



**SMALL SCREEN: BIG DEBATE – CONSULTATION
ITV PLC RESPONSE**

March 2021

[Redacted for publication]

1. EXECUTIVE SUMMARY

2021 is a critical year for Public Service Media and the UK's wider TV ecology and creative economy

The decisions we take this year about public service media will determine the extent to which the UK will continue to have a thriving national TV market serving all citizens, with public service media at its heart, alongside and participating in a thriving global market.

The huge value people in Britain see in what Ofcom rightly calls Public Service Media (or 'PSM', which we adopt where appropriate in this submission) was strikingly set out in Ofcom's consultation. The evidence amassed by Ofcom illustrated particularly the enduring importance of free-to-air, mass reach television from the existing PSB institutions in bringing people together right across the UK, regardless of ability to pay, supporting our culture, democracy and creative economy. PSM promotes and develops our shared values, national resilience, furthers the Creative Industries and nurtures Britain's soft power abroad.

Indeed, so compelling was Ofcom's description of the benefits PSM brings to the UK and its citizens, we should now move on from the endless debate about the purposes or value of PSM and instead shift attention to the development of a plan to sustain it for the long term.

But even as a consensus around the importance of PSM and the need for reform grows, so at the same time the commercial PSBs are faced with the immediate and serious impact of the proposed ban on HFSS food and drink advertising on TV before 9pm.

This intervention will, on the evidence, make no difference to reducing childhood obesity. But it will remove a colossal amount of revenue from commercial television [3]. It will also remove significant value from the regulatory assets – DTT spectrum and linear EPG prominence – that underpin current PSB obligations, with serious consequences for the viability of the commercial PSM system.

This blow will be intensified should the government fail to ensure a level playing field between TV and online, shifting the balance of power further towards the online platforms. And all this as commercial television and the wider creative sector seek to build back better after the serious impact of the Covid pandemic. It is critical that future policy related to PSM is firmly evidence-based – and that legislation to nurture PSM is brought forward as swiftly as the HFSS legislation being passed will curtail it.

The institutional PSM model delivers a scale of impact that alternatives cannot match

It is clear from Ofcom's consultation that institutions matter. ITV plays a unique PSM role, offering the best UK content to everyone, for free, provoking, hosting and shaping national conversations, delivering a scale of reach unmatched beyond the BBC. This means:

- *Programmes with a social purpose – the best UK content for everyone, for free:* At the heart of our vision is compelling UK-focused content, showcasing the people and places of the UK. We are dedicated to delivering a range of programming, promoting both on- and off-screen diversity.
- *High quality, trusted news for everyone:* ITV provides high quality, trusted news (in peak times, maximising public value) supporting the UK's democracy for all audiences. It also means plurality of news provision and, for ITV, reaching geographies and demographics less well served by other news providers.

- *Mass Reach:* Maximising the delivery of public value requires consumption at scale. ITV is able to deliver mass audiences, bringing people together at a scale unmatched beyond the BBC. 99% of people in TV owning households watched ITV in 2020, 37m did so each week, and this will endure for some years to come despite the trend towards online viewing.
- *Live and on-demand delivery:* wherever and whenever you want. ITV is investing in developing our digital products to make sure we can cater to the increasing number of viewers who are choosing to view content on demand, and on multiple devices
- *Contribution to the creative economy:* We spread opportunity across the UK by building on our UK heritage and our network of nations and regions bases and production hubs, particularly in the north. Nearly half of ITV's group employees are based outside London, while research by Nesta shows that London's share of employment in film, TV, video, radio and photography has risen from 36.5% in 1991 to 54.9% in 2018.

ITV's history and resulting business structure have seen it emerge as a global business but one at the heart of the UK's nations and regions, reflecting the whole UK back to itself.

Perhaps the best encapsulation of the importance of an institutional PSM system, delivering free, universally available PSM services, has been illustrated over the past year. [X]

The PSB institutions responded immediately, at scale, to inform, support and entertain the UK, offering content that connected people when we had to stay apart. We innovated rapidly to stay on air and comply with government guidelines, producing programmes like *Isolation Stories* which reflected in real time with the human impact of the pandemic. We proved critical to our national resilience. Facing an emergency, our greatest since the Second World War, we relied more than ever on our most popular TV channels to communicate key Covid public service messages to mass audiences, and to scrutinise government performance as well.

There was no delay whilst proposals for provision were tendered, no need for instruction or quota obligation from regulator or government – the response was instinctive, in the DNA of PSB institutions. It was also very clear to everyone where they should go to find the information, support and British entertainment – it was concentrated on the PSM services rather than spread across many different services and for most people was relatively easy to find and access. This was in marked contrast to, for instance, global SVODs services, which have offered those willing and able to pay great escapism with high quality content but no sense there is a global crisis outside our doors or how, as citizens, we should respond to it.

An ongoing central role for ITV within the PSM system would secure the continued presence of an institution with PSM at its heart. Of course, the settled national TV market of the past 50 years is being radically disrupted. But, as we outline in this submission, as a society we have the power to shape the outcome of that disruption so that it works for all citizens of the UK. It is up to government and Parliament to decide the future of PSM and not global technology platforms. Recent events in Australia have helped to illustrate that all liberal democracies are facing the same challenge – how to regulate online monopolies in the public interest – and that even the government of a much smaller state than the UK can still set rules that work for them.

Against this backdrop, it is worth considering what the UK might well lose in the event that ITV ceased to be a PSM. It is clear that ITV's future contribution should not be taken for granted. Nor should its continuing participation in the system – we are keen to remain a PSM, but not at any price.

The future of TV: online and global, but also national?

TV is globalising very rapidly as distribution via the internet becomes more and more widespread. Despite such rapid shifts in consumer behaviour, PSM is still viewed at scale and valued by people in the UK. Ofcom's research showed clearly that people in the UK want both the best that global markets have to offer from the likes of Netflix and Amazon and high quality national PSB services that talk to their culture, lives and experience.

Of course, there is a real opportunity in this market change for ITV as global TV producer and some opportunity as a distributor. For example, ITV has a network of production businesses around the world and our Britbox joint venture with the BBC in the USA already has [X] subscribers and is growing at pace, launching recently in Australia with more launches to come, starting with a launch in South Africa in the near future. In recent years well over half of ITV Studios' revenue has been from outside the UK.

But, at the same time, the success of our national PSM system is at risk as global platforms and their content partners are increasingly guiding and curating the choices of TV viewers globally. The UK's media market is being radically altered by changing relationships between services (such as BBC One, ITV Hub and Netflix) and the platforms that bring these services together (for instance, SkyQ, Android TV and Samsung). The platform market is becoming global, with a more fluid relationships between hardware, operating system and platform user interface. Platforms are increasingly disaggregating content owners and becoming vertically integrated (controlling both the platform and individual services). It's clear that, in this context, the ultimate ambitions of Comcast-NBC-Sky are global, not national¹ and their competitor set increasingly Google, Amazon, Disney and Netflix.

The rapidly emerging risk, so clearly set out by Ofcom (and Mediatique's report for Ofcom), is that TV markets globally become dominated by a handful of online gatekeepers, which reach commercial deals with global content operators, leaving less and less space for national players such as UK PSM. The past year has dramatically accelerated these trends and increasingly the platforms that UK viewers are using are controlled from Silicon Valley.

These trends create serious jeopardy for PSM content providers. By 2023 it looks very likely that as many as 60-80% of new TVs sold will have a Big Tech Operating System. PSBs will therefore be increasingly reliant on online platforms for access to UK audiences. As Facebook's removal of all news content from its platform in Australia recently demonstrated, there is no reason to believe that PSB content might not be removed – or refused access to major platforms in the first place – should a platform believe it to be in its interest to do so. As Julian Knight, Chair of the DCMS Select Committee, recognised:

¹ https://www.broadbandtvnews.com/2020/09/16/comcast-wants-to-channel-smart-tvs-for-global-service/?mc_cid=b4b2821b97&mc_eid=5789db1a43

“This is not just about Australia. This is Facebook putting a marker down, saying to the world that ‘if you do wish to limit our powers... we can remove what is for many people a utility.’²”

Even if PSM services are present, although large online platforms can provide significant reach, the value of that reach is increasingly captured by the platforms through their ability to control the way services appear on the platform and through mediating the relationship between the service and the audience. As Oliver Dowden, Culture Secretary, put it:

“Tech titans have become the gatekeepers of online knowledge and the custodians of virtual public squares.³”

These risks are being vividly illustrated in Australia, as its government brings in measures intended to ensure that news providers are fairly compensated by the online platforms through which people often discover and consume their work. The issue was again well summarised by Julian Knight, who observed that:

“The problem that [he] see[s] is... that these platforms make enormous sums of money, and they make them from other people's work, and they aren't returning any equitable value to those people.⁴”

It is sometimes suggested that PSBs should increasingly reach audiences through platforms such as Google’s YouTube, Facebook’s Instagram, TikTok and others, particularly given their appeal to younger viewers. We are very active on all those platforms, as we set out in this submission, but broader context is critical. [X]

It is because of these very clear threats that the PSBs proposed reforms to the regime for prominence, inclusion and fair value (on which Ofcom is consulting as part of this review) to modernise the relationship between PSMs and increasingly powerful global platforms on whom we rely more and more to reach audiences in the UK. Without such reform, there is a real chance that there will not be much of a PSM system to speak of in the years to come.

PSM providers will need to change what and how they deliver PSM in future

Of course, it is up to PSMs to do all they can to get fit to compete in a market that is transforming beyond recognition – and ITV is changing rapidly to do precisely that. But before we set out our strategy, it is important that it is viewed within the context of Ofcom’s challenge as to how PSM will appeal to younger audiences in future.

Ofcom has rightly called out the decline in PSM viewing by younger audiences as a particular challenge. It is a challenge that ITV has recognised – and been responding to – for a number of years. But while the challenge is legitimate, some of the ensuing debate has looked at the issue in isolation, ignoring the extent to which PSM is already successfully engaging young people at scale, uniting audiences of all ages and, critically, serving all audiences, not just the young. A simple binary narrative of the PSBs ‘failing’ with young audiences has taken hold, with suggestions to address this inevitably involving some combination of making more youth-skewing content, changing existing content to appeal more to a younger

² <https://www.bbc.co.uk/news/uk-56117946>

³ <https://www.theguardian.com/technology/2021/feb/26/uk-culture-secretary-warns-facebook-after-news-ban-in-australia>

⁴ <https://www.bbc.co.uk/news/uk-56117946>

audience, changing how content is distributed (mostly ‘away from linear’ in some way), and where it is distributed (mostly ‘putting more on YouTube’).

This fails to recognise the substantial appeal that ITV and others have among younger audiences – and the scale at which they continue to view our programmes. In 2020, ITV was the most watched channel for 16-34s, ITV2 was the most watched digital channel for the fourth year in a row, and the ITV portfolio delivered nearly half of all 16-34 TV audiences over 1m. ITV reaches 42% of 16-34s in an average week – 5.9m viewers – and 64% each month – 9.1m viewers.

This is true in key genres. 2.9m 16-34s watch ITV’s news and current affairs on our main channel each week. ITV held the top 2 biggest dramas on TV for 16-34’s in 2020 (Des with 2m and Quiz with 1.7m) while Channel 4’s most-watched drama among 16-34s (*Deadwater Fell*) was 20th with under 600k, Sky’s top performer (*Gangs of London*) was 27th with under 500k, Channel 5 was 41st (*The Deceived*, with under 360k) and E4 was 53rd (*Batwoman*).

We delivered extensive viewing and growth on ITV Hub, [X], with 33m registered users in total [X]. Much of the viewing often ascribed to YouTube or Netflix is not driven by original content – but by the PSBs: ITV is 11th in Ofcom’s list of the Top 100 YouTube channels⁵ and the most-watched Netflix titles in Q3 2020 were *The Fall* (BBC), *Shameless* (CH4), *Dr Who* (BBC), *Benidorm* (ITV) and *Friday Night Dinner* (CH4). 8 out of their top 10 most streamed Q3 titles were acquired.

A fixation on youth-led strategies in isolation also fails to take account of the substantial implications of that – for other audience groups, for broadcasters looking at the costs and trade-offs involved (particularly the commercial implications), and for the wider production sector and creative economies. Any policy-making based on a ‘cult of youth’ risks undermining the universal nature of PSM that remains at the heart of its success. Our own research shows that part of the attraction of ITV for younger viewers is the chance to be part of something bigger, to be engaged with shows or TV everyone is talking about from drama, to sport to news and entertainment.

None of this is to suggest that ITV is complacent about the future, nor that we should not consider how we can better serve all audiences. But it is important to recognise the significant foundations on which ITV has to build (particularly versus potential new entrants to the PSM ecology) when considering the shape of future policy – and that the future of PSM will only be secured by serving all audiences.

Our strategic vision is to be a digitally led media and entertainment company that creates and brings our brilliant content to audiences wherever, whenever and however they choose. Only through delivering this strategic vision can ITV hope to meet the challenges set out above. We’ve made a lot of progress in transitioning to becoming a truly online content business, rolling out on-demand and streamed services (now available on around 40 major online, hybrid and broadcast platforms) and expanding our global production business. But there is more to do and we need to speed up. That’s why we’ve brought our TV and online businesses together to create an integrated management structure, which will see an increasing focus on an audience and brand led approach to commissioning.

⁵ Ofcom Media Nations 2020

ITV's traditional approach to content commissioning has been to commission programmes to fill individual channel schedules (with all the inherent conditions that come with that depending on the time of broadcast, the type of programme, its target audience, slot length, channel brand fit, impact on quota compliance), and then to subsequently seek to successfully exploit the secondary rights from the resulting programmes via Hub and, more recently, Britbox.

Such a strategy has been common across the broadcast industry – not least because linear audiences have held up more strongly than many people had predicted. Indeed, this approach to commissioning is exactly the structure envisaged in Ofcom's current guidance in relation to the commissioning of independent productions, which places heavy emphasis on the division between 'primary' rights (mostly linear) and 'secondary' rights.

The issue with this strategy is that it can mean commissions for a particular linear TV channel slot are prioritised even if the limitations of the slot (channel brand, watershed restrictions, minutage rules, quotas etc) mean there might have been more compelling alternatives outside those constraints. It can also limit the number of episodes of any given commission, as there are only so many available hours in a day. It is becoming clear that if ITV is to appeal to all viewers – particularly younger viewers – in a world where content discovery and consumption are increasingly non-linear, where people like to binge-view, to consume content whenever and wherever they choose, then such an approach is no longer viable, either commercially or in attracting and retaining audiences.

Instead, ITV needs to pursue more 'purposeful commissioning' – focusing on content that works for our audiences, at scale, and aligns with our key brands – and only then working out how to best use our full range of services, broadcast and online, to maximise the reach of that content. Our main PSM channel – delivered both by broadcast and, increasingly, streamed over IP – will continue to be critical for our delivery of public value for the UK for years to come. But its role will become even more focussed on delivering those programmes capable of achieving mass simultaneous reach, as we seek at the same time to better serve all audiences using our full suite of services and brands (particularly, but not exclusively, younger audiences) with a wider range of content.

Only through such an approach can we – and our independent production partners – ensure PSM is sustainable for the long term both broadcast and online and so can continue to commission UK content at scale, to the benefit of both independent producers and UK audiences. We have a shared interest in modernisation.

We will need to build on our strong partnerships to help PSM to compete: the PSBs have a strong track record of collaboration in the public interest including via DUK (Freeview, Freeview Play), Freesat and YouView. We're excited by the potential of these free-to-air offers to deliver even more value in a connected global market. [X]

But it's crucial to recognise (a) that different ownership and funding methods place some limits on the extent of viable collaboration and (b) that partnerships alone cannot address the power imbalance between national PSM and global platforms/streamers.

It is in part the variety of PSB provision, reaching different audiences, that has been a real strength of the UK system. It allows each PSB to maintain direct relationships with their audiences (to personalise and improve audience experiences), to exercise editorial control (which represents a significant part of the value they offer to audiences through the

specialist curation of content), to develop their own distinct brands and identities (often appealing to very different audiences), and to be directly rewarded by audiences for their investment in content and innovative features (promoting healthy competition).

Maintaining a variety of high quality, distinct PSM services in future – whilst collaborating and cost sharing where we can – is essential for serving all UK audiences and for the health of PSM more broadly. Operating a single joint service or on-demand content service would risk diminishing these sources of value while exposing the joint service to all the same risks of platform disintermediation currently faced by the individual PSM services.

Absent intervention the market will increasingly not deliver everything UK viewers and policymakers want

Decades of UK industrial policy have been designed, very successfully, to increase competition to PSBs at all levels of the value chain. The arrival of a global online TV market in the UK at scale and the increasing consolidation as a reaction to that (Sky/Comcast/NBC, Disney/Fox etc) are the latest manifestations of this onward march of increased competition. The landscape today is characterised by increasingly fierce competition between national PSM and global players, disintermediated increasingly by global online content platforms with powerful TV producer suppliers.

There is, of course, much to celebrate in more competition and innovation in the TV market – in the benefits it brings through expanding consumer choice beyond the former monopoly providers and investment in content for UK consumers these new providers bring. But increased competition has inevitably reduced the consumption of content from former monopoly PSBs and, as a result, impacted on their ability to pay for the things that the market does not provide. This was inevitable as viewing fell and as the regulatory assets (DTT spectrum and prominence) became progressively less valuable as a result.

Ofcom concedes that despite rapid technological evolution, the current PSB regime has seen little change since 2003 – when there was no YouTube or iPlayer, Netflix offered DVDs, and Facebook was called Facemash – and *“urgently needs updating.”* We welcome Ofcom’s conclusion that there is an urgent need for a new framework to support an effective transition from PSB to PSM, straddling online and broadcast TV.

These pressures will be dramatically intensified by the government’s decision to introduce a pre-9pm ban on HFSS advertising on TV which will further substantially reduce the value of the commercial PSB licences and hence the public value that the PSMs can deliver to the UK unless ways are found to make up that lost value.

Our aim should be a market for TV in the UK where neither national PSMs nor global services dominate. An effective competitive equilibrium between national and global services can only be delivered by levelling the playing field – giving national PSM a fair shot in a market dominated by global competitors and aggregators far larger and richer.

As TV shifts online, without intervention we will see what we’ve seen in other online markets: the platforms extracting much of the value from content offered by national players. Without such intervention therefore, we will see the marginalisation of the free national TV services (including particularly critical content such as high quality, trusted news) versus the paid for global alternatives. The key theme of this submission, and of Ofcom’s consultation, is that UK viewers want both the national and the global to flourish.

We must ensure that any new PSM regime does not create more cost, obligation and bureaucracy where it should free up the commercial PSMs to deliver where they can have most impact and be realistic about what they can and cannot do. Nor should a recast PSM intervention be about protecting old business models (whether those of the PSMs or those of the other firms that currently benefit from the regime) or sheltering those firms from competition. It should be unashamedly about preserving and developing consumer choice and meeting the needs of UK audiences.

If these trends – and the challenges they pose to the future of the PSM system – are not addressed the real risk is that increasingly the UK wills the (seemingly expanding) PSM ends but does not deliver the economic means to achieve those ends. Urgent decisions are needed from government this year to secure the enduring value of PSM. Accordingly, Ofcom is therefore right to consider what further changes might be made alongside reform of PSM/platform rules in order to enable PSM to thrive, to the benefit of the UK as a whole.

