in a consistent and statistically robust manner at the sub-UK and sub-Wales levels. While progress made by Ofcom in this area over recent years has been positive we believe more needs to be done and would welcome an opportunity to join and proactively contribute to the work of the proposed Government-led strategy group.

The focus of this Group should not just be on the access network but should also include the core network. Both the core and access network markets need to be evaluated to determine where, if any, intervention should take place. For example, intervention in the core network may increase competitiveness and remove barriers to commercial access network deployment.

We consider it vital that officials from the Devolved Administrations, including the Welsh Assembly Government, are full partners with colleagues from UK Government and Ofcom to take critical thinking on this central tenet of Digital Britain forward. The sooner that core partnership can begin to function in earnest the better, given the compressed timescale we are all working to.

ACTION 2

We believe that a significant economic bottleneck in Wales remains in the core network. Projects such as the Welsh Assembly Government's FibreSpeed project seek to remove this barrier by stimulating competition in the provision of next-

² <http://www.ofcom.org.uk/consult/condocs/nga/responses/WAG.pdf>

generation network services. The project provides an open-access telecommunications infrastructure network in North Wales offering a range of advanced wholesale products to service providers on an equitable, non-discriminatory and fully transparent basis.

FibreSpeed is expected to have a positive impact on the converged communications market and the economy in the area by making available an alternative infrastructure that could be used by other network operators such as local loop unbundlers (LLU), fixed network operators, system integrators; wireless and mobile network operators. This move to develop wider wholesale market in access in the North Wales area will prove a useful case study for assessing any developments that are needed in the regulatory environment and, if successful, may help to stimulate other projects elsewhere in the UK.

In addition, the Welsh Assembly Government response to Ofcom's Next Generation, New Build³ consultation in June 2008 expressed the view that access to the duct network (including utilities) may offer one solution to promoting competition in the market place, particularly in new build scenarios.

ACTION 4

The Welsh Assembly Government believes that the public sector should adopt a partnership approach at this stage, such as assisting with demand stimulation, while we consider the possible need for financial stimulation. It is conceivable that some form of spatially targeted public sector intervention may be required as areas of market failure become more clearly identified. Work should be undertaken now to evaluate and assess current models of public sector investment, such as FibreSpeed.

Equally the future role of the public sector needs to be considered alongside the actions described in the context of the discussion and debate around Universal Service captured in Digital Britain Actions 17-21. Ultimately, the focus of the debate must be led by the services required rather than on the various flavours of infrastructure that can enable their delivery. This approach will enable the public sector to better target future financial investment and achieve specific economic and social outcomes. It is also our view that a focus on services and applications needed would usefully inform future regulatory decisions, a point we expand upon in our recent response to Ofcom's Draft Annual Plan⁴.

ACTION 5

The Welsh Assembly Government welcomes the work announced by CBN in Manchester in November 2008 to create a national framework for local NGA developments. We welcome the opportunity to input into the work being carried out by CBN and believe that Ofcom also needs to be proactively involved in this process to ensure a successful outcome, especially with regard to the development and agreement of technical standards. We believe that

³ <http://www.ofcom.org.uk/consult/condocs/newbuild/responses/WelshAssembly.pdf>

⁴ <http://www.ofcom.org.uk/consult/condocs/draftap0910/responses/welsh.pdf>

management of the transition from basic services to NGA is only achievable at a local level and the work being carried out by CBN will go some way towards this.

ACTION 6

According to Ofcom, 2G coverage in Wales is broadly on a par with the rest of the UK but the geographic coverage of 3G services is the lowest in the UK. Take up of 3G handsets by Welsh consumers is the highest in the UK, perhaps indicating that demand for 3G services already exists in Wales. Both 2G and 3G geographic coverage are issues in Wales due to the mountainous terrain and consequent pattern of population distribution. This is evidenced by anecdotal accounts of mobile notspots, which are unlikely to be addressed without some form of intervention – regulatory, financial or otherwise.

The focus of the Welsh Assembly Government is on working with Ofcom and the mobile industry to maximise the commercial deployment of network infrastructure in such notspots. We believe that notspots could be minimised through the increased use of national roaming agreements, allowing citizens to access any network. We believe this should be over and above any similar steps to facilitate improved access to emergency services via mobile network infrastructure. We would welcome continued steps to facilitate mast sharing between operators to increase network coverage without the need for new mast deployment. Operators should be encouraged to co-operate in order to stimulate investment in areas where it may not be economically viable for one operator to provide a service, however, collaboration would encourage investment to make this a viable option, for example, through RAN sharing agreements.