Designing a new statutory framework for ITV as a PSM: key components

The PSM system is ultimately a creation of government and legislation. Even with transformational change from the PSMs, PSM legislation also needs a radical update for the global online era if the system is to continue to deliver for the people of the UK in the ways Ofcom’s research suggests that they want it to. Against the backdrop of a radically changing market, there are five areas where Ofcom and government need to act to secure and future-proof the PSM system for the long-term:

- (a) **Establishment of a new “PSM Operator” Regime:** replacing the current system, based on myriad different standalone legislative clauses, all referring back to a list of linear broadcast channels – with one that designates the organisations responsible and empowers Ofcom to oversee the implementation of the regime without delivery being hidebound in primary legislation for a single linear broadcast channel.
- (b) **New primary and secondary objectives for ITV as a PSM in future** defining ITV’s specific role more clearly, focused on a primary statutory objective to serve broad UK audiences with high quality content (including news services at national, nations and regional levels) reflecting life in the UK, widely available for reception and for free. Below that high level objective could be a series of elements that would be expected as part of meeting that objective and that we set out in this submission, for instance in national, nations and regions news of high quality, scale, reach and impact or around high levels of origination or reflecting the UK etc.

We also propose a secondary statutory objective relating to production sector requirements, primarily production outside of London and commissioning from independent producers. We are proud of the positive economic impact ITV has had, in particular supporting a thriving independent production sector and the significant amount of production which takes place outside of London. We want and expect that many of the same benefits would be delivered under a new regulatory model, particularly in terms of the scale of our commitment to making content outside of London and support of the independent production sector.

Such an approach of primary and secondary objectives will better align with the views of audiences expressed to Ofcom, the likely competitive position and market provision, and ITV’s strengths as a digitally led media and entertainment company.

- (c) **A new settlement between PSM providers and platforms to secure prominence, inclusion and fair value:** from the platforms that distribute broadcast, streamed and on-demand content from the PSMs. Such a regime should provide:
- a. **Effective guarantee of prominence:** delivering Ofcom’s ‘top of list’ linear principles online.
 - b. **Right of inclusion:** securing access to those platforms to which prominence rules apply
 - c. **Fair value for PSM content.** Prominence isn’t enough on its own if global platforms can use their financial muscle to squeeze the value out of PSM investments (e.g. standard online platform terms often require content providers to agree a 30% ad revenue share, more in the case of YouTube). Regulation must guarantee us the opportunity to negotiate deals that fairly reflect the value of our risky investment in UK content to UK audiences.
- (d) **A more agile and flexible regulatory regime to foster innovation and meet audience needs:** reflecting the rapid changes in technology, the market and viewer behaviour, and the implications for what the PSM regime can deliver. We set out detailed thinking on the necessary new approach to regulation in this submission which at its core must offer more flexibility around the definition and delivery of obligations and a significant reduction in complexity.
- ITV is not proposing a significant diminution in its PSM delivery for audiences under this new proposed scheme. Moving to a regime determined more by the regulator – under clear and simple statutory objectives – than by detailed statutory obligation simply increases the discretion and flexibility for Ofcom and ITV to best react to changing audience needs and expectations as well as the changing economic and competitive position of PSM providers.
- Such a system might have some similarities to that recently sketched out by Ofcom in relation to the BBC, with more ownership by ITV of the form of obligations and step-in rights for Ofcom in defined circumstances.
- (e) **Sensible regulatory changes to offer more flexibility and modest enhancement to PSM economics:** removing restrictions more suitable to the old linear analogue world of limited choice and PSB dominance.

Reform of prominence, inclusion and fair value, however, is the very minimum required if we hope to avoid global platforms dominating and dictating the UK media market.

We therefore welcome Ofcom’s consultation on the PSBs’ proposals in this area in the current process. Such reform is arguably consistent with what the current 2003 Communications Act regime aimed to do in another era – it shouldn’t be particularly onerous or radical, but it is by far the most critical reform that is required. Indeed, there are increasing moves in a number of countries to seek to ensure that societally valuable content can secure both visibility and a fair return from the major global online platforms. We’re seeing this in Australia and in France, and elsewhere in relation to news content (including that of TV news). We can expect to see this in TV more broadly very soon too.

We attach as Annex 1 what such a regime might look like in legislative terms – something we have previously provided to Ofcom. This is not intended to be definitive but simply to illustrate that such a regime can be designed in law relatively straightforwardly.

Wider reforms, with a new prominence, inclusion and fair value regime at their heart, can ensure that the system is dynamic and flexible, able to react to audience needs as the market continues to change radically in years to come.

The case for urgency

The current commercial PSB licences expire at the end of 2024, which superficially feels a comfortable number of years away. In fact, the statutory process for renewing those licences will begin well before that, likely in late 2021 or early 2022. The statutory timetable requires Ofcom to advise the Secretary of State by June 2022 (30 months before licence expiry) on the capacity of the commercial PSMs to contribute to the fulfilment of the purposes of public service television broadcasting at a cost that is commercially sustainable.

Before this statutory process can sensibly get underway the PSMs and Ofcom will need some certainty as to what the statutory regime is going to be and hence the viability of the PSM licences for the long term. The reform of the regime for prominence, inclusion and fair value is a key component of that future viability for the board of ITV.

Ofcom and DCMS need to work hand in glove in coming months to develop practical proposals for a regime for PSM that can be taken forward rapidly. Whilst it may not be practical for the legislation enshrining the new system to pass all its Parliamentary stages before Ofcom has to report to the Secretary of State, it is critical there is a clear statement by government of its settled intentions this year – most obviously via a detailed White Paper, leading to legislation on the future of PSM in 2022 at the latest.

Conclusions

In the not-too-distant future, all TV viewing will take place on connected devices and interfaces, whether IP only or hybrid broadcast/IP. Access to these connected online platforms will mostly be controlled by a handful of global gatekeepers – for instance, Amazon, Google, Apple, Comcast-Sky. So will the extent to which national content, like that from the PSBs, remains easy to discover and view. And the degree to which the terms of inclusion are fair, enabling high levels of risky UK content investment.

Events in Australia have helped to illustrate that all liberal democracies are facing the same challenge – how to regulate online monopolies in the public interest. The outcome in Australia proved that even the government of a much smaller state than the UK can still set rules that work for them. As we begin to emerge from the shadow of the Covid pandemic, and begin to build a strong global future for Britain post-Brexit, it is up to our sovereign government and Parliament to decide the future of PSM – not global technology platforms.

Ofcom's consultation demonstrated comprehensively the huge value audiences place on this content and the PSB institutions that deliver it. The PSM system is ultimately a creation of government and legislation. Transformational change and collaboration by the PSMs alone is not enough to offset global market forces. Legislation also needs a radical update for the global online era if the system is to continue to deliver for the people of the UK. We can have a thriving national PSM ecology and all the benefits of global content services and platforms, but only if policymakers are bold and ambitious in pursuing timely reform.

2. INTRODUCTION

2021 is set to be a critical year, both for public service media and for the UK's wider TV ecology and the creative economy

The decisions we take this year about the future of PSM will determine the extent to which the UK will continue to have a thriving national TV market serving all citizens, with PSM at its heart, alongside and participating in a thriving global market.

Free-to-air, mass reach television from the PSBs brings people together right across the UK regardless of ability to pay. It's important to be wary of talking about a single national conversation in a country with four nations and many different shades of opinion. But the past 12 months have reminded us of all the things we have in common, reflected in real time by a national system of PSM.

The huge value that people in Britain see in what Ofcom rightly calls Public Service Media (which we adopt in this submission instead of PSB) was strikingly set out in Ofcom's consultation. The evidence amassed by Ofcom illustrated particularly the enduring importance of free-to-air, mass reach television from the PSB institutions in bringing people together right across the UK, regardless of ability to pay, supporting our culture, democracy and creative economy. PSM promotes and develops our shared values, national resilience, furthers the Creative Industries and nurtures Britain's soft power abroad.

We agree with Ofcom's assessment of the five key contributions that PSM makes to life in the UK: the democratic contribution, particularly in providing high quality, trusted news available across the UK for free; bringing people together and creating shared national experiences; reflecting UK life and culture across its nations and regions; the inclusiveness of PSM; and the role of PSM in underwriting the UK's world leading creative economy.

So compelling was Ofcom's description of the benefits PSM brings to the UK and its citizens, we should now move on from the endless debate about the purposes or value of PSM to the development of a plan to sustain it for the long term.

But even as a consensus around the importance of PSM and need for reform grows, so at the same time the commercial PSBs are faced with the immediate and serious impact of the proposed ban on HFSS food and drink advertising on TV before 9pm.

This intervention will, on the evidence, make no difference to reducing childhood obesity. However, it will remove a colossal amount of revenue from commercial television – [X] – with serious consequences for the viability of the commercial PSM system. This blow will be intensified should the government fail to ensure a level playing field between TV and online, shifting the balance of power further towards the online platforms. And all this as commercial television and the wider creative sector seek to build back better after the serious impact of the Covid pandemic. It is critical that future policy is firmly evidence-based – and that legislation to nurture PSM is brought forward as swiftly as the HFSS legislation being passed will curtail it.

This submission looks at the enduring power of the PSB system and its institutions, and considers the future of TV – online and global, but also national? It then sets out the case for urgent reform of the legislative and regulatory framework for PSM – and the threat to the system posed by the proposed HFSS advertising ban.

3. THE ENDURING POWER OF THE PSB SYSTEM AND ITS INSTITUTIONS

The institutional PSM model delivers a scale of impact that alternatives cannot match

It is clear from Ofcom's consultation that institutions matter. ITV specifically plays a unique role, offering the best UK content to everyone, for free, provoking, hosting and shaping national conversations, delivering a scale of reach unmatched beyond the BBC. This means:

- *Programmes with a social purpose – the best UK content for everyone, for free:* At the heart of our vision is compelling UK-focused content, showcasing the people and places of the UK. We are dedicated to delivering a range of programming, promoting both on- and off-screen diversity
- *High quality, trusted news for everyone:* ITV provides high quality, trusted news (including in peak times to maximise public value) supporting the UK's democracy for all audiences. It also means plurality of news provision and, for ITV, reaching geographies and demographics less well served by other news providers.
- *Mass Reach:* Maximising the delivery of public value requires consumption at scale. ITV is able to deliver mass audiences by bringing people together at a scale unmatched beyond the BBC. 99% of people in TV owning households watched ITV in 2020, 37m did so each week, and this will endure for some years to come despite the trend towards online viewing.
- *Live and on-demand delivery:* watch wherever and whenever you want investing in developing our digital products to make sure we can cater to the increasing number of viewers who are choosing to view content on demand, and on multiple devices
- *Contribution to the creative economy:* We spread opportunity across the UK by building on our UK heritage and our network of nations and regions bases and production hubs, particularly in the north. We are anchor investors for independent producers, while research by Nesta shows that London's share of employment in film, TV, video, radio and photography has risen from 36.5% in 1991 to 54.9% in 2018

ITV's history and resulting business structure have seen it emerge as a global business but one at the heart of the UK's nations and regions, reflecting the whole UK back to itself.

We explore each of these areas in more depth below.

ITV offers programmes with a social purpose – the best UK content for everyone, for free

Free-to-access public service broadcast television is part of our social fabric. 99% of people in TV-owning households watched ITV in 2020. Over 18m million viewers watched our main channel each day – and over 37m million each week. This success is driven by the fact that ITV creates content that reflects the UK in all its geographic and social diversity. TV programmes that are made by, for and about people from across the UK available to everyone for free.

Coronation Street recently marked 60 years portraying the lives of a fictional community in urban Manchester and it's still the UK's most popular all-round show. The stories it tells, and the accent it tells them in, are not much seen or heard elsewhere on British TV. This is not the shiny world of an American streaming box set. It is unapologetically about our lives,

our culture, our issues and concerns. It tackles important, sometimes controversial, social issues: from childhood vaccinations to money-lending or coercive abuse. It sustains a set of national conversations, and fuels informed debate online. It is emblematic of how ITV works across not just the soaps but also many of our dramas, which are set across the UK and predominantly tell stories of particular resonance to our viewers using voices that are familiar to people in the UK.

There is another way of doing it. The Netflix hit *Sex Education* is terrific. It is filmed in Wales and employs British talent. But it is designed to look like a US high school, with American footballs thrown around the playground. As one of the stars put it:

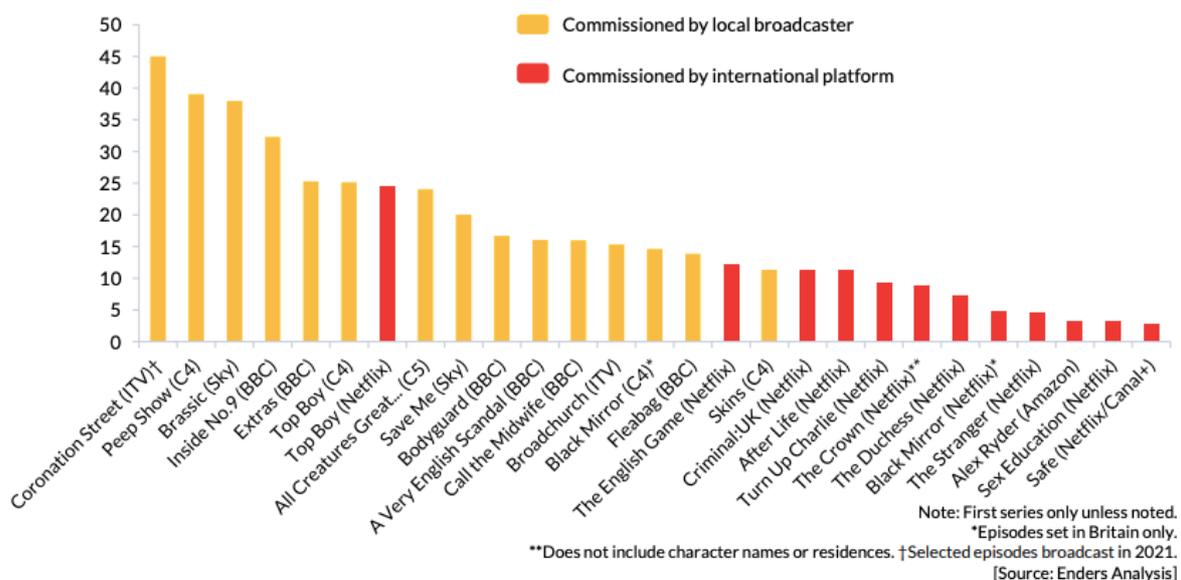
“There is a bit of both worlds, decidedly, in the series, and the aim and the hope is that Americans won’t notice” Gillian Anderson

As John Whittingdale, Minister for Media and Data, observed at the Enders conference recently:

“...the fact that Sex Education... is set in Wales and made in Wales, but does not obviously appear to be a school in Wales, is just a function of [the fact that streamers such as Netflix and Amazon seek to market to a global rather than a UK audience]”⁶

It is an intriguing blend and we make no criticisms of it. But contrast this with our own high-end Welsh drama, *The Pembrokeshire Murders*, unashamedly British in all regards (see below for a case study on this) – our offer is very different. We don’t try to create a fictitious nowhere to please a global audience. We set out to show a very recognisable picture of life in this country in all its range and diversity.

Recent analysis by Enders looked at this trend by analysing the number of British terms, expressions, reference points and idioms in key PSB and SVOD content. It showed clearly the difference in genuine cultural representation in PSB programmes versus those made for a global audience.



It’s clear that audiences value this genuine portrayal of life in the UK – *The Pembrokeshire Murders* was viewed by 12.5m people versus less than half that for *Sex Education* (S2). This

⁶ <https://inews.co.uk/culture/line-of-duty-russell-t-davies-armando-iannucci-tv-britishness-905723>

is also true of our soaps, set and produced across the UK, which also outperformed *Sex Education* with average audiences of 6.9m for *Coronation Street* and 5.9m for *Emmerdale*. And our live magazine programmes every morning, which reach nearly 10% of the population each day.

ITV is the home of big-ticket entertainment shows and sporting events showcasing British talent and bringing the country together. Whether that's Westcountry-born Joss Stone entertaining the nation as Sausage on *The Masked Singer*, sign language choir *Sign Along With Us* finishing second on *Britain's Got Talent*, or the much anticipated *6 Nations* rugby which kicked off in February.

In normal times we broadcast live to the nation each weekday between 6am and 2pm. Even during the Covid pandemic we have stayed live to the nation each morning informing and entertaining our viewers with content about the impact of Covid on our lives with everything from a platform for Dr Hilary to answer viewers medical questions to Martin Lewis offering financial advice (see more on ITV's role during the Covid pandemic below).

In all of this, we are fostering creativity and diversity – both on screen, making diversity mainstream across our programmes, and off screen by embedding our head of diversity in the heart of our commissioning operation and strengthening our internal apprenticeship, training and development, focusing on underrepresented groups.

What does making diversity mainstream look like to our viewers? It's key talent from a range of backgrounds in our headline shows: Will.i.am on *The Voice*, Alesha Dixon on *Britain's Got Talent*, Ashley Banjo on *Britain's Got Talent* and *Dancing on Ice*, Mo Gilligan on the *Masked Singer*. It's Warwick Davis hosting *Tenable* and Adil Ray hosting *Lingo* in the heart of our afternoon schedule. It's Lost Voice Guy winning *Britain's Got Talent* in Saturday night primetime. It's Julie Etchingham, one of this country's most talented female journalists, hosting the highest profile leadership debate this country has seen.

Putting diversity in the mainstream, at the heart of our schedule, allows us to explore important issues in an accessible and powerful way. For instance, *Coronation Street* has been exploring the differing experiences of, and views about, racism with a powerful and moving storyline centred on the Bailey family. Working with Baroness Doreen Lawrence, the storyline shines a light on the damaging effects of racist verbal abuse.

It is also about us using our platform as a mainstream broadcaster to reflect the experiences of our viewers. ITV broadcast *Unsaid Stories*, a series of four drama shorts, inspired by the Black Lives Matter movement, at 9pm on our main channel. Each was a powerful story which brought the complexities and nuances of black experiences in the UK today to the screen. We celebrated Black History Month on air like never before, with the first all-Black panel on *Loose Women* and new programming presented by popular ITV faces like Charlene White and Alison Hammond.

This diversity does not happen by accident. For instance, the casting teams for our entertainment and quiz shows take extensive and deliberate steps to ensure that we are portraying people from all walks of life, right across the UK. For *The Voice* and *Voice Kids*, we hold regional casting events across the country: with open auditions in Belfast, Glasgow, Manchester, Cardiff, Birmingham and London, and regional 'mini' tours in smaller towns and cities. For *Britain's Got Talent*, we hold two major set piece auditions (one in the north, one in the south) supplemented by regional mini-tours and a 'van tour' where *BGT*-branded

white vans literally pull into supermarket car parks and sets up shop for the day. *Saturday Night Takeaway* ensures all its items and strands (e.g. sofa watch or chase the rainbow, Audience Hits or Happiest Minute) have a mix of people from around the UK.

In good and bad times, our content is a mirror held up to society, helping us to better understand our country and fellow citizens, whatever their background, identity or means.

Of course, we recognise that there is more to be done – but we are proud of the diversity that is clear to see throughout our schedule and have strong foundations on which to build.

ITV offers a gold standard of high quality, trusted national and local journalism

Amidst widespread online disinformation, ITV offers high quality, trusted news and information, delivers plurality to the BBC, and reaches different audiences.

- Reuters research put ITV as the most trusted TV news provider, second only to the FT in levels of trust.
- We spend over £120m on news and employ over 500 journalists.
- We reached over 19m people per week pre-Covid – Sky reached just 4.5 million.
- ITV Regional News evening bulletins are generally in the top 10 most watched programmes every weekday.
- ITV's regional TV News audiences are actually increasing in absolute terms – from an average of 3.2m viewers in 2015 to 3.9m in 2020 (an increase in share from 19% to 24%).
- ITV's news offers the only other universal, free, high reach TV news service with levels of consumption and reach capable of rivalling the BBC.
- ITV's national news service is the anchor contract for ITN, helping to underpin ITN as a significant independent force in TV news, again in competition to the BBC.

Case Study: Storming the Capitol



Credit: ITN

ITV News Washington Correspondent Robert Moore and his team were the only news crew who filmed the rioters as they stormed Capitol Hill on 6 January 2020.

The ITV News website/mobile app had been leading with live coverage of the story throughout the evening, but the footage itself first ran exclusively on our flagship *News At Ten*, watched by 2.8m people.

We were, of course, keen to reach as big an audience as possible and so the footage was added to our digital coverage moments after airing live on ITV. We also ran it near simultaneously on the biggest social media platforms in full. On Twitter it has been watched more than 11m times, liked 83,000 times and generated 132m impressions – this eclipsed all Twitter impression in 2020 by a significant margin. It also resulted in an additional 30,000 new followers to the ITV News Twitter page. On YouTube there have been 652,000 views

But this wasn't the only way the report was used digitally. Our social media news service designed for young audiences, *The Rundown*, used clips from the report to tell the story to a younger audience the next day though text-over-video, which showcases news video the best way for the 13-17 year age group.

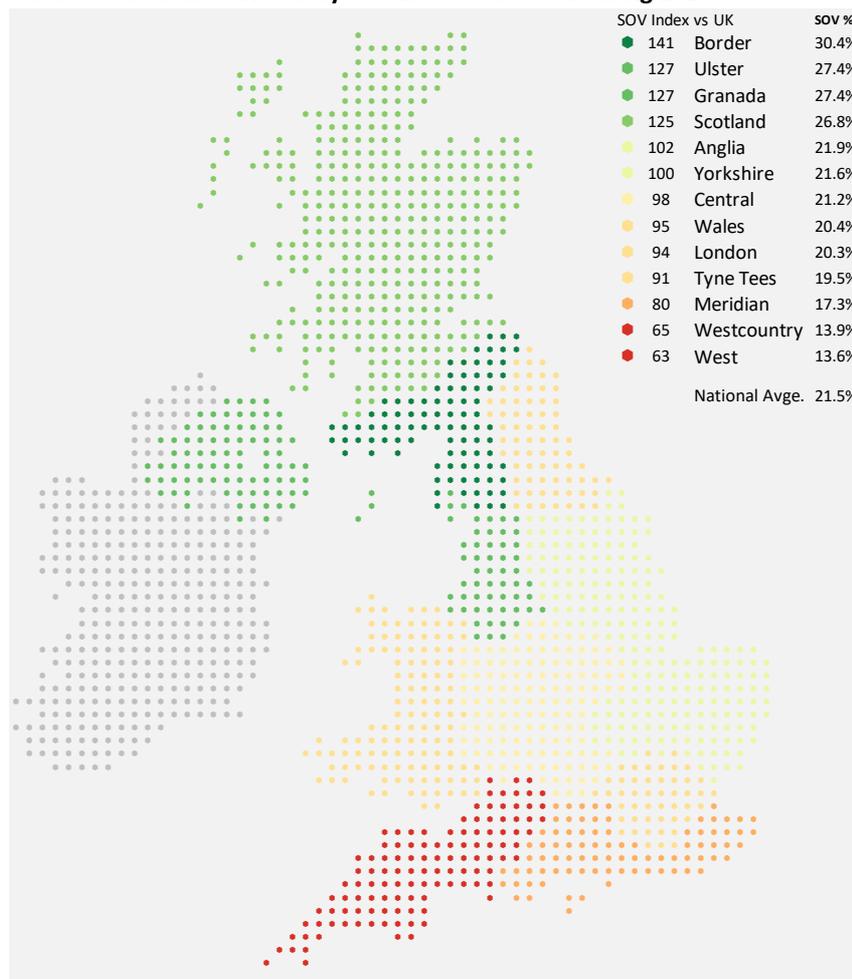
The day after the report was filed Robert Moore and the Washington team also appeared on the ITV News US election podcast 'Will Trump Win?' to discuss the event, how they reported it and what their reflections were on it 24 hours later.

ITV explored the story further in our documentary, *Storming the Capitol: The Inside Story*, which used unseen footage from the day, and Robert Moore's time in the US more generally, to explore in-depth the events that led to the storming of the US Capitol. The documentary was watched by over 2.3m people.

ITV News also complements provision from the other PSBs and from Sky. ITV National news is particularly valued and viewed by people in the north and in the nations, as well as amongst older viewers and those in social classes C2DE, complementing the core audience of BBC news services. 26% of 16-34s use ITV for news, higher than C4, C5 and Sky.

The chart below maps the extent to which ITV's weekday teatime national news share of viewing (SOV) varies from the national average in each ITV region. For instance, ITV's share in Border (30.4%) is 41% above the national average (21.5%) – an 'SOV index' of 141.

ITV National News – Weekday Teatime – Share of Viewing 2020



Whilst ITV's news is a central part of our PSM remit, we also inform viewers through hard-hitting and award-winning current affairs. Our *Exposure* strand has broadcast in recent years award-winning documentaries including *Iran Unveiled: Taking on The Ayatollahs*, *Undercover: Inside China's Gulags*, *Prisons Uncovered: Out of Control?*, *The Priory: Teenage Mental Health Uncovered*, and *Hunting the People Smugglers*.

To take just one of these, *Undercover: Inside China's Gulags*, was broadcast as part of ITV's *Exposure* strand. In 2020, it won a BAFTA, an International Emmy, a Grierson Award, a Prix Italia award, a British Journalism Award, a Venice TV Award, and an Amnesty Media Award⁷.

Directed, filmed and produced by Robin Barnwell, it took an undercover look inside a secretive province in China to provide a vivid insight into how its government is holding an estimated million or more Muslims in detention camps without trial. The Chinese government's detention of Uyghur Muslims is the largest incarceration of an ethnic group since the Second World War, and the programme explored claims that 12 million other Muslims are now living outside detention in what campaigners say is an 'open prison'.

Because of the crucial importance of news both to ITV's current and future PSM offer we enclose with this submission at Annex 2 a report from Rob Kenny at Communications Chambers looking at the current delivery and the future of ITV News.

⁷ <https://www.robinbarnwell.com/chinas-digital-gulag>

Only ITV delivers unifying national moments at a scale to match the BBC

ITV is the only commercial broadcaster that can bring the UK together at the same scale as the BBC. Our strategy is very deliberately to commission and deliver content in a way that brings people together to view at scale, at the same time (mass simultaneous reach). Only mass simultaneous reach can deliver a sense of togetherness, the buzz of connection to our families, friends and our wider communities, the joy of being part of something.

This is a unique commercial proposition – and contrasts sharply with SVODs in particular where viewing is more solitary, where people may eventually watch the same shows but weeks or months apart. As Jonathan Thompson, CEO of Digital UK put it:

“...it wasn’t just “Me TV” - bingeing alone on brilliant content – that got us this far through the pandemic. It was also “We TV”, the knowledge that everyone could share in what we took in through the screens – whether it was the vital information about our common fight against Covid or lessons in maths and science, another reveal in The Masked Singer or the joy of another Bake Off. TV in this country has always served the Me and the We and the last year has made it even clearer that the former does not replace the latter... What is clear is that we will never lose the need and the desire to know that everyone in our country and community is sharing special moments with us, being part of a common joy, part of a nation that has made the most of disruption and still hung on to what makes them part of the same British audience.”⁸

ITV does this particularly with live sport (where 86% of total viewing is live and 96% is on the same day), entertainment and soaps (where nearly 90% of viewing is on the day of broadcast), dramas stripped across a single week (when 90% of consumption occurs), our live daytime schedule that often drives the nations conversations (and sets the agenda for many of the newspapers) and even our news.

Even in 2020, despite the profound difficulties of Covid and growing use of SVOD services:

- ITV delivered a 7-day audience in excess of 5m over 600 times – that’s over 50% of all TV audiences over 5m and over 90% of all commercial TV audiences over 5m. By contrast, Channel 4 delivered 43 audiences over 5m. Sky delivered just 6 audiences over 1m. Netflix has delivered ‘overnights’ of over 1m just 8 times since 2017.
- Drama *Des* averaged over 12 million viewers, *Quiz*, *White House Farm* and *Vera* nearly 9m. By contrast, Channel 4 delivered 5.8m viewers for its top-performing drama, *Deadwater Fell*, and 1.9m for its second biggest, *Homeland*. Channel 5 delivered 5.5m for *All Creatures Great and Small* and 4m for *Deceived*. Sky delivered 2.5m for *Gangs of London* and 2.4m for *The Undoing*. ITV showed 4 of the top 5 most watched new dramas on any channel, while *Coronation Street* averaged 6.9m viewers per episode and *Emmerdale* 5.9m.
- *I’m a Celebrity* (excluding the two Saturday episodes) from Wales averaged 11.2m TV viewers with a 43% share. *Beat the Chasers* averaged 6.5m viewers (25% share) stripped across the week making it the biggest new entertainment series since the

⁸ <https://www.freeview.co.uk/corporate/news/me-vs-we-tv>

launch of *BGT* in 2007. *The Masked Singer* was the second biggest new entertainment series since the launch of *BGT* in 2007, with an average of 6.3m. *Ant & Dec's Saturday Night Takeaway* had its second biggest series ever with 8.5m viewers and a 41% share.

Case Study: Challenging the cult of Netflix

Netflix is rightly lauded for its huge investment in content, notably drama. And it is clear from subscriber numbers that it is a popular addition to consumer media choice for those who are willing and able to pay.

But the narrative of Netflix 'outperforming' PSM needs to be challenged. Firstly, despite impressive growth, Netflix is still in only around half of UK homes with weekly reach of around 41% of adults⁹, often as a supplement to other pay services. It is not close to replicating the universal appeal of PSM. By contrast, ITV's services reach 73% of UK adults each and every week, and 99% each year.

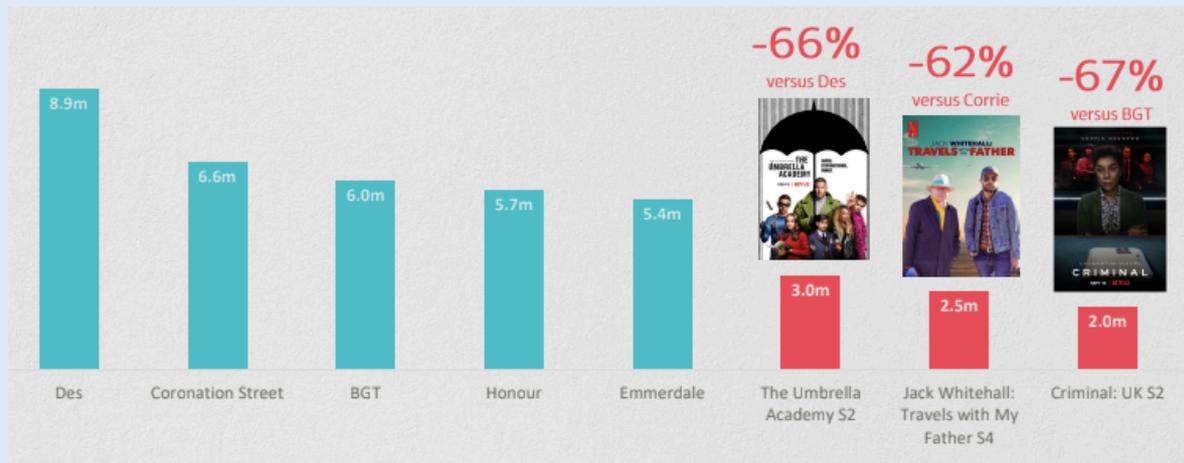
ITV's programmes are also rooted entirely in the UK – in its Nations and Regions, its people and places, its unique cultures – offering a sense of place that global services cannot replicate. As a result, ITV's programmes continue to be markedly more popular with UK viewers than those from Netflix, delivering incomparable mass simultaneous reach and bigger overall audiences.

For example, in Q3 2020, there was a marked difference in overnight viewing to ITV's biggest programmes versus the biggest from Netflix:

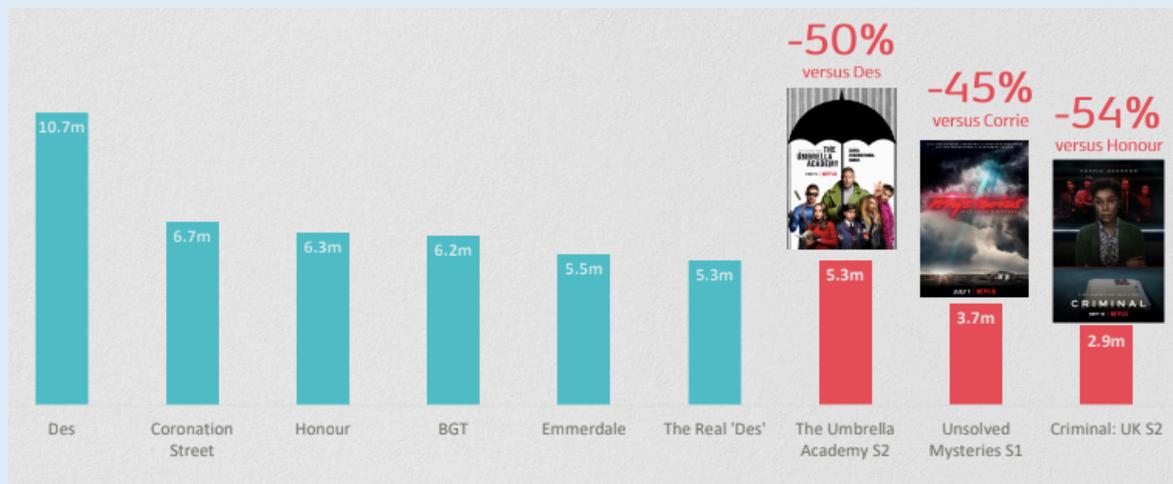


⁹ Touchpoint

This ability ITV has to bring people together versus Netflix is also reflected in consumption during the first week of availability:



Only after 28 days of viewing do their very biggest shows reach a similar (albeit still lower) level to ours):



This is a trend reflected over the longer term. Since 2019, we have consistently delivered higher levels of viewing:



ITV underpins the UK’s creative industries right across the country, not just in London

ITV invested over £790m in first run UK originations for its main channel alone in 2019, over 50% more than the entire multichannel sector (£500m, Ofcom 2018) and over twice as much as the SVODs (£328m, PACT 2018).

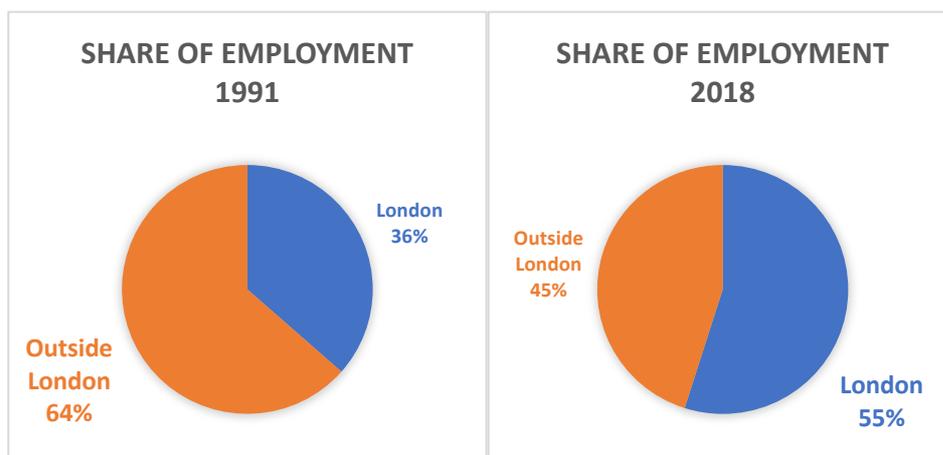
ITV is obliged as a PSB to buy at least 25% of our programmes from independent producers – nearly £220m in 2019. Those producers retain the secondary rights in those programmes which has been a key foundation of the UK’s success as a global TV economy

ITV is proud to be rooted in the regions: nearly half our group employees are outside London in a network of offices across the UK (over 40 at the last count).

This is in stark contrast to firms such as Google and Facebook, who are almost entirely London-based¹⁰. The London-centric nature of the tech giants is simply reflective of a broader trend in the film, video and radio sector. As the Creative Industries Policy & Evidence Centre, led by Nesta, concluded in a report last year:

“since the [2008] recession, London’s growth has proved particularly resilient, and creative industries employment has become more strongly concentrated in the capital.”¹¹

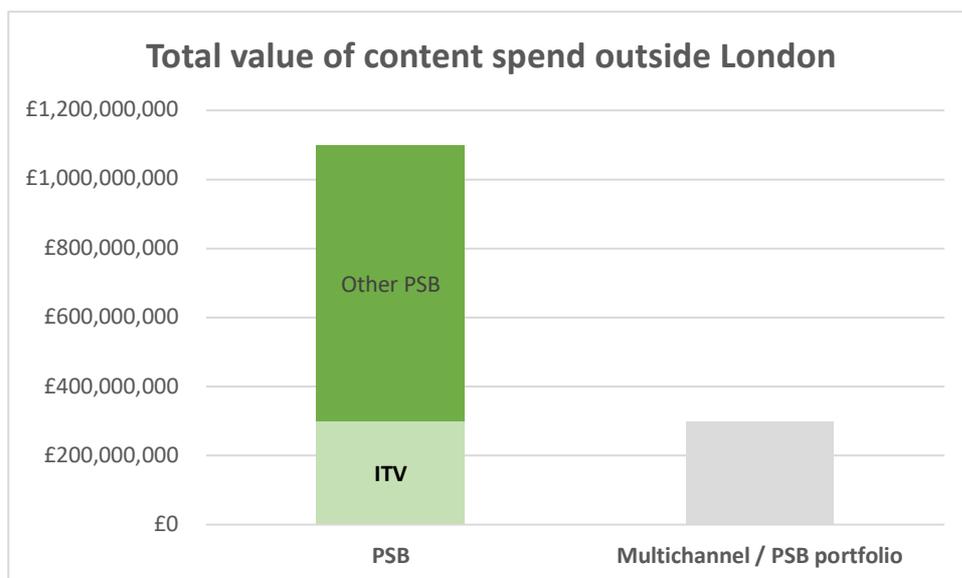
Their report shows that London's share of employment in film, TV, video, radio and photography rose from 36.5% in 1991 to 54.9% in 2018.



We spend c£300m each year on programme making outside London – the same as all non-PSB (Sky, Discovery, UKTV etc) and PSB portfolio channels (ITV2, E4 etc) combined.

¹⁰ <https://www.campaignlive.co.uk/article/londoncentric-adland-85-staff-big-six-agency-groups-based-capital/1697186>

¹¹ <https://www.pec.ac.uk/assets/publications/PEC-report-The-Changing-Spatial-Distribution-of-Employment-in-Creative-Industry-Clusters-in-England-1991-2018.pdf>



Source: Ofcom, Review of Regional TV Production and Programming Guidance. Plus ITV internal data.

ITV is a major investor in development and training in the creative industries. Particularly because of our two drama hubs in Leeds and Salford (making the approximate equivalent of more than 150 feature films per year, with the Coronation Street production stage being the largest single tv production site in the world), we have a strong and constant demand for a wide range of on- and off-screen talent.