The availability of spectrum will have an effect on competition in the mobile market place and we would wish to see measures developed to ensure that the future release of spectrum will lead to increased service availability in under-served areas, such as rural Wales. We expressed the opinion in response to Ofcom's consultation on the Digital Dividend review in June 2007 that appropriate spectrum should be reserved for wireless/mobile broadband services.

Furthermore, those spectrum awards should be made on the basis of their value to society, not on the basis of highest financial return. We believe that licences to use reserved spectrum should be awarded in such a way as to secure service delivery on a regional or even sub-regional basis. This may encourage smaller, alternative wireless/mobile broadband providers to bid for spectrum (where it would not be feasible for them to bid for a UK-wide licence), thus allowing specific, known problem areas in a region to be geographically targeted.

Ofcom's current consultation on 'Digital Dividend: clearing the 800MHz band' identifies that the 800 MHz band needs to be released to stimulate innovation and competition in the wireless communications sector. The Welsh Assembly Government believes that this will be of great benefit to the deployment of mobile broadband services, thus enabling the concept of a broadband USO to be implemented. The role that mobile operators can play in the delivery of any revised USO for broadband should not be underestimated as it may lead to

further development of 4G/LTE services. Operators would then have to compete on services and pricing rather than coverage, which will ultimately benefit consumers (both citizens and businesses).

4.2 Digital Networks – TV

ACTION 8

The report raises the possibility of extending the marketing and communications activity around Digital Switchover to digital opportunities beyond digital broadcast television. To avoid duplication such a proposal would need to be integrated with the existing work of the Assembly Government in promoting the roll-out of digital services and digital inclusion.

4.3 Digital Networks - Radio

ACTION 9

Furthermore if coverage is to be truly universal that will be conveniently dependent on this policy being driven on a pan-UK level from the outset.

The report contains a commitment to develop and roll out DAB digital radio in the UK and to complete a full migration of radio to DAB. The Assembly Government has substantial reservations about this plan.

Even accepting the principle of radio's migration to DAB, we believe that the criteria proposed, while reasonable in a UK context, should also be designed in such a way as to reflect Welsh circumstances. At the point at which the proposed criteria are met on a UK basis, there would almost certainly be a significantly lower level of DAB penetration in Wales, in particular for Wales based services, such that the ending of analogue transmissions could not be justified.

We would also wish to be able to reassure Welsh listeners that the proposals for DAB would at least make the population coverage and sound quality currently available through FM. Full DAB roll-out is unlikely to be commercially viable for small commercial radio companies. Radio Wales and Radio Cymru are carried on DAB only on two local commercial multiplexes which serve Cardiff/Newport and Swansea. Ofcom has tried to secure local commercial multiplexes for the rest of Wales but they've yet to be rolled out.

Even FM has not achieved universal coverage in Wales. Currently, BBC Radio Wales' FM service reaches only 60% of the population, with many more listeners relying on AM. (This incidentally allows people outside Wales to listen too).

In Wales several local radio stations, as well as the BBC Wales national service, Radio Wales, still broadcast on AM rather than FM, and in cars AM listening is still important because reliable FM signals are difficult. It would therefore be worrying if Government signals meant that in future car radio manufacturers

excluded AM from new car radios. The Digital Britain report makes no mention of other digital radio technologies such as DRM (Digital Radio Mondiale) which is a way of making the AM frequencies digital and is already used in some other European Countries. This would be a better digital route for areas which don't currently receive FM. It is hard to see what use the AM spectrum would be put to, if not for radio.

The proposals also raise major issues about the future structure of independent radio provision in Wales, where it is not easy to establish viability outside the larger conurbations, and where some community radio stations have larger footprints than conventional ILR stations. There may be a potential for harmonisation of these two kinds of licences on a wider front than mere duration. The Community Radio sector is not only providing some of the 'localness' which has been lost from commercial radio, it is also proving important benefits in the field of media literacy.

At the same time Wales has no national commercial radio competitor for the BBC. The recent award of the last FM licence, for North Wales, to Real Radio, means that there will be a service able to reach the majority of the population, though because of rules of 'localness' it won't be a national service at all times.

We are concerned that the recent Ofcom Review of Radio did not adequately address the particular Welsh context and that a separate review of radio in Wales would be justified. The Assembly Government also believes that further consideration should be given to devolving the radio licensing and regulatory framework for stations in Wales while still maintaining a UK licensing framework.