This includes on screen acting talent where we have a long history and track record of talent spotting across drama schools and theatre across the north of England. It includes writers and storyliners where we have on-going and active programmes of recruitment and training with a particular focus on diversity given the breadth of our audience. It also includes off screen craft talent.

There are too many programmes and initiatives to set out in this response. But, for example, we have a number of entry level and apprenticeship initiatives where we are particularly looking to attract emerging talent from underrepresented backgrounds with a strong commitment to social mobility. Some 27% of our 2018/19 apprentices came from BAME backgrounds; 10% disclosed a disability and 82% of that group was female. 70% of our apprentices go on to get permanent jobs at ITV and a further 10% go on to get jobs with other media organisations or decide to go back to further education. Our apprentices are paid living wage in line with the Living Wage Foundation guidelines.

We run the *First Break* Initiative which includes open door events and later bootcamps at Coronation Street and Emmerdale with attendees battling it out for the opportunity to spend 3 weeks at Emmerdale or Coronation Street. The final 20 placements have been selected and the first 6 joined in January. Recruitment is targeted people 18+ who may have studied for BTECs or NVQs, career changers or low wage earner/unemployed.

We run an *Original Voices* writing scheme. This launched in 2013 to tap into and connect with local BAME writing talent. In the latest round targeting the BAME and disabled community, applicants were asked to submit a script resulting in 109 applications. 21 applicants were shortlisted and then invited to Coronation Street for a workshop. They were then given a homework task following the workshop and the final 4 were later selected. Placements started in early 2020.

Uniquely for a UK commercial broadcaster, ITV has a presence on the ground in centres across the UK. This regional structure puts the power of TV in the reach of SMEs, enabling them to build their brands with regional audiences and is an accelerator for the growth of regional SMEs. It helps them to advertise to build their brands with regional audiences at a low entry price in some of ITV's most popular TV shows. Some great British business success stories have gone from small regional enterprises advertising in a single ITV region to leading national businesses that are successfully growing internationally.

Throughout the COVID pandemic, ITV stayed in touch with businesses, inspiring advertisers to restart their marketing campaigns. ITV also offered advertising support packages geared around stimulating growth and consumer demand for fragile sectors affected by the pandemic including Charities, Universities and Cultural Heritage brands. We also launched our Backing Business initiative and are working with companies to help them grow through marketing support, digital content, information and resources. ITV will continue working to help UK businesses return to growth post-COVID.

But of course, our role during Covid went far beyond our advertising offer.

ITV during the Covid pandemic

Perhaps the best encapsulation of the importance of an institutional PSM system, delivering free and universally available PSM services, has been illustrated over the past year. [X]

The PSB institutions responded immediately, at scale, to inform, support and entertain the UK, offering content that connected people when we had to stay apart. There was no delay whilst proposals for provision were tendered, no need for instruction or quota obligation from regulator or government – the response was instinctive, in the DNA of PSB institutions.

We proved critical to our national resilience. Facing an emergency, our greatest since the Second World War, we relied more than ever on our most popular TV channels to communicate key Covid public service messages to mass audiences, and to scrutinise government performance as well. It was very clear to everyone where they should go to find the information, support and British entertainment – it was concentrated on the PSM services rather than spread across many different services and for most people was relatively easy to find and access.

This PSM delivery during Covid is in marked contrast to, for instance, global SVODs services, which have offered those willing and able to pay great escapism with high quality content but no sense there is a global crisis outside our doors or how, as citizens, we should respond to it. It's notable too that the most-watched Netflix titles in Q3 2020 were all from UK PSBs (*The Fall* (BBC), *Shameless* (CH4), *Dr Who* (BBC), *Benidorm* (ITV) and *Friday Night Dinner* (CH4)).

As we set out below, ITV's response encapsulated all of the components of ITV's PSM role in one collective effort.

Case study: an institutional response to Covid



Credit: ITV

In normal times we broadcast live to the nation each weekday between 6am and 2pm. Even during the initial Covid lockdown, in a situation of considerable difficulty and uncertainty for the whole UK, we stayed live to the nation each morning informing and entertaining our viewers with content about the impact of Covid on our lives, with everything from a platform for Dr Hilary to answer viewers medical questions to Martin Lewis offering financial advice.

We offered daily tips, from dance-alongs to stay-at-home gardening, ways to keep in touch to coping with anxiety, sharing stories and helping people to talk to their children about Covid. Throughout the pandemic we've been making 10 hours of live TV every weekday.

We have brought the nation together with high quality drama and entertainment. From the beginning of lockdown – with everything from our drama shorts *Isolation Stories* exploring life in lockdown, an innovative and well received *Virtual Grand National* to keeping *Ant and Dec's Saturday Night Takeaway* on air as long as we could, attracting nearly 10m viewers to shows – through to the present day – with dramas like *The Pembrokeshire Murders* and *Des*, our entertainment shows like *I'm a Celebrity*, *Dancing on Ice*, and *The Masked Singer*, and the everyday life of our soaps, all reaching huge audiences.

In the midst of the pandemic, we relaunched our *Britain Get Talking* campaign (“*Apart. But never alone*”) on air and on social media with huge impact. We supported key workers through *Clap for Carers*, pausing our broadcasts for two minutes on a Thursday evening as well as through the *Million Claps* campaign and ITV’s *NHS Day*. We worked with Public Health England to deliver public health messaging campaigns on air targeting hard to reach groups.

It was to broadcast news that audiences turned in the early days of Covid pandemic. In the weeks following the first lockdown ITV News reached 22.8m viewers each week – 38% of the TV population of the UK. This included 2.8m people aged 16-34.

Nations and regions news in particular was of particular importance. The feedback we had on those programmes suggested that an understanding of what is happening close to home has been a particular public priority, given the clarity and regularity of daily government briefings about the national position which are generally well covered.

Or consider the set piece statements by the Prime Minister during the Covid pandemic which directly reached a large proportion of the UK population in one go across the different audiences of the PSBs. The PSBs are the natural home for such moments in our national life being free, universally accessible, reliable and highly trusted. It is very hard to see a plausible online alternative to broadcasts on digital terrestrial TV from the PSBs at critical national moments such as these for a long time to come.

The crucial role of PSM during Covid was not limited to on-screen content. As global production vanished overnight, the continuing commissioning by the PSBs provided crucial financial support to the wider creative economies, including to the independent production and freelance sectors. Amongst other things ITV lobbied government to help around 400 freelancers who had recently worked for ITV to access relevant government, going on to administer that support.

The extent to which the independent production sector looked to PSBs for support – and to underwrite their exposure to Covid-related costs – was notable. In the midst of the pandemic we announced the creation of a £500,000 development fund for independent producers to accelerate the search for new ideas and content for ITV for the latter part of 2020 and into 2021. Our objective was to continue to help to fund the TV industry’s equivalent of R&D even in a crisis so that we can emerge as rapidly and confidently as possible.

Finally, ITV led the collective industry efforts to develop a protocol for safe filming during the first lockdown, enabling TV production to begin again at scale in May/June 2020.

The benefits of an institutional model

It is striking that almost none of the enormous contribution made by ITV, as outlined above, is as a result of or secured by individual quotas. Instead it is a product of ITV’s deep history as a PSB as well as the resulting business structure that has seen ITV emerge as a global business but still at the heart of the UK’s Nations and Regions.

Case study: The Pembrokeshire Murders



Credit: ITV

The benefits of an institutional model for PSM are brilliantly illustrated by ITV Studios-owned World Productions' recent hit drama *The Pembrokeshire Murders* – and the equally successful documentary *The Game Show Killer*, produced by ITV Cymru Wales.

The drama told a uniquely Welsh story for a UK audience, commended by critics for its Welsh authenticity. It delivered a consolidated audience of over 12.5m. The documentary attracted an audience of 7m. The production and its success are a direct result of ITV's commitment to and investment in its centre of excellence for creating trusted news and current affairs that is rooted in Wales

It all began some 13 years ago when ITV News journalist and presenter Jonathan Hill requested a meeting with Dyfed Powys police to discuss a programme he planned to make on two unsolved double murders in Pembrokeshire. That meeting led to Jonathan and ITV Wales breaking the story of the reinvestigation into those murders on its early evening news programme *Wales Tonight* and ultimately to the killer's conviction.

The inside story of the investigation was told through a Bafta Cymru-winning documentary, produced by ITV Wales, a book co-authored by Jonathan, and from there a script that led to the commissioning of the network drama. With support from the Welsh Government agency Creative Wales, it was produced by World Productions in association with the Welsh independent production company Severn Screen. The drama was set in Wales, featured a largely Welsh cast (including lead roles) and crew (including the director and producer). As a result, it added significant commercial and creative value to the vibrant Welsh screen sector. Over [£] was spent in Wales on the production and international sales are running at around [£].

This example also vividly highlights the benefits that ITV as a PSB institution brings to the system. The above chain of events was as a direct result of ITV's substantial investment in its regional journalism, extensive investment in high-end drama, the power of the network schedule to bring regional stories to UK-wide audiences at scale, and the commercial benefits to the region and the UK that such a hit can generate.

An ongoing role for ITV within the PSM system would secure the continued presence of an institution with PSM at its heart. Of course, the settled national TV market of the past 50 years is being radically disrupted. But, as we outline in this submission, as a society we have the power to shape the outcome of that disruption so that it works for all citizens of the United Kingdom. It is up to government and Parliament to decide the future of PSM and not global technology platforms. Recent events in Australia have helped to illustrate that all liberal democracies are facing the same challenge – how to regulate online monopolies in the public interest – and that even the government of a much smaller state than the UK can still set rules that work for them.

These benefits are not guaranteed to continue were ITV to cease to be a PSM provider

Against this backdrop, it is worth conducting the thought experiment of what the UK might well lose in the event that ITV ceased to be a PSM provider. But it is already clear that ITV's future contribution should not be taken for granted. Nor should its continuing participation in the system – we are keen to remain a PSM provider, but not at any price.

4. THE FUTURE OF TV: ONLINE AND GLOBAL, BUT ALSO NATIONAL?

The challenge of a globalising content market for national PSM

TV is globalising very rapidly as distribution via the internet becomes more and more widespread. Unsurprisingly, different groups of consumers are moving at different speeds but the long-term direction of travel online is clear. Despite these rapid shifts in consumer behaviour, PSM is still viewed at scale and valued by people in the UK. Ofcom's research showed very clearly that people in the UK want both the best that global markets have to offer from the likes of Netflix and Amazon and high quality national PSM services that talk to their culture, lives and experience. For most people it's not an either/or.

There is real opportunity here for ITV as global TV producer and some opportunity as a distributor. For example, ITV has a network of production businesses around the world and our Britbox joint venture with the BBC in the USA already has [X] subscribers and is growing at pace, launching recently in Australia with more launches to come, most immediately in South Africa in the near future. 56% of ITV Studios' revenue is from outside the UK.

But, at the same time, the success of our national PSM system is at risk as global platforms and their content partners are increasingly guiding and curating the choices of TV viewers globally. The UK's media market is being radically altered by changing relationships between services (such as BBC One, ITV Hub and Netflix) and the platforms that bring these services together (for instance, SkyQ, Android TV and Samsung). In particular, we see:

- The platform market is becoming global: increasingly dominated by global online platforms which control content owners' routes to audiences across the world (e.g. Amazon Fire). Other platform operators, such as Sky, are consolidating globally to compete too. For instance, Comcast CEO Brian Roberts said recently the company is *"...looking at smart TVs on a global basis, and we're wondering can we bring our same tech stack to consumers who are relying more and more on smart TVs. We've done that with X1 and syndicated it to Canada and other operators in the United States and we see a similar opportunity to that."* It's clear that, in this context, the ambitions of Comcast-NBC-Sky are global, not national and their competitors as a platform are Google, Amazon, Apple and Samsung;
- A more fluid relationships between hardware, operating system and platform user interface: with single platform user interfaces (UIs) sitting across devices produced by many manufacturers, thereby increasing their dominance (e.g. Android TV);
- Platforms increasingly disaggregating content owners: presenting individual content items in the platform UI, rather than providing front doors to individual services; and
- Platforms are increasingly vertically integrated (controlling both the platform and individual services): and have shown a damaging willingness to use their control of the platform to preference their own services.

The risk is that TV markets globally are dominated by a handful of gatekeepers, which reach commercial deals with global content operators leaving less and less space for national players such as the UK PSBs. The past year has dramatically accelerated these trends:

- Consumption of linear and on-demand TV delivered online has accelerated rapidly as more people become hybrid linear and on demand TV consumers at scale: Online

distribution of TV is becoming more and more important in many age groups, not just the young, and services such as Netflix becoming a staple of many households' viewing habits; and

- Increasingly, the hybrid platforms that UK viewers are turning to are controlled from Silicon Valley: the rise and rise of global online content players in the UK and globally is nothing new – but the past year has seen them achieve a huge scale not seen before. Global online platforms, notably Google and Amazon, have moved into TV in at scale, seeking to extend their reach and impact from their core markets. This includes content production, content distribution, content monetisation reinforced by powerful indexing and search capabilities.

These trends create serious jeopardy for PSM content providers. By 2023 it's very likely that as many as 60-80% of new TVs sold will have a Big Tech Operating System¹². PSM providers may therefore be increasingly reliant on online platforms for access to UK audiences. As Facebook's removal of all news content from its platform in Australia recently demonstrated, there is no reason to believe that PSM content might not be removed – or refused access to major platforms in the first place – should a platform believe it to be in its interest to do so. As Julian Knight, Chair of the DCMS Select Committee, recognised:

"This is not just about Australia. This is Facebook putting a marker down, saying to the world that 'if you do wish to limit our powers... we can remove what is for many people a utility.'¹³"

Even if PSM services are present, although large online platforms can provide significant reach, the value of that reach is increasingly captured by the platform operators themselves through their ability to control the way services appear on the platform, through mediating the relationship between the service and the audience, and through control of the resulting data. As Oliver Dowden, Culture Secretary, put it:

"Tech titans have become the gatekeepers of online knowledge and the custodians of virtual public squares.¹⁴"

As such, investments in innovative services from content service providers are diminished in value as the platforms seek to extract increasing value.

These risks are being vividly illustrated in Australia, as its government brings in measures intended to ensure that news providers are fairly compensated by the online platforms through which people often discover and consume their work. The issue was again well summarised by Julian Knight, who observed that

"The problem that [he] see[s] is... that these platforms make enormous sums of money, and they make them from other people's work, and they aren't returning any equitable value to those people.¹⁵"

Of course, it is up to PSM providers to do all they can to get fit to compete in a market that is transforming beyond recognition – and ITV has a compelling strategy to do just that.

¹² Google (Android), Amazon (Fire), Samsung (Tizen) and LG (WebOS)

¹³ <https://www.bbc.co.uk/news/uk-56117946>

¹⁴ <https://www.theguardian.com/technology/2021/feb/26/uk-culture-secretary-warns-facebook-after-news-ban-in-australia>

¹⁵ <https://www.bbc.co.uk/news/uk-56117946>

ITV's hybrid commissioning and distribution strategy – serving all audiences

ITV is changing rapidly. Our strategic vision is to be a digitally led media and entertainment company that creates and brings our brilliant content to audiences wherever, whenever and however they choose. Only through delivering this strategic vision can ITV hope to meet the challenges set out above.

We've made a lot of progress in transitioning to become a truly online content business, rolling out on-demand and streamed services with considerable success, and expanding our global production business. But there is more to do and we need to speed up. That's why we've brought our TV and online businesses together to create an integrated management structure which will see increasing focus on service neutral approach to commissioning.

Securing widespread distribution on TV-like platforms and devices

Our live linear PSB TV channel and our linear portfolio channels are going to be at heart of national life for many years to come – bringing people together in real time to see things as they happen. Much of this viewing will remain on the main screen in the house, through long-established television platforms like Freeview, Sky and Virgin Media. This will remain true even for younger viewers.

But, as Ofcom highlights, younger audiences in particular are choosing to communicate and to consume content in different ways to older audiences. So, our live channels will also be watched via streaming on mobiles or tablets. And, of course, people will expect all our content to be available on-demand where and when they want it.

This shift in audience behaviour is driven by, and reflective of, the proliferating number of online and hybrid broadcast/online platforms available. These are increasingly the destinations where younger audiences are choosing to spend time, often engaging with and consuming content that is very different to long form TV content. Older audiences are moving more slowly but their behaviour is also starting to change too with more and more content consumed online.

ITV has reacted swiftly to this trend to ensure the widespread availability of our linear and catch-up service. The table below sets out the platforms on which ITV's linear channels, ITV Hub or a version of ITV Hub is present at the time of writing. The list fluctuates over time but we are currently on around 40 online, hybrid and broadcast platforms. In the majority of cases, this has required a bespoke agreement to be negotiated.

| Hub app | Freeview Play | YouView & Freesat | Pay TV platforms / services |
|---|--|--|---|
| iOS Android YouView Freesat Samsung (2012 and later) YouView-Sony Hudl Amazon Kindle Amazon Fire Stick - HD & 4K Amazon Fire TV Edition TVs Roku Now TV Smart Stick Chromecast Chromecast with Google TV PC/Mac Xbox One Nvidia Shield (Android TV) Apple TV Virgin Tivo STB Virgin Horizon Set Top Boxes LG 2020 Devices | Panasonic 2015-20 TVs Amazon Fire TV Edition TVs Panasonic Recorder Humax Recorder Vestel - multiple brands Hisense 2016-20 TVs LG 2016-19 TVs Bang & Olufsen TPV, branded Philips 2017-20 UMC, branded Sharp Sony (Linux) 2017-20 TV Philips TV 2017-20 Loewe TV TCL TV Avtex TV Manhattan Set Top Box Netgem Set Top Box | Humax Set Top Boxes (YV) Huawei Set Top Boxes (YV) Sony (Android) TVs (YV) G2 Humax Set Top Box (FS) G3 Arris Set Top Box (FS) | iTunes (DTO) Amazon Prime Video (DTO/Hub+) Sky Sky Go Sky Now TV Virgin Media Virgin Anywhere TV Player (Sim only) |

The result is that ITV's linear channels and ITV Hub are on the vast majority of devices and almost all UK homes, including those platforms and devices most popular with younger audiences for consuming TV-like content.

ITV's evolving content services

As well as ensuring widespread distribution of our content services, the content services themselves have also evolved rapidly to better meet audience needs.

First, as we shifted from a linear-only approach to the launch of ITV Hub to deliver catch-up VOD. Then in the evolution of ITV Hub from a catch-up proposition into a destination in its own right for browsing and serendipity, through:

- the addition of live simulcast channels;
- the increasing addition of full box sets (sometimes including full series at the point the first episode is broadcast on linear TV); and
- the offer of a more curated and personalised experience.

We also launched Britbox to offer a uniquely British SVOD service, giving people access to the best content from the BBC, ITV and Channel 4 for the long term.

Case Study: ITV News online

ITV is a substantial national and regional news provider with a deep history. In 2019 it provided 417 hours of national news, over 200 hours of nations news and around 170 hours of English regional news, at a cost of approximately £120m. This output covers both day-to-day reporting and investigative journalism, delivered in a clear, engaging and non-sensationalist way. Nations and regions news is delivered in 18 different local editions.

ITV News continues to deliver huge audiences to bulletins on the main channel, reaching 19m people each week vs. just 4.5m to Sky News. But ITV is also very active in seeking to

reach audiences online – both through Hub and the ITV website, but also through third party platforms and social media.

ITV also provides news online, primarily via its website at ITV.com/news/ (with an average of over 1m page views per day across the first three quarters of 2020). ITV's national news bulletins are also available on ITV Hub (either live or for playback).

Stories from the bulletins are posted to YouTube, where ITV News has 612,000 subscribers, and where some stories achieve millions of views. Viewing of ITV News via YouTube totalled 270m minutes in 2019. ITV also offers a range of podcasts, such as *Coronavirus: What you need to know*; *Will Trump Win?*; *Calling Peston*, a weekly politics podcast; and *From the North*, an occasional podcast on North of England issues. On social media ITV has (in aggregate) 5.6m followers on Facebook and 4.5m on Twitter.

Facebook and Twitter are also important platforms for video consumption, with 293m and 170m minutes respectively of ITV News video consumed on each.

We have also used our core news assets and developed a bespoke, targeted offer specifically for social media and younger audiences. About a year or so ago, ITV launched a new news offer for young people, which Ofcom highlighted in its PSM consultation document, called *The Rundown*. It is predominantly for use on social media platforms such as Instagram, Facebook, YouTube and more recently Snapchat and Twitter Fleets. Designed to work on mobile phones – it comes in bite size chunks and makes it easy to find out more on the ITV News online service.

Aimed at 13-17 year olds, though in fact it also reaches a broader audience, it appears on phones each day just after school finishes. We've had massive take up of the service. Last year there were nearly 140m views of content on the service by many millions of young people – it's a young and mass audience news service. What we've learned is that reaching young people is a combination of the right content and the right platform distribution.

There's a key issue with the Rundown, however, and news more broadly – there's no real commercial model for it. There is limited advertising it could take, and significant reputational risks in having advertising we do not control placed around it by the platforms. The provision of *The Rundown* is simply a cost for ITV News. We explore this in more depth later in this response – and in an attached report by Communications Chambers.

But we cannot afford to stand still. 2021 will see further changes made to ITV's content services, particularly Hub, including:

- **Extending the catch-up window:** We are currently trialling an extended catch-up window of up to one year for selected content. This is an increase from the previous standard catch-up window of 30 days, allowing viewers more time to catch up on their favourite shows and significantly increasing the volume of content that is available on ITV Hub at any one time to enhance the appeal of ITV Hub as a destination. We are also looking to broaden the parameters of this trial in 2021 to include content from CITV and so further increase the content offering;
- **EarlyBe:** This new rail on the ITV Hub homepage premieres brand new episodes of ITVBe content. Episodes are made available on Hub at 7am on the morning that they

are due to broadcast on linear television, allowing ITVBe fans on Hub to watch the latest episodes first and at a time that is most convenient for them;

- **Maximising the impact of returning shows:** we intend to make the most recent previous series of returning shows available in advance of the new series launching and throughout its run, allowing new viewers to catch up on previous series and join in with the latest series, and allowing previous viewers to relive older series as they wait for the new. Recent examples of this include *The Bay*, *Unforgotten* and *Marcella*;
- **Drama drops:** So far this year, three new drama series have been released on Hub in full once the first episode had launched on the main ITV linear channel – *Finding Alice*, *The Bay s2*, *Marcella s3*. We intend to do the same for further selected new dramas throughout the year, meaning viewers will no longer have to wait for weekly episodes to watch some of the best new shows. Our audience research shows that for younger views in particular this is important: 62% of 16-34s expect broadcasters to make more drama available as a full series and 59% of 16-34s are more likely to try out a new drama if it is made available as a full series;
- **Better use of archive content:** Full series of young-skewing archive content will be made available on Hub for set windows. Previous offerings in 2020 included *Real Housewives of Cheshire s1-10*, and *The Only Way is Essex s1-27*. Absent the postponed Euro 2020 tournament, we instead relived the iconic football tournament Euro 96, making all matches available to view during a lockdown period where no Sport could be played. In February this year, we had the full series of *Love Island* and *Ibiza/Magaluf Weekender* made available;
- **ITV Hub exclusive content:** The Hub now includes exclusive content to some of ITV's biggest shows, many of which appeal to younger audiences. 2020 saw the launch of spin-off shows to *I'm a Celebrity... (I'm a Celebrity...The Daily Drop)* and *The Masked Singer (The Masked Singer: Unmasked)*. We will look to further extend this offering in 2021; and
- **Improving curation and personalisation:** Further development is underway on Hub to enable greater curation and personalisation. This will allow us to target and promote relevant content to younger audiences more effectively, for instance via 'collection rails' on the homepage of ITV2 shows.

Over time, Hub will be a service that works equally well on TVs, laptops, tablets and phones, for solo and group viewing. But these extensive changes in our content services, while critical alongside a distribution strategy aimed at delivering widespread availability, are still not enough to fully meet the needs of modern audiences.

Expanding our use of social media, online and video sharing platforms

In addition to widespread distribution on TV platforms, we also recognise that younger audiences are spending a lot of time on platforms as varied as Instagram, YouTube, Snapchat and TikTok. It is important to note, though, that often, they are not consuming TV-like video when they are there.

In the main that is because these platforms have historically been focussed on short form, often UGC content. This appears to be changing rapidly as VSPs in particular try to move to

offering longer form TV like content, as well as live streaming, on smart TVs in order to access the associated premium video advertising market. As Spark Ninety's report for Ofcom says:

"YouTube [is] likely to grow strongly and increase CTV audiences (currently, the majority of YouTube's UK audience is on mobile). CTV may attract more AV buyers willing to pay for a premium for the TV format."¹⁶

And it is not just YouTube. Spark Ninety's report states that Google, Amazon, Roku and Samsung "...operate CTV gateway platforms and have clear ambition to grow their CTV ad businesses." It will not be long before at least some of these platforms start to resemble fully fledged TV platforms, aggregating TV content from a variety of providers and through which a significant proportion of younger audiences will start to consume some or even most of their TV content (as well as other UGC material).

Because of the incredible growth in the use of these platforms by younger audiences, there is a suggestion in some quarters that the PSBs should seek to use these platforms, in the same way they do other distribution platforms, in order to reach younger viewers with PSM content.

In general, these platforms are not good vehicles for the distribution of TV content. Consumers primarily want to use them in portrait rather than landscape layout (mainly on mobile devices) and are seeking a range of shorter content, often with a more 'social' feel than a drama or documentary. Few if any TV providers are using these platforms to distribute whole programmes or series.

But that is not to say that such platforms are not viable distribution vehicles for ITV in some form. In fact, in some respects, ITV already has a very significant distribution operation on such platforms. This is notably the case in news, where ITV has an extensive online offer and last year launched *The Rundown*, a news service for teens (more detail below). Beyond news, we use YouTube very significantly as a way of distributing clips of many of our programmes as well as using Instagram, Facebook, Snap Chat, Twitter and Tiktok in a similar way. We also look to offer other added value content – such as behind-the-scenes footage, companion shows, and quizzes.

Such an approach can, of course, deliver substantial engagement. In 2020, we had 50 million followers across Facebook, Instagram and Twitter on average each month. We had 4.2 billion views across YouTube, Facebook, Instagram and Twitter. We delivered consumption of [X] and 4 million podcast downloads.

The challenge, as we explore in detail below, is that this substantial viewing returns little revenue. [X]

[X]

This is why it is so important that regulatory reform ensures PSBs receive fair value from platforms and is not just focused on inclusion and prominence.

¹⁶ Spark Ninety. Connected TV advertising market dynamics. Report for Ofcom. November 2020.

Increasing brand awareness and bringing light viewers back to ITV

Whilst social media can offer a platform for consumption, perhaps the key reason we have used social media in this way is to promote our content and our brand to audiences which may be relatively light ITV viewers. This is a cost-effective marketing strategy and the content we have historically been providing has been the right fit for the platforms in question.

In addition to ITV content and 'channels', we have also expanded our use of paid-for advertising on those platforms that are most used by younger viewers – notably Facebook and Instagram, but also smaller social platforms such as TikTok – promoting key ITV shows to viewers who might otherwise not have been aware of them.

More broadly, ITV's rebrand as 'More Than TV' is designed to ensure that our light users – many of whom (but not all) are younger viewers – are aware of the range and quality of ITV's output and believe that ITV makes shows 'for them'.

Interestingly, we have found that many lighter viewers are more inclined to view an ITV show if they think it is made by Netflix, highlighting the extent to which positive sentiment towards newer providers is not necessarily an accurate reflection of the appeal of the content per se, than it is the corporate brand. This is clearly something ITV needs to address.

'Fattening the tail' – commissioning for mass simultaneous reach and VOD longevity

The combination of ITV's high-quality content, a distribution strategy designed to deliver universal availability, and targeted use of social media platforms has enabled ITV to deliver high levels of viewing among all audiences. This strategy has also seen consumption shift from live linear to more on-demand, particularly in key genres (notably drama) and among certain demographics (notable younger viewers). This is a trend we expect to see continue.

As viewing shifts away from the linear schedule, we are looking hard at the extent to which our approach to commissioning content aligns with the way in which audiences are and will increasingly consume ITV content.

ITV's traditional approach to content commissioning has been to commission programmes to fill individual channel schedules (with all the inherent conditions that come with that depending on the time of broadcast, the type of programme, its target audience, slot length, channel brand fit, and impact on quota compliance), and then to subsequently seek to successfully exploit the secondary rights from the resulting programmes via Hub and, more recently, Britbox.

Such a strategy has been common across the broadcast industry – not least because linear audiences have held up more strongly than many people have predicted. Indeed, this approach to commissioning is exactly the structure envisaged in Ofcom's current guidance in relation to the commissioning of independent productions, which places heavy emphasis on the division between 'primary' and 'secondary' rights.

The issue with this strategy is that it can mean commissions for a particular linear TV channel slot are prioritised even if limitations of the slot mean there might have been more compelling alternatives outside those constraints. It can also limit the number of episodes of any given commission, as there are only so many available hours in a day. But it is becoming

clear that if ITV is to appeal to all viewers – particularly younger viewers – in a world where content discovery and consumption is increasingly non-linear, where people like to binge-view, to consume content whenever and wherever they choose, then such an approach is no longer viable, either commercially or in attracting and retaining audiences.

Instead, ITV needs to pursue more ‘purposeful commissioning’ – focusing on commissioning content that works for our audiences, at scale, and aligns with our key brands – and only then working out how to best use our full range of services, broadcast and online, to maximise the reach of that content. Only through such an approach can we – and our independent production partners – ensure PSM is sustainable for the long term and so can continue to commission UK content at scale, to the benefit of UK audiences.

It is important to recognise, though, that this does not mean a shift to a model that seeks to commission content with small, highly targeted audiences. ITV is unashamedly a mass reach proposition – even among 16-34s. Our audience research tells us that the attraction of ITV for younger viewers is that our content offers them the chance to be part of something bigger, to be engaged with shows that everyone is talking about. For the majority, broadcast TV is synonymous with family togetherness: Family rituals and traditions, actively taking part, and joining in with parents’ choices (in contrast to more solitary SVOD viewing).

For this reason, our main PSB channel, whether broadcast or increasingly streamed will continue to have a central role in ITV’s PSM offer, probably for many years to come. It may in future be even more focussed on the biggest events, the live moments in our national life that bring people together to watch at the same time but we believe that there will continue to be a compelling case for such a PSM offer for the UK at scale.

Our research also shows that younger audiences don’t want to be patronised with ‘youth’ programming but simply to be able to watch high quality programming about issues, places, characters that interest them. Interestingly, 66% of 16-24s think “ITV has programmes for people like me” vs. 38% of 16-24s for E4 and 25% for BBC3. This is borne out by where youth viewing is mostly found on broadcast channels. Only 37% of 16-34 viewing in 2020 was to programmes with 16-34 vs Individuals indexing above 100 – i.e. where a programme delivered a higher proportion of younger viewers than the TV audience as a whole.

They also value the ‘Britishness’ of our content versus global (SVOD) alternatives: 61% of 16-24s think that Broadcast TV connects them to British Culture while only 16% think that SVOD connects them to British Culture.

So what does this mean for ITV’s commissioning in practice? The first area we are exploring is changes to our casting decisions. While younger audiences don’t necessarily want to see solely ‘youth’ programming, they do like to see themselves portrayed on screen.

The second change is likely to be in the type of content commissioned. Some content simply does not perform well beyond linear broadcast. Content that is costly to make, delivers an average linear audience and little on-demand viewing will increasingly have no place in the ITV portfolio.

The final area that we will be exploring is the extent to which we might commission content that is less defined by the linear schedule in terms of the number of episodes, the length of episodes, and the need for the pace and structure to be written with ad breaks in mind.

We know that younger audiences in particular like bingeable content – choosing their viewing for the week, almost akin to choosing your book for the week, and then watching all episodes in the course of a few hours or days. Our linear schedules have constrained the extent to which we could commission high volumes of any given series to meet this need – there are only so many hours available.

By contrast, with Hub as a viable destination in its own right, we can lean heavily into genres that we know have appeal to younger audiences and where they would welcome scale – notably factual commissioned with a younger audience in mind – with the ability to deploy the results in a single ‘drop’ online and then broadcast the content over a longer timeframe. More creative freedom, with Hub as a major distribution vehicle, might result in content that is more akin to that which is often carried on streaming services.

Case study: *Tell Me Everything* – a new approach to PSM commissioning

ITV has commissioned a new provocative teen drama, *Tell Me Everything*, for release under our ITV2 brand. A six-part drama, serious but with humour, it highlights how social media can expose teenagers to untold pressures whilst they are still searching for their own identity, experimenting and exploring sexuality, relationships, drink, drugs and sex.

Rooted in truthful observations of what life is like for young people, *Tell Me Everything*, is a celebration of adolescence, and won't shy away from the difficult subjects facing today's teenagers. More than ever, coming of age is intensified for the modern generation by declining mental health, the constant hum of social media, swiping and doom-scrolling, crowdsourcing opinions and the cancel culture.

The series will cover some difficult issues for teenagers notably addiction, consent, bereavement, porn, gender dysphoria, abuse, academic pressure and prejudice amongst the threads which make up Jonny, Neve, Louis, and Regan's ongoing stories and will prompt conversations beyond our TV screens.

It will be released first on Hub, with all episodes available from launch, meeting the audience desire for bingeable content. Linear broadcast will follow, maximising the reach of the content and bringing it to an even bigger audience.

In many respects this should be right in the sweet-spot of the sort of audience-led commissioning we should be encouraging under a future PSM regime – high production values, produced outside London, uniquely British in tone and cast, tackling difficult issues in a sensitive way, distributed across a range of services with the target audience in mind.

Indeed, this commission has been facilitated through public intervention, via the BFI's Young Audience Content Fund. This thoughtfully-structured intervention requires distribution on a mass-reach, free-to-air basis – critical for any future PSM framework – but is not limited solely to PSB channels or linear television. This has allowed ITV to commission a drama with significant youth appeal that would not have made sense for our main channel but fits strongly with the ITV2 brand and audience needs. But despite all this, it will not be reflected in any assessment of ITV's PSM delivery or any of ITV's PSM quotas, as it was not commissioned for the main channel.

These extensive and ambitious changes to the way we distribute content, the form our content services take, and the content that we commission are critical for ITV in delivering

its vision to be a digitally led media and entertainment company that creates and brings our brilliant content to audiences wherever, whenever and however they choose. But we recognise that we will also need to work in partnership with others in order to best serve all audiences.

The challenge of appealing to younger viewers – ITV’s strategy in context

It is worth looking at ITV’s strategy through the prism of appealing to younger viewers – indeed, Ofcom has rightly called out the decline in PSM viewing by younger audiences as a particular challenge. It is a challenge that ITV has recognised – and been responding to – for a number of years. But while the challenge is legitimate, some of the ensuing debate has looked at the issue in isolation – ignoring the extent to which PSM is already successfully engaging young people at scale, the role of PSM in uniting audiences of all ages, and the critical importance of PSM serving all audiences, not just the young.

A simple binary narrative of PSM ‘failing’ with young audiences has taken hold, with suggestions to address this inevitably involving some combination of making more youth-skewing content, changing existing content to appeal more to a younger audience, changing how content is distributed (mostly ‘away from linear’ in some way), and where it is distributed (mostly ‘putting more on YouTube’).

Such approaches fail to recognise the substantial appeal that ITV and others have among younger audiences – and the scale at which they continue to view our programmes. In 2020:

- **ITV was the most watched channel for 16-34s in both all-time and prime time.** This was the third year in a row for all time and eighth year in a row for prime time. ITV’s prime time 16-34 audience was 12% greater than BBC One’s.
- **ITV2 was the most watched digital channel for 16-34s for the fourth year in a row.** It had a 16-34 SOV of 4.7% - and the fourth biggest channel overall for 16-34s and 16-24s, only behind ITV, BBC One and Channel 4. Sky’s biggest channel for 16-34s was Sky One, the 9th biggest channel for 16-34 based on Share of Viewing with 1.6% SOV.
- **The ITV portfolio delivered nearly half of all 16-34 TV audiences over 1m.** 96 of the 193 in total were on ITV or ITV2, compared to 40 on BBC One and 57 on Channel 4. No other channels in the UK delivered any 1m+ audiences to young viewers. Sky’s biggest 16-34 audiences included Toy Story 4 (588k), the Premier League (475k), and A league of the Own: European Road trip (473k).
- **ITV has significant reach among 16-34s.** ITV reaches 42% of 16-34s in an average week – 5.9m viewers – and 64% each month – 9.1m viewers.

This is reflected in the list of top shows for 2020 – with ITV delivering four of the top five, and seven of the top ten series for 16-34s:

| Top 10 Programmes for 16-34s in 2020 | | | | |
|---|----------------|-------------|--|------------------------|
| | Channel | Date | Title | 16-34s 000s |
| 1 | ITV | 15 Nov | I'm a Celebrity... Get Me Out of Here! | 3,757 |

| | | | | |
|----|-----------|--------|---------------------------------------|-------|
| 2 | Channel 4 | 22 Sep | The Great British Bake Off | 2,964 |
| 3 | ITV | 11 Apr | Britain's Got Talent | 2,109 |
| 4 | ITV | 14 Sep | Des | 2,002 |
| 5 | ITV2 | 12 Jan | Love Island | 1,953 |
| 6 | ITV | 28 Mar | Ant and Dec's Saturday Night Takeaway | 1,916 |
| 7 | Channel 4 | 27 Mar | Friday Night Dinner | 1,792 |
| 8 | ITV | 15 Apr | Quiz | 1,674 |
| 9 | ITV | 16 Apr | Gordon, Gino and Fred: Road Trip | 1,586 |
| 10 | Channel 4 | 31 Mar | The Great Celebrity Bake Off for SU2C | 1,582 |

Best Episode, 7 Day consolidated, Excluding News / Events

We also appeal to young audiences strongly in key genres:

- **We delivered the biggest 16-34 drama audiences.** Both *Des* and *Quiz* appealed to a younger audience. *Des* attracted 2m 16-34's while *Quiz* achieved 1.7m across 28 days. This means that ITV held the top 2 biggest dramas on TV for 16-34's in 2020. Channel 4's most-watched drama among 16-34s (*Deadwater Fell*) was 20th in the list of most-viewed dramas among this age group, with under 600k 16-34s. Sky's top performer (*Gangs of London*) was 27th with under 500k, Channel 5 was 41st (*The Deceived*, with under 360k) and E4 was 53rd (*Batwoman*).
- **We achieve substantial 16-34 viewing to our news and current affairs.** An average of 2.9m 16-34s watched ITV's news and current affairs output on our main channel. The two-part series *Welcome to HMP Belmarsh* averaged 4.2m viewers, of which 1m were 16-34's (25% of its adult TV set audience). Almost 1m people aged 16-34 watched live as Boris Johnson went head to head with Jeremy Corbyn on ITV before the last General Election.