The proposed Digital Radio Delivery Group should include representatives from the Nations of the UK, including Wales, as should the Committee on localness, which has been established under the Chairmanship of John Myers.

We have previously expressed the opinion that the Welsh Assembly Government would not be in favour of digital switchover unless there was a guarantee of at least 97% coverage for DAB throughout Wales – a technically difficult and costly target. The UK criterion has now been set to 90% local DAB coverage. The key for the Welsh Assembly Government is that the coverage in Wales should be no less than that of the rest of the UK.

4.4 Digital Content – Original UK Content

ACTION 14

The Assembly Government is concerned that this aspect of the final Digital Britain report should respond to the recommendations which our Advisory Group on Broadcasting submitted to Ofcom in December 2008.

News for the nation

Concern about the paucity of Welsh channels of information in print and broadcast has prompted much public debate, particularly since the establishment of the National Assembly for Wales in 1999. Wales faces an even greater challenge than certain other UK regions in this respect. Citizens in Wales certainly do not have the choice of regional print titles available to citizens in Scotland or Northern Ireland.

For these reasons, the Assembly's need, as a still relatively new and novel institution, to develop a deep level of engagement with the public has represented a large and pressing challenge. In its first decade it has faced the challenge of writing itself into the narrative of people's lives from a standing start.

These efforts have not been helped by the almost total absence of references to Wales in the news pages of London newspapers and the central news services of the BBC, Sky, ITV and Channel 4. Only in 2008 did the BBC begin to react to this important editorial challenge, following the report by Professor Tony King for the BBC Trust. There has been no comparable response from any of the other London-based media.

This has only redoubled the need for a continuing active response from Welsh media, and for a raised level of journalism within Wales. This has not been easy to achieve in an era when the economic and technological pressures on original journalism have been severe, often combining reductions in staff with a requirement for increased multi-media output. Indeed, some commentators have likened constitutional development, on the one hand, and journalism and media development on the other, to two vehicles on a motorway travelling in the opposite direction. The over-riding policy objective must be to bring the two into a positive alignment.

The prospect of large reductions in the output of television news and current affairs following the cut in the ITV regional news output is all the more forbidding given the absence at the all-Wales level of any speech radio competition for the BBC and the very limited nature of Welsh print media.

ITV Wales has a long history of producing non-news programming for Wales and, until 2008, it was producing 4 hours a week of non-news programmes covering all genres. In 2009, this will fall to one and a half hours of non-news programmes. Further, Ofcom has made it clear that, post-2011, ITV is not committed to making non-news programmes in Wales with the consequence that BBC Wales could be the only producer of non-news content for English speaking audiences in Wales. These factors will result in a serious lack of choice for audiences in Wales and will adversely impact on independent production companies in Wales.

The audit conducted by the Institute of Welsh Affairs in 2008 described a situation where "each day only 100,000 readers in Scotland read newspapers with almost no Scottish content, whereas in Wales 1,760,000 are reading papers

with virtually no Welsh content.”⁵ The Assembly Government is anxious to ensure that this imbalance is addressed in the development of UK policy structure following on from the Digital Britain report.

For all these reasons the Assembly Government welcomes the fact that the Digital Britain report and Ofcom’s final report both recognise the importance of sustaining an editorially strong competitor for the BBC in the news field. We support Ofcom’s proposal that a news service for Wales should be provided, within slots made available by ITV, by a third party, contestably-funded. It is possible that the whole process, including distribution, could be made contestable.

The Assembly Government welcomes the innovative proposals aimed at both regional news production referred to in the interim report. The BBC’s proposals for partnership arrangements with ITV or other parties need to be fully explored. Such an arrangement could make an important contribution towards the establishment of a sustainable news service. Further detail will, however, be required in order to determine whether additional public funding is required to provide a service of the quality that Welsh viewers will expect.

The S4C proposal also merits a full examination. It would be important to establish that any such development was not at the expense of S4C’s Welsh language service. The S4C authority will also need to consider provider implications of the development of this nature. The Assembly Government has highlighted the need to explore the potential synergies which the existence of S4C makes possible. It will, at the same time, be important for the potential impact of any such development on the broader ecology of broadcasting in Wales to be considered very carefully.

English language general programming for Wales

We are concerned that both the Ofcom Final Report and the Digital Britain report have seriously under-estimated the importance of general programming in the English language for Wales, in light of the reduction in ITV’s non-news English language programmes in Wales. The Digital Britain report, in particular, fails to define the requirements of the nations other than in terms of news provision and quotas for network production. This is a fundamental flaw. In our view the issue of general programming in English for the Welsh audience is not in any way secondary to the issue of sustaining news services in Wales, but ranks alongside it for economic and cultural reasons. Many facets of general programming also make a contribution to an informed democracy.

The Welsh Assembly Government continues to believe that this is a key issue for viewers and which needed to be reflected in the development of UK policy in this area. It is also important this matter is not confused with the issue of network production quotas for the nations which serve a different, if related function.

⁵ IWA: Media in Wales - Serving Public values. 2008. p57

At a time when so much Welsh performance talent is flourishing in the wider worlds of film, theatre, opera, music and musical theatre outside Wales, we are very concerned that television drama, comedy, light entertainment, music and arts, created out of and for Welsh circumstances, should be so severely under-developed. The current English language provision in these areas does not do justice to the sort of cultural legacy that Wales commands.

We cannot hope to see Welsh talents bring genuine diversity to UK networks, if there is not the space for them to develop their own voice at home in the language of their choice. Drama lies at the heart of most high quality television services, yet is all but absent from English language services in Wales. Welsh society and politics lacks the regular challenge of comedy and satire in both languages. Light entertainment taps only a fraction of Wales's deeply rooted performance culture. The exposure given to the diverse arts of Wales, at a time when arts organisations themselves are seeking new partnerships, is minimal.

As the report of our Broadcasting Advisory Group made clear, the Welsh Assembly Government believes that conditions must be created that allow the total English language programme provision for Wales to grow substantially in volume, range and ambition.

We believe that the range of possible funding sources identified in Ofcom's final report, singly or in combination, could deliver the scale of funding needed to realise this potential.

Network Production Quotas

The Welsh Assembly Government furthermore welcomes the Digital Britain report's recognition of the important role played by regional production and independent production quotas as an essential part of the social and economics benefits arising from public service broadcasting, and we suggest this should be built on and developed further.

Newspaper Merger Regime

The Welsh Assembly Government welcomes the proposed OFT review of the merger regime in relation to local and regional media and wishes to encourage the review to consider specifically the situation in each region/nation as well as in the UK as a whole. We believe that the review should make sure that these issues are specifically addressed in Wales as the economics of modern news productions to a large extent is determined by critical mass and therefore inventive solutions need to be found for the situation in Wales given its relatively small population.

In order to ensure the maximum benefit, as well as the fullest and most open competition it would be desirable to reach a conclusion on this review of the merger regime before any decision is taken to determine who would provide a second English language television news service for Wales.

ACTION 15

We welcome the proposal by Digital Britain to consider how the relationships between independent producers and those who commission their ideas could evolve in the future.

For the future, Public Service Content provision should ensure that audiences in Wales have a choice of good quality programmes related to their lives and the region in which they live. Alongside this, to reflect the diversity of the whole of the UK, we must ensure that future commissioning will encompass the best ideas and talent from throughout the whole of the UK, borne out of the desire to unearth the best content and creativity that the UK has to offer.

We would urge Digital Britain to involve and consult the Welsh Assembly Government and PACT when looking at this issue further.

ACTION 16

The Welsh Assembly Government welcomes the suggestion in Action 16 to put Channel 4 at the heart of a dedicated second public service organisation providing competition for quality to the BBC at a UK level. However, apart from references to a recasting of the Channel 4 remit, neither the Ofcom final report nor the Digital Britain report makes it clear how this would affect services to the nations. We have assumed two areas of impact, one firm and predictable and the other hypothetical.

If there is to be a newly constituted second public service broadcaster we believe that it must adopt the same network production quotas for the nations as the BBC. We do not believe that the 3% quota for the nations proposed by Ofcom is acceptable.

The more hypothetical impact would arise in the event that ITV ceased to be a public service broadcaster. Were this to happen Channel 4 might be required to play a fuller role in the nations, but it would be necessary to ensure that that fact was fully taken into account in the structures and policies of the organisation.

Unlike Scotland, Channel 4 has no staff based in Wales and that this could infringe upon the opportunities Channel 4 presents to Wales and their understanding of Wales culture when attempting to deliver Public Service Content that includes Wales.