We also delivered extensive viewing and growth on ITV Hub, [X] with 33m registered users in total [X]. It is also apparent that much of the viewing often ascribed to YouTube or Netflix is not driven by original content – but by the PSBs:

- ITV is 11th in Ofcom's list of the Top 100 YouTube channels¹⁷

¹⁷ Ofcom Media Nations 2020

- The most-watched Netflix titles in Q3 2020 were *The Fall* (BBC), *Shameless* (CH4), *Dr Who* (BBC), *Benidorm* (ITV) and *Friday Night Dinner* (CH4). 8 out of their top 10 most streamed titles across Q3 were acquisitions.

A fixation on younger audiences in isolation also fails to take account of the substantial implications of such an approach – for other audience groups, for the broadcasters looking at the costs and trade-offs involved (particularly the commercial implications), and for the wider production sector and creative economies. Any policy-making based on a ‘cult of youth’ risks undermining the universal nature of PSM that remains at the heart of its success.

That is not to say that ITV is not investing significantly in attracting younger audiences. Our Studio 55 initiative is a good example of the innovative mindset within ITV on this front.

Case Study: Studio 55 Ventures

ITV has launched an initiative called Studio 55 Ventures¹⁸, looking to build the media and entertainment businesses of tomorrow and invest in the ideas that define the next generation. Paying homage to ITV’s origins and rich cultural history, Studio 55 Ventures is a collaboration with Founders Intelligence, seeking to invest in new business ideas aimed at materially enhancing ITV’s reach amongst 16-34 year olds.

We are looking for teams of entrepreneurs who can create the media and entertainment businesses of tomorrow. The idea is not to look for the next Love Island, but instead to search for a media landscape gamechanger. These could be in the form of streaming platforms, eSport apps or even the next TikTok, all focused on finding innovative ideas that will appeal to 16-34-year-old’s.

We are seeking business propositions that are deeply ambitious, unique, solve identifiable consumer needs, leveraging ITV’s unparalleled reach amongst commercial audiences, as well as its wealth of audience insight and viewing data. The ideas should also draw upon ITV’s existing assets within marketing, media and branding in order to gain market advantage.

The scheme will provide opportunities for talent from diverse backgrounds, as well as people affected by the challenges of the current pandemic, offering aspiring entrepreneurs the chance to build a business without the risks of doing it independently.

Nor is any of this is to suggest that ITV is complacent about the future, or that we should not consider how we can better serve all audiences. But it is important to recognise the significant foundations on which ITV has to build (particularly versus potential new entrants to the PSM ecology) – including with younger viewers – when considering the shape of future policy.

Whilst the focus of much of the public debate about PSM so far has focused on younger viewers, the future of PSM for ITV will only be secured by serving all audiences. For ITV, this means changes to the way we distribute content, the form our content services take, and the content that we commission. We won’t neglect our main channel, quite the opposite, it

¹⁸ <https://www.itv.com/studio55ventures/>

will remain at the centre of our delivery of a mass audience across the UK for years to come. However, its role will become more focussed as we also seek to better serve audiences online (particularly but not exclusively younger audiences).

The challenge of distribution on third party platforms

Despite this, there have nonetheless been suggestions that the PSBs should make even more use of third-party UGC/VSP and social media platforms than we already do. There are a number of reasons that such an approach is unlikely to succeed in delivering significant additional incremental viewing to PSM content, despite the apparent opportunity that tapping into a large young-skewing audience on such platforms represents.

It overstates the opportunity to deliver incremental reach and viewing

The idea that social media and VSPs, and YouTube in particular, are somehow an untapped reservoir of young people who never consume content on other platforms is an oversimplification. Young people using YouTube are also using a range of other platforms.

Indeed, despite the proliferation of choice, Ofcom's research¹⁹ shows that young people still spend nearly 2 hours per day watching TV (117 minutes per day of live, PVR or BVOD viewing), more time than they spend watching YouTube (85 minutes per day) and comparable to SVOD (120 minutes per day).

It is also the case that the high level of YouTube viewing is not evenly distributed. The bulk of YouTube viewing is by a tiny proportion of its users – 80% of YouTube viewing is accounted for by just 10% of the UK population²⁰.

Given this, it's not clear that there are significant numbers of people who do not use ITV content only because it is not on YouTube or other VSPs. As such, it's not obvious that simply increasing the availability of ITV programmes and series on such platforms would deliver an increase in incremental consumption (rather than simply cannibalising existing consumption elsewhere). It's notable that no other major content providers are using YouTube for distribution of long-form content either, presumably because they have observed the same limitations.

It ignores the issue of content discovery

Even were we to increasingly rely on these other third-party platforms for distribution, for this to result in significant additional viewing would mean addressing the fundamental challenge presented by the way in which content is curated, recommended and discovered on these platforms.

On TV-like platforms

You can see the issue most graphically on remote controls where Netflix and Amazon are ever present or on the home screen of connected TV's where PSBs are becoming less prominent over time and in some cases are not there at all. It's often US content from pay-

¹⁹ Ofcom. Media Nations 2020 (p.10)

²⁰ All Adults, IPA Touchpoints 2020

TV players that gets the most visible and prominent recommendations on many TV platforms these days.

The simple truth is that global platforms and their content partners are increasingly guiding and curating the choices of TV viewers globally. The real risk is that TV markets globally are sewn up by a handful of gatekeepers via commercial deals that with global content operators leave little space for national players such as the UK PSBs. Global TV manufacturers on wafer thin margins don't want to carve out local or national exceptions.

If we simply let the current trajectory of the market take its course then the default outcome will be that the national PSM services become more and more marginal, pushed to one side by the global. As Ofcom said in its PSM document before Christmas:

“With the rise of powerful global platforms, we think there is a real risk that PSBs may find it difficult to agree fair terms for their content and may not be available on certain TV platforms.”²¹

This is not the outcome that Ofcom's research shows that people want. But the hard truth is that there is far more money for TV platforms in global online pay-TV services than there is free to access, national PSM services so naturally that is who those gatekeepers are going to favour.

The challenge is to make sure that all consumers in the UK continue to have real choice and access to the full suite of PSM services that they value in the broader public interest.

As Ofcom recognises in its PSM consultation, services like Netflix are able to strike worldwide deals to ensure their content is in favourable positions across a wide range of TV platforms, whilst the PSBs can find it difficult to secure similar terms.

Claims made in response to proposals for prominence – that content discovery 'isn't a problem', that audiences will find PSB content wherever it appears on connected devices as long as it is highly quality and relevant ring hollow when even platforms such as Comcast/Sky/NBC are investing heavily in how their platforms help their customer navigate the sheer scale of content available:

“Greater personalisation based on viewing habits, the expansion of voice search and the introduction of voice control means viewers can now discover more relevant content, more easily...The result of all this is more engaged customers who enjoy more video on demand, make more purchases through Sky Store, are bigger advocates of Sky and are therefore less likely to switch to a different provider.”²²

It's clear the importance they believe this has for the success of their business and the extent to which it influences user behaviour, particularly important for a platform that is vertically integrated into content via Sky Studios and NBC. They're far from alone in believing this – with Netflix spending billions of dollars each year on technology and Amazon employing 10,000 people to work on Alexa alone²³.

²¹ Small Screen, Big Debate Consultation: 8 December 2020 page 5.

²² Sky Annual Report, 2018

²³ <https://www.businessinsider.com/what-amazons-10000-employees-working-on-alexa-are-doing-2019-1?r=US&IR=T>

On Video Sharing Platforms

A similar issue arises in relation to VSPs such as YouTube. Even were we to put all ITV content on YouTube and other VSPs, given the vast number of videos they host – and their approach to content curation – it is not obvious that it would result in any great incremental consumption.

The platforms' business models are driven maximising by viewing and clicks. They are incentivised to increase the amount of time people spend with them and so the amount of advertising they can serve users, the amount of data they receive and so on. As one former YouTube engineer put it:

"...the AI isn't built to help you get what you want — it's built to get you addicted to YouTube."²⁴

The result is that the algorithms at the core of these services are widely reported – including by people who used to design them and by independent academics – to put content in front of you that is as 'engaging' as possible. And it turns out that what keeps people viewing is the sensational, the salacious and, often, the untrue. Lies spread faster than truth. As Mark Zuckerberg acknowledged:

"people will engage disproportionately with more sensationalist and provocative content."²⁵

This means that even were ITV to put all of its content on platforms such as YouTube, the nature of content discovery and the type of content prioritised (shorter form, more sensationalist) would mean that it might not drive significant incremental viewing.

It ignores the importance of a sustainable business model

Of course, all VSPs and platforms want to offer a wide range of content to their users. It is no surprise, therefore, that there is always a demand from these online platforms for ITV's high quality content. Nor is it a surprise that we are seeing increasing suggestions in public that such a strategy would 'fix' the perceived problem of PSM reach to younger audiences. These suggestions will doubtless become more frequent as these platforms rapidly morph into hybrid long-form TV and UGC platforms.

And we have no objection in principle to distributing our content via these sorts of platforms – as we describe above, we are broadly distribution platform agnostic and are keen to get our content out to as many people as we can. But not at any price.

Critically, even were we to react to such demands by expanding our provision and the platforms were also able to offer an incremental uplift in viewing, it's important to recognise that – for commercial organisations at least – there are still limits to what such an approach might achieve.

Simply uploading content to social media and VSPs does not result in a financial return, no matter how widely viewed the content becomes. Instead, monetisation requires a deal to be struck between each VSP etc and the content creator.

²⁴ <https://thenextweb.com/google/2019/06/14/youtube-recommendations-toxic-algorithm-google-ai/>

²⁵ <https://www.facebook.com/notes/mark-zuckerberg/a-blueprint-for-content-governance-and-enforcement/10156443129621634/>

The problem in going further than we currently do in using these online platforms is a simple one: the commercial terms are so unattractive and disadvantageous to us that it is far more rational to seek to capture viewing via ITV Hub on one of the 40 platforms that we are already on. Distribution is not just about delivering viewing, but also being able to monetise that viewing and so sustain investment in original, high-quality UK content.

Such deals are complex and generally on ‘take it or leave it’ terms set by predominantly American online platforms. [X]:

- [X];
- [X]; and
- [X].

[X]. Spark Ninety’s report highlighted the following as key trends prevalent across the CTV value chain:

- *“Gateway platforms setting or negotiating terms with media owners that involve platforms taking a share of ad inventory and/or mandating use of their ad Tech*
- *Gateway platforms leveraging CTV device technology to enable addressable advertising broadcast TV in return for a revenue share.”*

We also recognise the risk called out in that report by one interviewee:

“It’s a slippery slope, to start relinquishing control to big tech platforms that start off with, I don’t know, a 20% share of your inventory. That suddenly puts a noose around your neck where that share can then be increased as reliance on a platform grows.”

The problem here is not unusual or unfamiliar – it is simply a variant of the issue that Ofcom itself identifies in its consultation document around the increasing power of global platforms and the effect that that will have on public service media over time.

Of course, the irony is acute. Just at the moment when platforms such as Facebook, Instagram, YouTube, Snap Chat and others are facing the greatest focus in their history as vectors of misinformation and even violent incitement and other unlawful activity, so their approach to distributing high quality, trusted PSM news is essentially exploitative and self-interested.

Of course, there are unilateral initiatives from some of the platforms around news but these are no substitute for fair terms of access and distribution which facilitate broader investment in original UK content including news rather than distort competition.

The scale of the issue of value extraction by the platforms is underlined by the very high rates of return being made by the global online platforms. As the government noted in its response to the CMA’s report on the digital advertising market, the CMA’s analysis:

“...shows that in the UK both Google and Facebook are consistently earning profits well above what is required to reward investors with a fair return. Google earned £1.7bn more profit in 2018 in the UK than the benchmark level of profits. For Facebook, the comparable figure for 2018 was £650million.”²⁶

²⁶ <https://www.gov.uk/government/publications/government-response-to-the-cma-digital-advertising-market-study>

Given this, the aim of our clip strategy is to seek to direct viewing away from the online platform to services where we make a viable rate of return. However, even this isn't easy as these online platforms understandably do as much as they can to retain users in their platform to view other content rather than enabling those users to easily make the journey to other content environments, such as that provided by ITV. The behaviour of a number of these platforms is much more that of a dominant incumbent competitor for advertising and data than that of a distribution partner.

Indeed, terms such as [X] make the default 30% revenue demand from the Amazon TV platform²⁷ appear to be a good deal, pointing to a profound set of issues that online content providers face in the context of the major US online distribution platforms. The obvious concern here is that terms that are currently standard and non-negotiable for certain global online platforms today, may over time become more of a norm across a broader swath of the platforms ITV is already on, delivering a greater and greater proportion of overall viewing.

In truth, if we seriously began to use these platforms as vehicles for distributing our long form content we would not be able to afford to make that content for very long. Nor would we be able to continue to fund our core PSM content such as news that we cross subsidise from more profitable content. It would be a disastrous commercial strategy and points to the heart of the problem about seeking to rely on many of the global online platforms to distribute national PSM content in the UK without significant regulatory intervention.

Our strategy is to seek to control as much of our advertising inventory as we can and to maximise the value we can obtain for our risky content investment. We do this on as many online platforms as we can, but we cannot do this at any price.

We have sought to move to a broader and more strategic and advantageous longer-term relationship with some of these global online platforms (with more access to data and more acceptable monetisation models), but hitherto these have been rebuffed on the basis that the standing instructions from the US did not permit such latitude.

Given this, it is clear that reform of the legal and regulatory framework is needed urgently, alongside ambitious strategies from the PSBs, if the benefits that PSM delivers to UK audiences are to be sustained in future.

The importance – and limitations – of partnerships

Consultation Q6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven't identified?

We will need to build on our strong partnerships to help PSM to compete: the PSBs already have a strong track record of collaboration in the public interest including via DUK (Freeview, Freeview Play), Freesat and YouView.

We're excited by the potential of these free-to-air offers to deliver even more value in a connected global market. [X]

²⁷ <https://developer.amazon.com/docs/policy-center/fire-tv-advertising.html>

But it's crucial to recognise (a) that different ownership and funding methods place some limits on the extent of viable collaboration and (b) that partnerships alone cannot address the power imbalance between national PSM and global platforms/streamers.

It is in part the variety of PSM provision, reaching different audiences, that has been a real strength of the UK system. It allows each PSM provider to maintain direct relationships with their audiences (to personalise and improve audience experiences), to exercise editorial control (which represents a significant part of the value they offer to audiences through the specialist curation of content), to develop their own distinct brands and identities (often appealing to very different audiences), and to be directly rewarded by audiences for their investment in content and innovative features (promoting healthy competition).

Maintaining a variety of high quality and distinct PSM services is essential for serving all UK audiences. Operating a single joint service or on-demand content service would risk diminishing these sources of value while exposing the joint service to all the same risks of platform disintermediation currently faced by the individual PSM services.

5. ABSENT INTERVENTION THE MARKET WILL INCREASINGLY NOT DELIVER EVERYTHING UK VIEWERS AND POLICYMAKERS WANT

Before getting into the specifics of how the regime might need to change it is important to put PSM into a market context both now and in the future.

Increasing competition as a policy choice: The effect on PSM delivery

Decades of UK industrial policy have been designed very successfully to increase competition to the PSBs at all levels of the value chain – through the creation of Channel 4 and the launch of Channel 5, the imposition of independent production quotas and terms of trade, the PSB must-offer provisions to encourage competition to analogue monopoly distribution, digital switchover facilitating universally-available multichannel television, tax incentives for UK productions etc. The arrival of a global online TV market in the UK at scale and the increasing consolidation as a reaction to that (Sky/Comcast/NBC, Disney/ Fox etc) are the latest manifestations of this onward march of increased competition.

The result is that the PSM landscape today is characterised by increasingly fierce competition between national PSBs and global players, disintermediated increasingly by global online content platforms with powerful producer suppliers who, on Ofcom's numbers, now generate more revenue from outside the PSM system as they do from within it.

There is, of course, much to celebrate in more competition and innovation in the TV market – of the benefits it brings through expanding consumer choice beyond the former monopoly providers and investment in content for UK consumers these new providers bring. But increased competition has inevitably reduced the consumption of content from former monopoly PSBs and, as a result, impacted on their ability to pay for the things that the market does not provide. This was inevitable as viewing fell and as the regulatory assets (DTT spectrum and prominence) became progressively less valuable as a result.

Indeed, this tension is reflected in media policy where in recent years, far from relying more on the wider commercial TV and SVOD landscape, policymakers and regulators have actually wanted more PSM output – authentically representative of the UK – as a counterweight to increasingly global market provision. That's why we've seen increased PSB obligations, for instance in relation to children's television and stricter rules around regional productions.

And its why, for instance, we have recently seen the Welsh Senedd Culture Committee call for new requirements for *"the Channel 3 licence (held by ITV) in Wales to produce a greater proportion of network content in Wales, and an enhanced role for the Welsh government in setting the terms of the next Wales Channel 3 licence²⁸"* as a counterpoint to the fact that the *"growth of global streaming giants has brought a boom to productions made in Wales, but it has done little to increase programming that portrays the lives of the people of Wales specifically"* according to the Committee's Chair, Bethan Sayed²⁹.

However, the market is moving in a different direction – driving the roll out of global paid-for services, squeezing the visibility and viability of free to view national PSM content. This is adding more choice for those willing and able to pay but not replacing the public value delivered by the free, universal PSM. Indeed, increasing competition and disintermediation

²⁸ Welsh Senedd Communications Committee report: Exploring the devolution of broadcasting in Wales. 2021

²⁹ <https://www.bbc.co.uk/news/uk-wales-politics-56350714>

is reducing the value of commercial PSB licences and undermining the ability of the PSBs to deliver public value at the scale that they have in the past. This is reflected in the well-documented decline in PSB investment in first run content over the past decade, now at £2.5bn versus a peak of over £3.2bn³⁰.

This was acknowledged in Welsh Senedd Committee's report, which said that the:

"...value of the Channel 3 licence has clearly diminished since the days when it could deliver an almost captive audience to its commercial advertisers...[and that] anyone who calls for an increase in the public service conditions attached to the Channel 3 licence must explain how this is compatible with ITV's changing market position."

And Ofcom itself concedes that despite rapid technological evolution, the current PSB system and regulatory regime has seen little change since 2003 – when there was no YouTube or iPlayer, Netflix offered DVDs, and Facebook was called Facemash – and *"urgently needs updating."* We welcome Ofcom's conclusion that there is an urgent need for a new framework to support an effective transition to public service media, straddling online and broadcast TV.

These market trends will be dramatically intensified by the government's decision to introduce a pre-9pm ban on HFSS advertising on TV which will further substantially reduce the value of the commercial PSB licences and hence the public value that the PSBs can deliver to the UK. [X] This blow will be intensified should the government fail to ensure a level playing field between TV and online, as this will shift the balance of power further towards the likes of Google and Facebook.

Given these changes, however, it is appropriate in the context of the PSB Review to look carefully at our expectations of PSB players and the overall funding in the system for PSB outcomes. So, for instance, the historic assumption that each PSB should be all things to all people, delivering every PSM outcome needs careful examination. It is rooted in an age when such expectations could be paid for out of excess monopoly profits – redistributed in pursuit of both content policy and industrial policy objectives – without any serious impact on PSB licence holders who faced little competition.

In this context, Ofcom is therefore right to carefully consider the impact that the combination of market change and the current independent production interventions are having on the sustainability of PSM – and its ability to meet the needs of UK audiences, who increasingly expect to be able to watch whatever, whenever and wherever they like.