4.5 Universal Connectivity - Network

ACTIONS 17 and 18

The Welsh Assembly Government has studied universal service models across the globe and has been calling for a robust debate about a possible Universal Service Obligation for broadband in the UK for some time, so we welcome plans

to develop a realistic and deliverable universal service model as part of Digital Britain.

It is vital to understand and agree the underlying aims of such a policy, as this will have a major impact on the appropriateness of the various options that might be considered. For instance, if the ultimate aim is simply to deliver a ubiquitous, minimum downstream bandwidth, with no scalability built in for future services and no prescribed upstream, Quality of Service (QoS) or charge controls, then this could potentially be realised by a combination of existing satellite and mobile broadband services where needed (i.e., in areas where current DSL services cannot deliver the minimum standard). However, we would argue that the economic and social benefits of such an approach would be extremely limited.

In our view a universal service model must be designed that will maximise economic and social benefits. A relatively modest USO has the potential to force NGA deployment. For example, DSL would not be a viable option for any supplier wanting to deliver a 2Mbps service to a remote, rural building many miles from the serving exchange. If the market was *legally obliged* to deliver an affordable service with defined and realistic upstream, contention and other QoS components then a significant investment in next generation technology would be needed – which could deliver a faster, more scaleable service, beyond the minimum scope of the USO. Taking fibre closer to the customer might well be a solution, removing the distance related issue which is specific to copper last mile infrastructure whilst enabling delivery of NGA speeds at the same time. In such a scenario, the supplier would be likely to offer these services to as many customers as possible along the route of the new deployment, to offset costs and to maximise potential revenues. In this way, NGA roll-out would be accelerated.

Questions that we should be considering include:

- What are the economic and social benefits of a broadband USO?
- Will a USO be designed to primarily benefit businesses, citizens or both?
- Who will be responsible for delivering the USO?
- How should the mandated level of service be defined? (i.e., upstream, downstream, contention, latency, data allowances, other QoS criteria?)
- Should constraints on pricing be considered? Will some consumers have to accept that they must pay more for broadband because of where they live?
- Should an open access model be stipulated, to stimulate competition in the delivery of access services?
- What are the relevant constraints of existing models for delivering service? For example, the very low data allowances and very high additional usage charges of typical mobile broadband contracts are acceptable for a supplemental, roaming broadband solution. However, it is likely that most consumers would find such a model entirely unacceptable as a substitute for traditional “fixed” broadband models where data allowances are much higher (necessarily so given typical patterns of usage and the proliferation of video) and penalties for excessive use are non-financial.

- Will a new USO simply focus on improving access infrastructure and the delivery of retail access services, or will it be a more sophisticated instrument which can impact upon the evolution of core network infrastructure and trunk/wholesale bandwidth services?
- What will the impact be on the existing policies/delivery programmes of the UK Government, the Devolved Administrations, Unitary Authorities, and Regional Development Agencies etc.?
- How will any USO be funded? Scrutiny of the several, different models which already exist globally would be a good starting point. For example, in the US a proportionate industry levy on telecommunications services is applied, creating a fund to support infrastructure build in economically unviable areas. In Switzerland, where a broadband USO came into force in 2008, USO licences are publicly tendered to the lowest bidder or to the bidder who requires no support for universal service provision.
- Who will engage with Authorities in other states to gain an insight into their thinking and the extent to which benefits are being realised?
- In a model where the industry bears the full cost of delivering a broadband USO in the UK (an approach we would NOT favour), should provision be obligatory only where costs are not excessive (as in the current telephony USO), or would this simply reinforce a new digital divide?
- How often should any new USO be reviewed (over and above any European requirement to do so)
- Is a significantly different approach to regulation also required to maximise benefits from any new USO? (i.e., one where consideration of economically and socially beneficial end services and the entire value chains which enable these services to be delivered to businesses and citizens is the starting point for regulatory thinking, which then holistically informs joined-up regulation of the separate markets defined by the EU that contribute to these value chains). If so, how will this be mandated?
- How will benefits be tracked?

We consider it vital that officials from the Devolved Administrations, including the Welsh Assembly Government, are full partners with colleagues from UK Government and Ofcom in taking critical thinking on this central tenet of Digital Britain forward. The sooner that core partnership can begin to function in earnest the better, given the compressed timescale we are all working to.

5. Conclusion

The Welsh Assembly Government looks forward to continuing this work on Digital Britain with the UK Government. We are content to be an integral part of the individual work streams and to continue with this work for the duration of the project.