We're hopeful that, however we get there (and our preference would be via a negotiated rather than a regulatory route), what can emerge is a new and modern partnership between PSBs like ITV and independent producers of mutual benefit, continuing to deliver a public good – culturally and economically – for years to come, with a framework updated for the consumption patterns and economics of the online TV era. We set out our response to Ofcom's call for evidence in relation to the independent production quotas and terms of trade in Annex 3.

³⁰ <https://www.smallscreenbigdebate.co.uk/what-is-ssbd/ssbd-five-year-review>

The particular challenge of PSM news

Nowhere will modernised intervention be more important in future than in helping to safeguard the future of well resourced, free and universally available, trusted PSM news services. We enclose with this submission a report at Annex 2 prepared for ITV from Rob Kenny of Communications Chambers looking at the challenge of sustaining the public value of ITV news in a changing world.

The report highlights in particular the challenge of ensuring the continuation of plural, quality news provision to a mass audience citing the conclusion of the Cairncross Review which emphasised the importance of encouraging the provision and consumption of public interest news but noted that:

“this will require new sources of funding, removed from direct government control. It will need institutional and financial structures that combine a guarantee of independence with adequate support. This will be a difficult combination to secure, but the future of a healthy democracy depends on it.”³¹

However, as the Communications Chambers report points out, an appropriate structure already exists for PSB news and particularly in the case of ITV which should be valued and supported through a period of transition. PSB news has the potential to be an important component of the solution to the wider challenge of sustaining a healthy and plural, free to access, mass news media. As Communications Chambers note:

“...in PSB news the UK has a valuable model for arms-length support of socially important, trusted news at scale. This is likely to be increasingly precious given the challenges facing other forms of news provision. Building on and modernising this model may represent the most effective way forward.”³²

However, the report goes on:

“The challenge in this will be to find ways to enable commercial PSB providers such as ITV to continue to fund high quality, trusted, mass reach news programmes as part of broader broadcast and online offerings that achieve mass reach in the UK. This problem is particularly acute given the increasing reliance that national providers such as ITV will have on global online distribution platforms to reach parts of the audience at scale”³³

Newspaper models of building like-minded subscribers or charitable contributors is not viable for free, universal and bipartisan PSM news services. Rather, as the Communications Chambers suggests:

“there are important lessons to learn from the experience of the newspapers, particularly in terms of the visibility and prominence of their content and, above all, the revenue loss that they have experienced due to online distribution”³⁴

³¹ Frances Cairncross, A sustainable future for journalism, 12 February 2019

³² Sustaining the public value of ITV News in a changing world, Rob Kenny, Communications Chambers, October 2020. Page 41

³³ Sustaining the public value of ITV News in a changing world, Rob Kenny, Communications Chambers, October 2020. Page 5

³⁴ Sustaining the public value of ITV News in a changing world, Rob Kenny, Communications Chambers, October 2020. Page 5

This is even more important as the historic sources of funding commercial PSB content, namely DTT spectrum and prominence for linear TV channels on traditional EPGs, are declining in value. This at a time when the demand for more online news provision is increasing but at the same time as the importance of linear TV news is undiminished.

Ultimately if as a country we want high quality free and universal PSM services and high quality, trusted news services to be sustainable, distributed widely, available to and consumed by large audiences in the UK at a time of misinformation and worse online, we need to face up to the reality that that will not happen without intervention in relation to a set of global online platforms that are set to get more and more powerful over time.

The rise of new monopolists: achieving competitive equilibrium between national and global services

Arguably for many years the UK had too much PSM output but too little competition and choice. The PSBs were the monopolists forced by regulation to use excess profits to encourage and subsidise competitors across the value chain – in TV distribution, production, channels etc. The emerging monopolists of the era of online TV are, however, not the PSBs but the global online platforms and global online content providers who have developed alongside them. We risk a different form of monopoly provision in future and a risk to key PSM output such as news as a result.

Our aim should be a market for TV in the UK where neither national PSM services nor global services dominate the other. Just as in the era of monopoly PSBs, this would significantly reduce consumer choice and, ultimately, the competition that is so valued in the current UK market. It should therefore be of concern to all that the success of the PSM system is at risk as TV markets globally are increasingly dominated by a handful of online platforms.

An effective competitive equilibrium between the national and global services can only be delivered by levelling the playing field – giving national PSM a fair shot in a market dominated by global competitors and aggregators far larger and richer. As TV shifts online, absent intervention we will see what we've seen in other online markets: the platforms extracting much of the value from content offered by national players. Without such intervention therefore, we will see the marginalisation of the free national TV services (including particularly critical content such as high quality, trusted news) versus the paid for global alternatives. The key theme of this submission, and of Ofcom's consultation, is that UK viewers want both the national and the global to flourish.

We need to ensure that whatever new PSM regime is set up does not create more cost, obligation and bureaucracy where it should free up the commercial PSBs to deliver where they can have most impact. Nor should a recast PSM intervention be about protecting old business models (whether those of the PSBs or those of the other firms that currently benefit from the regime) or sheltering those firms from competition. It should be unashamedly about preserving and developing consumer choice and meeting the needs of UK audiences.

Absent a recognition of these trends – and the challenges they pose to the future of the PSM system – the real risk is that increasingly the UK will see the (seemingly expanding) PSM

ends but does not deliver the economic means to achieve those ends. Urgent decisions are needed from government this year to secure and future-proof the enduring value of PSM. Accordingly, Ofcom is therefore right to consider what further changes might be made alongside reform of PSM/platform rules in order to enable PSM to thrive, to the benefit of the UK as a whole.

6. DESIGNING A NEW STATUTORY FRAMEWORK FOR ITV AS A PSM PROVIDER: KEY COMPONENTS

Consultation Q1: Do you agree that a new regulatory framework for PSM delivery should support a more flexible 'service neutral' delivery approach that is more outcomes focused?

Consultation Q2: Do you agree with our proposals for a clear accountability framework?

Consultation Q3: What do you think should be included in the PSM 'offer'?

Consultation Q4: What options do you think we should consider on the terms of PSM availability?

Consultation Q5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?

What Changes are Required to the PSM Regime for ITV for the long term?

The PSM system is ultimately a creation of government and legislation. Even with transformational change from the PSBs, PSM legislation also needs a radical update for the global online era if the system is to continue to deliver for the people of the UK in the ways Ofcom's research suggests that they want it to.

Against the backdrop of a radically changing market, there are five areas where Ofcom and government need to act to secure and future-proof the PSM system for the long-term:

- (a) **Establishment of a new "PSM Operator" Regime:** replacing the current system – based on myriad different standalone legislative clauses, all referring back to a list of linear broadcast TV channels – with one that designates the organisations responsible and empowers Ofcom to oversee the implementation of the regime without delivery being hidebound in primary legislation for a single linear broadcast channel.
- (b) **New primary and secondary objectives for ITV as a PSM in future:** defining ITV's specific role more clearly, focused on a primary statutory objective to serve broad UK audiences with high quality content (including news services at national, nations and regional levels) reflecting life in the UK, widely available for reception and for free. Below that high level objective could be a series of elements that would be expected as part of meeting that objective and that we set out in this submission, for instance in national, nations and regions news of high quality, scale, reach and impact or around high levels of origination or reflecting the UK etc.

We also propose a secondary statutory objective relating to production sector requirements primarily production outside of London and commissioning from independent producers.

Such an approach of primary and secondary objectives will better align with the views of audiences expressed to Ofcom, the likely competitive position and market provision and ITV's strengths as a digitally led media and entertainment company.

- (c) **A new settlement between PSM providers and platforms to secure prominence, inclusion and fair value:** from the platforms that distribute broadcast, streamed and on-demand content from the PSMs. Such reform is the very minimum required if we hope to have a thriving PSM regime alongside global competitors – without such

reform, other measures will make little substantive difference on their own. Such a regime should provide:

- a. **Effective guarantee of prominence:** delivering Ofcom’s ‘top of list’ linear principles online.
 - b. **Right of inclusion:** securing access to those platforms to which prominence rules apply
 - c. **Fair value for PSM content.** Prominence isn’t enough on its own if global platforms are able to use their financial muscle to squeeze the value out of the PSMs’ investments (e.g. standard online platform terms often require content providers to agree a 30% ad revenue share, more in the case of YouTube). Regulation must guarantee us the opportunity to negotiate deals that fairly reflect the value of our risky investment in UK content to UK audiences.
- (d) **A more agile and flexible regulatory regime to foster innovation and meet audience needs:** reflecting the rapid changes in technology, the market and viewer behaviour, and the implications for what the PSM regime can deliver. We set out detailed thinking on the necessary new approach to regulation in this submission which at its core must offer more flexibility around the definition and delivery of obligations and a significant reduction in complexity.

ITV is not proposing a significant diminution in its PSM delivery for audiences under this new proposed scheme. Moving to a regime determined more by the regulator – under clear and simple statutory objectives – than by detailed statutory obligation simply increases the discretion and flexibility for Ofcom and ITV to best react to changing audience needs and expectations as well as the changing economic and competitive position of PSM providers.

Such a system might have some similarities to that recently sketched out by Ofcom in relation to the BBC, with more ownership by ITV of the form of obligations and step-in rights for Ofcom in defined circumstances.

- (e) **Sensible regulatory changes to offer more flexibility and modest enhancement to PSM economics:** removing restrictions more suitable to the old linear analogue world of limited choice and PSB dominance.

For the avoidance of any doubt, however, reform of prominence, inclusion and fair value is the very minimum required if we hope to avoid global platforms dominating and dictating the UK media market.

We therefore welcome Ofcom’s consultation on the PSBs’ proposals in the current process. Such reform is arguably consistent with what the current 2003 Communications Act regime aimed to do in another era – it shouldn’t be particularly onerous or radical, but it is by far the most critical reform that is required. Indeed, there are increasing moves in a number of countries to seek to ensure that societally valuable content can secure both visibility and a fair return from the major global online platforms. We’re seeing this in Australia and in France, and elsewhere in relation to news content (including that of TV news). We can expect to see this in TV more broadly very soon too.

We attach as Annex 1 what such a regime might look like in legislative terms – something we have previously provided to Ofcom. This is not intended to be definitive but simply to illustrate that such a regime can be designed in law relatively straightforwardly.

Wider reforms, with a new prominence, inclusion and fair value regime at its heart, can ensure that the system is dynamic and flexible, able to react to audience needs as the market continues to change radically in years to come.

We examine each of these elements in turn below.

(a) Establishment of a new PSM Operator Regime

Currently, PSB status is captured in the form of myriad different clauses within the Communications Act 2003, but focussed entirely on a list of qualifying linear PSB channels and separate interventions that then refer back to this list.

Instead, this somewhat chaotic structure might be replaced with a simpler structure – naming the organisations that will hold PSM status rather than individual services, and replacing the various separate requirements relating to must offer, must carry, prominence and licensable services with a single overarching approach to prominence, inclusion and fair value (as per the joint PSB submission).

Such an approach will make it clear which institutions are included within the regime but empower Ofcom to determine the detailed construction of the regime – both in relation to content and to content supply.

As we set out below, this is not a proposal to extend detailed regulation to cover all services offered by each commercial PSB, but rather to enable broader account to be taken of the PSM delivery by a PSM operator over a number of different services which may reach different audiences in different ways, collectively delivering the objectives set for that PSM operator.

Nonetheless, as we set out below, we continue to believe that the reach and impact of the ITV main live TV service (delivered both by broadcast and IP streaming) will continue to be the main (though not the only) vehicle for ITV's PSM delivery given its likely continued scale and impact.

(b) New primary and secondary objectives for ITV as a PSM Operator in future – focused on serving UK audiences with high-quality UK content including news

Primary Statutory Objective for ITV: serving broad UK Audiences with high quality content reflecting life in the UK, including news, widely available for reception and for free

On the basis of Ofcom (and ITV's) market research, it would seem that at the heart of any future PSM role for ITV will lie a handful of key ways in which ITV will continue to seek to meet the expectations of audiences across the UK, particularly through:

- Offering broad, free to access, mass reach content serving and reflecting the whole UK and offering moments (many of which will be live) when the country can come together. Such a service will aspire to serve pretty much all major audience groups at least some of the time.

- Giving audiences access to this content across ITV's full range of services – both linear and on demand
- At the heart of this service will continue to be high quality, trusted national, nations and regional news services of scale, reach and impact,
- The service will also showcase the best talent the UK has to offer in a variety of genres of programming which truly reflect the experience of the people of the UK.
- The service will continue to have very high levels of original UK content that aspires to reflect the places and people of the UK.
- The service will aim to be a free to access, mass market, alternative to the BBC, seeking to provide plurality and choice to the BBC's offering, particularly on its main mass reach offering (likely to continue to be BBC One for some time).

In ITV's view, serving audiences in these ways ought to be the primary statutory objective of ITV as a PSM operator in future. This is not a niche role for ITV – quite the opposite, it is a broad and expansive one, a vital continued component of media plurality and choice in the UK. How these elements are delivered over time may evolve – as we set out below, the regime for setting and delivering on them may well need to change as audience behaviour and opinion changes. But these primary objectives go broadly with the position and incentives of ITV, albeit that substantial value in PSB licences will continue to be required to enable the appropriate funding of nations and regions news in particular.

A key method of delivery for this mass reach service will continue to be the ITV main channel but delivered not just by broadcast but also increasingly streamed via IP. But of course, on demand and other ITV channels will also play an increasing role depending on which form of distribution best meets audience needs. Our ability to deliver these primary PSM obligations therefore needs to be enabled by an independent production regime that ensures we have the right primary content rights to meet audience needs.

Secondary Statutory Objective for ITV: delivering TV production sector objectives

There is perhaps more debate in the medium to long term about the extent of the industrial policy objectives that have been a part of the Channel 3 remit since the days when ITV enjoyed far less competition and its PSB licences were far more valuable. Interventions such as the independent quota, the terms of trade or the industrial policy quotas for production outside London are harder to square as obligations on a commercial company like ITV with limited PSB benefits (already vital to pay for elements such as nations and regions news), competing for revenue and viewing with colossal global rivals with none of those obligations.

Not only do these obligations potentially divert value but they also create complexity and complication which many of ITV's key competitors do not face.

It may be that these sorts of industrial policy obligations are in future secondary statutory objectives for commercial PSBs such as ITV, with more load in terms of delivery in these areas increasingly taken by state owned or funded institutions over the longer term. As secondary statutory obligations on ITV, such objectives might be seen as subordinate to the primary obligation on ITV of serving audiences as set out above.

However, to be very clear and as we set out below, we are not saying that these production sector interventions must no longer apply to ITV as a PSM in a new licence period. In fact, subject to reform of the rules relating to prominence inclusions and fair value, we suggest below that they should be maintained at numeric levels comparable to the current quota levels at the outset of a new licence. We do, however, suggest more flexibility around their delivery in the early years of a new licence and more ability for Ofcom to alter those obligations over time, if that is appropriate to enable ITV to meet what would be its primary statutory objective to audiences. These objectives might be delivered through:

- Investment overall in production outside of the M25
- Commissioning from independent producers.
- A code for commissioning content from independent producers.

(c) A new settlement between PSM and platforms – Prominence, inclusion and fair value

Reform of the rules that govern the relationships between PSM operators and platforms is the *sine qua non* of any new regime for Public Service Media. As we set out above, without such reform national PSM services will gradually be eclipsed and undermined by global services and the viewer and broader public interest will increasingly not be served by purely global market provision. Accordingly, reform of the rules around prominence, inclusion and fair value must be the highest priority. This will enable PSM providers to compete on a more even footing with global online platforms and streamers.

This proposed reform is particularly important for ITV given the proposed future primary PSM purpose we set out above to serve all audiences and continue to offer a service that, overall, brings the UK together for key moments in our national life in competition to the BBC, and as an alternative to global streaming services. It is unlikely to be possible to achieve that core PSM purpose without reform to the prominence, inclusion and fair value regime.

This is why, along with the other PSBs, we have set out in detail to Ofcom how such a system might operate as well as suggesting possible legislative drafting. These proposals are arguably consistent with what the current 2003 Communications Act regime aimed to do in another era. Reform should therefore not be viewed as particularly onerous or radical:

- **Effective guarantee of prominence:** delivering Ofcom’s ‘top of list’ linear principles online.
- **Right of inclusion:** securing access to those platforms to which prominence rules apply
- **Fair value for PSM content.** Prominence isn’t enough on its own if global platforms are able to use their financial muscle to squeeze the value out of the PSBs’ investments (e.g. standard online platform terms often require content providers to agree a 30% ad revenue share). We are therefore calling for regulation to guarantee us the opportunity to negotiate deals that fairly reflect the value of our risky investment in UK content to UK audiences, overseen independently by Ofcom.

Reform around prominence, inclusion and fair value is the very minimum required if we hope to avoid global platforms dominating the UK media market. We therefore welcome Ofcom’s consultation on the PSBs’ proposals in the current process. Such reform is arguably

consistent with what the current 2003 Communications Act regime aimed to do in another era – it shouldn't be particularly onerous or radical, but it is by far the most critical reform that is required.

Indeed, there are increasing moves in a number of countries to seek to ensure that societally valuable content can secure both visibility and a fair return from the major global online platforms. We're seeing this in Australia and in France, and elsewhere in relation to news content (including that of TV news). We can expect to see this in TV more broadly very soon too.

We attach as Annex 1 what such a regime might look like in legislative terms. This is not intended to be definitive but simply to illustrate that such a regime can be designed in law relatively straightforwardly.

This regime is intended to apply to all online platforms that are significant vehicles for TV distribution, whether live or on demand. Were the regime to apply only to those platforms more traditionally associated with TV, then it would fail to deliver a level playing field with those global platforms increasingly controlling content access and discovery.

We stand ready to refine the ideas we have proposed further with both Ofcom and government as a matter of urgency. If the proposed framework from the PSBs is not broadly the right one, we would be keen to understand what the alternatives might be.

Such a revised framework for PSM providers and platforms could, depending on how it is implemented, help in part to address the substantial decline in the value of the PSB assets that underpin commercial PSB delivery we have seen in recent years. Even so, as outlined above, substantial competition will remain – to the benefit of audiences but with implications for the scale of the PSM system.

(d) A more agile and flexible regulatory system for ITV as a PSM provider to foster innovation and meet audience needs

The current regulatory regime for PSM is mostly set in primary legislation. Such a static and immovable regime was premised upon: (a) gradual not revolutionary market change; (b) very gradual technological change – see for instance the inclusion of the concept of the EPG in primary legislation; and (c) a national rather than a global market for TV. Each of these three underpinnings for the current legislative regime for TV have now disappeared.

There are countless examples of the problems and rigidities this causes – not least the lack of any change in relation to platforms and prominence due to the legislative structure not providing Ofcom with the powers to react to the changes it has documented so clearly. We have to create a new regime for the online era very differently.

The challenge in designing a new regime will be creating the flexibility to respond as the world changes whilst at the same time giving certainty – to PSM providers – that the delivery expected of them is clear, stable and affordable, and to regulators, policymakers and stakeholders, that the PSM providers will deliver. Kevin Bakhurst expressed this succinctly recently in relation to BBC regulation – such an approach should be about designing a licence that is fit for a modern public service media organisation, not necessarily about raising or lowering the number of quotas but about giving the power to the PSM provider to make these commitments.

We believe there are some key elements of a new approach to PSM delivery and regulation which will deliver on those objectives that we set out below.

Replacing detailed obligations in primary legislation with a high level PSM purpose framework in legislation, implemented for ITV in detail by Ofcom

We set out above the concept of new primary and secondary statutory objectives that might apply to ITV in a new legislative construct for a new licence period. Implementation of a more detailed regime for ITV as a PSM provider might then be delegated by the legislation to Ofcom. This delegation might be accompanied by guidance in legislation as to the matters on which Ofcom might be required to have regard in designing a new regime for ITV as a PSM provider. Such matters might include:

- The need for ITV to be able to deliver its primary statutory objectives above all else, including the need for ITV to:
 - at all times, offer a national, nations and regions news service of high quality, reach and impact capable of competing effectively with other news services; and
 - serve broad UK audiences with high quality content reflecting life in the UK, widely available for reception and for free.
- Delivery of the secondary production sector objectives in relation to production outside of London and commissioning from independent producers, albeit subordinate to other objectives, particularly the primary statutory objective.
- The nature of the obligations that ITV was subject to prior to the new regime entering into force
- The need for flexibility of delivery of those objectives to best meet audience needs and requirements
- The affordability of obligations when set against the value of the regulatory assets underpinning commercial PSM
- The need for ITV to be able to compete effectively with other commercial TV services both linear and on-demand

There will of course need to be a change of mindset towards regulation since this new approach will require the removal of the extensive mandatory and inflexible linear quota machinery in primary legislation, instead empowering Ofcom to work with PSM providers to agree obligations and to hold PSM providers to account for delivery. Absent this, any discussions of flexibility appear destined to deliver little.

Whilst this means letting go of the apparent safety blanket that the current detailed regime offers, it is important to acknowledge that the current regime a) does not result in optimal outcomes for audiences and b) imposes significant drag and costs on PSBs, as well as making it harder for them to compete with new players without any of these obligations.

Case study: the limitation of quotas - *I'm a Celebrity in Wales*



Credit: ITV

The 2020 addition of *I'm A Celebrity...Get Me Out of Here* is a good example of how the current regional production quota regime is not necessarily a robust measure of regional production activity and economic impact.

The production has involved considerable expenditure and employment in Wales. We spent in the region of [£] in Wales. We used over 50 local suppliers across all elements of the production, including transport, set builders, crew accommodation, and merchandising.

The arrival of the production was viewed positively by locals. In celebration of *I'm A Celeb*, local shops and pubs in Abergele adorned their windows and walls with all things Ant and Dec³⁵. Welsh language tutors reported increased interest in their services after the first programme aired.

But despite the clear and substantial benefits to the Welsh economy – not least the sheer volume of spend in Wales – and with production long having finished, we are nonetheless still analysing every line item of spend in detail to assess its status against Ofcom's three criteria and guidance for regional productions. This is due to Ofcom's requirement that precise percentages are returned for production and talent spend, coupled with the complex and sometimes somewhat arbitrary nature of the regime, and the challenge of applying Ofcom's high-level principles to the reality of day-to-day production spend. We explore this in more detail below.

Whether the programme eventually qualifies as 'regional' or not, the benefit to Wales will remain, but any recognition of that within the current PSB framework is less certain.

³⁵ <https://www.walesonline.co.uk/whats-on/whats-on-news/welsh-town-thats-transformed-itself-19110150>

Nor does the out of London quota appear to play a significant role in ensuring on screen representation and portrayal of people and places right across the UK, which should surely be the primary focus. A glance at Ofcom's Made Out of London register shows qualifying programmes that appear to deliver little representation and portrayal (e.g. Australia with Julia Bradbury) whilst other programmes that are very clearly rooted outside the capital (e.g. *Doc Martin*, set in Cornwall) or prominently feature cast and participants from right across the UK (e.g. the example of our key entertainment strands, as referenced earlier, or ITV's live daytime output) are conspicuous by their absence.

We do, however, recognise that quotas will remain an important way of ensuring delivery in some areas. Indeed, underpinned by reform of prominence, inclusion and fair value rules, initially it seems very likely that the obligations on ITV under a new PSM licence might be similar in a number of respects to those that we currently have. ITV is not proposing a significant diminution in its PSM delivery for audiences under this new proposed scheme. Moving to a regime determined more by the regulator under clear and simple statutory objectives than by detailed statutory obligation increases the discretion and flexibility for Ofcom and ITV to best react to changing audience needs and expectations as well as the changing economic and competitive position of PSM providers.

Establishing a clear baseline of provision at the outset

Even a more flexible framework will need to establish a baseline of provision. As we set out above, it seems likely that the initial obligations on ITV as a PSM operator under a new licensing regime will reflect, in a number of respects, those we currently have – that is the baseline from which we recognise a new regime needs to emerge.

In that context, it is important for all sides for there to still be a mechanism by which, in the build-up to each new PSM licence period, a baseline guarantee of provision (including quotas) can be established, giving a degree of certainty to all parties about what will be delivered – and what benefits will be provided in return.

These commitments could be captured in a binding document from ITV (with step in rights for Ofcom in defined circumstances) ahead of any new licensing round. The starting point for such initial commitments would be likely to be the current PSB delivery by ITV, but with a recognition within the framework that delivery might need to evolve to reflect changing economics, competition and audience demand over time.

Put very simply, it would seem sensible for ITV to be incentivised to propose elements of PSM delivery that are in keeping with its primary statutory objective to serve UK audiences (as described above) but which might not be reflected in a pre-determined regime set out in primary legislation. For example, it would seem to make sense for ITV to be incentivised to provide non-commercial PSM services such as the youth news service *The Rundown* as part of an overall offer and to receive credit from an agile PSM system for doing so. And for ITV to be credited within the system overall for developing other aspects of its online news system and for giving news a prominent position on ITV Hub.

Once such a baseline of PSM delivery is established, the key terms of the compact should only be varied in specifically defined circumstances, giving the long term certainty needed to underpin new investments (e.g. online). So, for example:

- *In general, changes should be at the request of the PSM provider:* for instance, because a better way of delivering outcomes for audiences has emerged – where there should be a presumption of approval. A key concern for a commercial PSM provider in a more flexible regime would be around the risk of arbitrary and/or expensive new obligations being imposed in circumstances where they might not be justified and/or affordable.
- *Changes to underlying conditions or guidance by Ofcom which create additional cost or obligations should net off other obligations.* Examples of such changes might include any failure to deliver reform of prominence, inclusion and fair value rules, or any regulatory changes comparable to Ofcom’s decision to exclude Nightscreen from the regional production quotas. That latter decision, whilst understandable from a policy point of view represented a substantial variation from the original terms of ITV’s licence, in which Ofcom had specifically accounted for Nightscreen in determining ITV’s role in the system at the outset of the licensing period (as had been the case for many years).
- *There may be a case, in extremis, for Ofcom to have a power to exercise step-in rights:* on the basis of a failure by a PSM provider to deliver agreed outcomes, after having been notified by Ofcom of its assessment of such failure and been given sufficient time to respond.

If we get this approach right, it will lead to a more systematic focus on delivering for audiences with flexibility built in to enable rapid change should ITV make the case for such change.

Introducing a more flexible approach to quota delivery

We recognise that even under the more flexible regime we describe above, however, there will continue to be a need for hard edged quotas and obligations to ensure a baseline delivery by ITV. Because of the likely continued centrality of our linear TV offer (broadcast and streamed) to our PSM delivery, we would envisage the main numeric quotas continuing to relate to our current PSB channel in future delivered by broadcast and IP. In other words, we would not see PSM obligations extending to other elements of the services provided by ITV as a PSM. This approach makes sense given the anchor that the main channel will continue to provide for ITV as a PSM and the vital importance of not tying up even more ITV services with detailed obligations and quotas, none of which apply to ITV’s emerging commercial competitor set.

The endurance of main channel quotas ought to provide some assurance as to ITV’s future PSM delivery overall, albeit complemented by elements committed to by ITV via the baseline process described above. However, in keeping with the overall proposals for more flexibility around delivery of PSM overall, we would expect that quota design and delivery might have some new elements to it. We give some examples below.

Firstly, for the secondary statutory objective in relation to the production sector objectives (out of London production quota, independent quota), quota compliance should in future be assessed across a longer period – either the licence in its totality or on a rolling 3-5 year basis. This would ensure an overall level of delivery but also deliver greater flexibility in the margins around where and when such content is scheduled. This would give greater

flexibility for commissioners to make decisions based purely on the best ideas, in the viewer interest, rather than commissioning for quotas, without worrying about whether ITV's end of year position would be 35.1% or 34.9%. It would remove some cost from the system too, as PSM providers could more carefully manage their over-delivery – currently a necessity in case of unexpected events impacting the schedule in any given year.

Secondly, the quantitative measures retained should take account of any significant shift in expenditure or provision in response to changing audience needs. As multichannel television expanded, offering more targeted linear channels alongside mass reach PSB, so ITV and others met this audience expectation through commissioning for portfolio channels. The same dynamic is now true in relation to our on-demand players. But this expenditure is not assessed as contributing to PSB delivery. In future, quota requirements in any relevant area should take account of this broader provision. In other words, whilst quotas may continue to reflect percentages in relation to the ITV main channel (which will remain the primary PSM delivery vehicle) some of that delivery may take place either on portfolio channels or online and be credited to the quota delivery overall.

Thirdly, quotas based on a percentage of time on the main channel should change from percentages to specified volumes. Currently, quotas are predominantly set as a percentage of qualifying hours. The challenge with this is that a) the required number of hours needed to fulfil quotas is an unknown right until the end of the year and b) this level is impacted by every single commissioning decision made throughout the year. Volume-based quotas would maintain the required level of output but deliver certainty from the off about what was required to deliver them. This in turn would free up resource in our scheduling, business affairs and regulatory operations.

Finally, individual requirements for the Breakfast licence, separate from those for the rest of the main channel, should end. Such a distinction makes little sense in today's market – and places significant constraints on ITV's commissioning, particularly at weekends. In seeking to achieve this, it will be important to ensure that the value in a national Channel 3 licence remains with ITV (rather than being incorporated into the regional channel 3 licences) given the role ITV already plays in underwriting the cost of the network overall.

By way of background, as Ofcom is aware, ITV and STV are required to have in place networking arrangements, approved by Ofcom, which enable the C3 licensees to provide a nationwide service able to compete effectively with other television services in the UK. As ITV accounts for over 90% of the Channel 3 network, this in effect means ITV agreeing to provide services to STV, in particular delivery of the network schedule. The result is a regime that is favourable for STV.

Reducing complexity where possible

The reason to propose a new and more flexible system of PSM delivery above is to enable ITV to best serve changing audience demand consistent with a new primary statutory objective. Clearly part of achieving this is also about ensuring that ITV is as nimble and competitive as it can be against larger and richer global streaming competitors.

So, for instance, compare the commissioning process for Netflix with that for ITV. Netflix can commission any programme it likes immediately. Its only consideration is whether the

production will deliver its strategy to grow and retain subscribers. By contrast, ITV must consider whether a commission can help deliver its strategy but then also consider:

- Whether the commission would deliver ‘qualifying hours’ for quota purposes – the definition of qualifying is different for each quota
- Whether the commission would count as an original production, independent production, regional production, regional programme, news or current affairs
- Where / when the programme would be scheduled – and the impact on:
 - Peak news quota compliance;
 - Advertising load (given rules on peak time ad minutage applied only to PSBs);
 - Compliance with our breakfast licence
- If a programme is independent, whether the commercial holds under terms of trade

Even once a commission is made, we still face a raft of complexities and costs that our purely commercial competitors do not, notably in relation to out of London commissions.

Ofcom’s approach to the quota, the qualifying criteria, and accompanying guidance now requires broadcasters (including ITV) to assess the location of every single individual item of spend. This is so that the precise percentages of production and talent spend can be reported, whereas previously broadcasters could assess only the biggest items of spend necessary to take a production over the 70% and 50% thresholds. This now means that as many as 7,500 individual items of spend are being assessed for a single production, each year it broadcasts, many of which are very low value.

Ofcom requires this assessment to be made against the location of the economic activity, rather than purely against the location of the supplier (although that too is relevant), and has made clear that contractual requirements for regional spend alone are insufficient. Clearly as an increasing amount of activity takes place online – and where global sites like Amazon are sales portals for regional firms – such assessments are not always straightforward.

The result is a system that rewards the on-screen portrayal of London or America whilst failing to recognise the value of *Doc Martin* to the Cornish economy. That regards spend with German-owned Arriva trains on a journey from Manchester as regional, but spend with a UK-owned regional taxi firm on a journey from London as non-regional. That offers no incentive to source inputs out of London once it is clear a production will be regarded as made in London for the purposes of the criteria since no account is taken of such sourcing. Where compliance might hinge on whether OB companies have equipment and staff available in their regional offices or whether only those in London are available for the required filming window.

The minutiae of this regime matter: we have had instances in the past where household moves by a few crew members on a particular programme could have put not just the OOL status of that programme at risk but ITV’s overall OOL compliance for a particular year.

We also face similar constraints in decommissioning content. For Netflix, once a show has run its course it is able to simply cease production. But ITV needs to first consider the implications for all of the requirements set out above. For instance, ending a regional production might mean missing quotas unless it can be replaced by a regional production.

Even more complicated, because a number of the quotas are based on percentages, changes to the denominator can clearly affect whether ITV complies with quota obligations which is a particularly challenging dynamic.

Clearly the reason we have set out the case for a more flexible regime above is to try to minimise this complexity.

(e) Changes to support PSM economics

Despite the highly competitive landscape in which PSB operates, broadcasting in the UK is still very heavily regulated with a thicket of rules governing all aspects of the activities of broadcasters in general, and PSBs specifically.

There continue to be a number of legacy provisions which are either a hangover from the days of PSB monopoly profit being used to foster competition in other parts of industry or reflect a profoundly unfair and unlevel playing field with new and more powerful global competitors. The examples abound, whether in the form of

- mandatory requirements to offer our PSB channels to global distribution platforms on an unlevel playing field,
- the lack of statutory regulation of advertising online,
- the minutage restrictions placed only on PSB channels (which was originally about encouraging competition to PSB channels) or

We recognise that Ofcom is already looking at the terms of trade in a parallel review to this PSM Review. But there are other elements Ofcom should look at too. In particular, there is a case for measured change and liberalisation of these rules in some areas to help broadcasters, and particularly PSBs, to compete effectively, for instance:

- Modifications to the TV advertising minutage rules could perhaps give PSBs more minutes, particularly in peak and/or at least more flexibility in slotting advertising in peak across the week. This could be a carefully measured and staged change over time, rather than a sudden big expansion. ITV believes that such a measured approach over time would create some benefit to the PSBs.
- Lifting the restrictions on undue prominence. This would help to increase the attractiveness of production placement and would be unlikely to have an adverse effect on viewers given the powerful non-commercial yardstick of the BBC which would make inappropriate product placement unattractive for the PSBs.
- Re-examination of the fees which broadcasters pay to Ofcom which, in ITV's case, rose substantially in 2020 at a time when our revenues from advertising were seriously reduced as a result of the Covid pandemic

Additional funding for PSM may be challenging at a time of stressed public finances but it is important to recognise that if there is a desire for substantial PSM output cross media in the long term – then there needs to be an honest debate about how it can be paid for. Clearly there are a variety of ways this could be done, though we recognise that these are issues primarily for government rather than Ofcom. This is particularly true in areas such as an out of London production tax credit which could be applied across the PSBs and others and might come with provision to invest in training and development of those in TV production

outside of London. The government might also consider a green production tax credit, incentivising UK content producers to continue to innovate and maintain the UK's world-leading position in sustainable film and television production.

The case for additional PSM providers

Consultation Q7: What are your views on the opportunities for new providers of PSM?

There is suggestion in the Ofcom consultation document that there might be arguments for other organisations or providers to be given PSM status in future, particularly if they reach audiences that might be less comprehensively addressed by the existing system.

This is, of course, a legitimate question to ask but it is important to ask the prior question about whether such an approach is likely to be the most effective way of delivering more PSM. To begin with, there is little point in such designation if the PSM regime has not been transformed with a new prominence, inclusion and fair value regime that would make PSM status more attractive for new potential PSM players. However, even if it has been transformed, caution will still be required given pressures on prominence and positioning in future. It is already the case that smaller PSB offers have had to accept lower listings in linear EPGs, because, by definition, not everyone can be prominent.

But more importantly, the key question is around the purpose of such a designation of new PSMs. If it is a recognition of work that is already being done, it's reasonable to ask whether such recognition is necessary for the work to continue? Furthermore, if the issue is a lack of resources in particular areas of PSM content then the most effective solution may not be to designate more PSMs than to facilitate more investment by existing PSMs. There are clearly a variety of ways of doing that – via the BBC licence fee settlement, or more recently illustrated via the contestable fund for content for children and young people. The latter in particular has been used by existing PSMs, including ITV, to commission content that would not otherwise have been made – for instance the teen drama *Tell Me Everything* that we mention in this submission.

For the avoidance of doubt, however, this is not a proposal for more contestability funded by the BBC Licence Fee. The risk with that approach is that the system as a whole is no better off – i.e. that there is no new net investment, simply a transfer from one place to another. Such funding should be incremental to an appropriately funded BBC with an obligation to spread benefits across the creative industries.

The case for urgency

The current commercial PSB licences expire at the end of 2024, which superficially feels a comfortable number of years away. In fact, the statutory process for renewing those licences will need to begin well before that, likely in late 2021 or early 2022. This is based on previous experience and on the statutory timetable which requires Ofcom to advise the Secretary of State by June 2022 (30 months before licence expiry). This advice needs to cover the capacity of the commercial PSBs to contribute to the fulfilment of the purposes of public service television broadcasting at a cost to those commercial PSBs that is commercially sustainable.

Before this statutory process can sensibly get underway both the PSBs and Ofcom will need some certainty as to what the statutory regime is going to be and hence about the viability of those PSB licences for the long term. The reform of the regime for PSM prominence, platform inclusion and fair value is a key component of that future viability for the board of ITV.

ITV would hope that Ofcom and DCMS could work hand in glove in the coming months to develop practical proposals for a regime for PSM that can then be taken forward rapidly. Whilst it may not be practical for the legislation enshrining the new system to have passed all its Parliamentary stages before Ofcom has to report to the Secretary of State, it is critical that there is a clear statement by government of its settled intentions this year – most obviously via a White Paper, leading to legislation on the future of PSM in 2022 at the latest.

7. CONCLUSIONS

In the not-too-distant future, all TV viewing will take place on connected devices and interfaces, whether IP only or hybrid broadcast/IP. Access to these connected online platforms will mostly be controlled by a handful of global gatekeepers – for instance, Amazon, Google, Apple, Comcast-Sky. So will the extent to which national content, like that from the PSBs, remains easy to discover and view. And the degree to which the terms of inclusion are fair, enabling high levels of risky UK content investment.

Recent events in Australia have helped to illustrate that all liberal democracies are facing the same challenge – how to regulate online monopolies in the public interest. The outcome in Australia proved that even the government of a much smaller state than the UK can still set rules that work for them. As we begin to emerge from the shadow of the Covid pandemic, and begin to build a strong global future for Britain post-Brexit, it is up to our sovereign government and Parliament to decide the future of PSM – not global technology platforms.

Ofcom's consultation demonstrated comprehensively the huge value audiences place on this content and the PSB institutions that deliver it. The PSM system is ultimately a creation of government and legislation. Transformational change and collaboration by the PSMs alone is not enough to offset global market forces. Legislation also needs a radical update for the global online era if the system is to continue to deliver for the people of the UK. We can have a thriving national PSM ecology and all the benefits of global content services and platforms, but only if policymakers are bold and ambitious in pursuing timely reform.

8. LIST OF ANNEXES

- Annex 1: Draft legislative drafting for prominence, inclusion and fair value
- Annex 2: Communications Chambers – the future of ITV News
- Annex 3: Response to Ofcom’s call for evidence in relation to independent production quotas and terms of trade