



## Consultation response form

Please complete this form in full and return to [smallscreen.bigdebate@ofcom.org.uk](mailto:smallscreen.bigdebate@ofcom.org.uk).

<b>Consultation title</b>	Small Screen: Big Debate – the future of Public Service Media
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## Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom’s General Privacy Statement](#).

<b>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.</b>	Nothing
<b>Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.</b>	None
<b>For confidential responses, can Ofcom publish a reference to the contents of your response?</b>	Yes

## Your response

Question	Your response
<b>Question 1: Do you agree that a new regulatory framework for Public Service Media (PSM) delivery should support a more flexible ‘service neutral’ delivery approach that is more outcomes focused?</b>	Confidential? –N

<p><b>Question 2: Do you agree with our proposals for a clear accountability framework?</b></p>	<p>No answer</p>
<p><b>Question 3: What do you think should be included in the PSM 'offer'?</b></p>	<p>No answer</p>
<p><b>Question 4: What options do you think we should consider on the terms of PSM availability?</b></p>	<p>No answer</p>
<p><b>Question 5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?</b></p>	<p>Confidential? –N</p>
<p><b>Question 6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven't identified?</b></p>	<p>Confidential? –N</p>
<p><b>Question 7: What are your views on the opportunities for new providers of PSM?</b></p>	<p>Confidential? –N</p>

## ABOUT ME

1. I am a Reader in Communication Policy at the University of Westminster's Communication and Media Research Institute (CAMRI), a leading research centre in the UK for almost thirty years. I have been for over 20 years now researching telecommunications/ Internet and television policy and regulation, with a focus on Britain and Europe. I have published widely on these issues and presented at European and international policy fora. My main interest is the advancement of public interest considerations.

This submission addresses questions 1, 5-7.

## Response to Consultation Questions:

### Question 1: 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?

I agree with Ofcom that a new regulatory framework is urgently needed to support the digital transformation of PSB, contribute to its sustainability and resilience, and make it fit-for the future. As Ofcom acknowledges, the case for PSB remains valid and powerful. PSB requires strong political commitment and appropriate regulation.

PSB has been a long-standing core media policy intervention that 1) contributes substantially to the fulfilment of core public policy objectives, and 2) shapes the entire media ecosystem in significant positive ways.

At the heart of the PSB concept are **principles** and objectives, regardless of how PSB is organised and funded. PSB:

- operates according to a remit approved directly or indirectly by Parliament,
- is funded directly or indirectly by the public,
- is independent of party political and commercial power,
- treats audiences as citizens, not consumers, and
- is universally available, free at the point of access.

PSB supports **crucial public policy goals**: economic, democratic, social, and cultural. In particular, PSB:

- makes a considerable contribution to competition and innovation in all stages of the value chain of the broadcast market, what Mazzucato et al.<sup>1</sup> recently called 'dynamic public value',
- provides trustworthy and impartial news and information that helps citizens understand and engage with their society and the world,
- promotes cultural diversity, notably through considerable investment in original content relevant to the UK society, and
- enhances common experiences and social cohesion.

It is unclear how Ofcom defines the term 'Public Service Media' (PSM). To the extent that the term PSM means making the PSB concept technology- and platform-neutral, then it is a welcome concept. In this sense, PSM can be about the transfer and strengthening of PSB principles and objectives to the new media environment; a recognition that public service content and services, as just defined, are not limited to the traditional broadcast world, but remain relevant (and arguably more so) in the

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<sup>1</sup> Mazzucato et al. (2020) *Creating and measuring dynamic public value*, [https://www.ucl.ac.uk/bartlett/public-purpose/sites/public-purpose/files/final-bbc-report-6\\_jan.pdf](https://www.ucl.ac.uk/bartlett/public-purpose/sites/public-purpose/files/final-bbc-report-6_jan.pdf)

evolving online world. Put differently, the objectives and principles are the same; it's just that increasingly the institutions entrusted with PSB obligations have to move online in order that they better serve their audiences and thus deliver their public service mission.

I therefore support a new regulatory framework for PSM delivery and a more flexible 'service neutral' delivery, that no longer ties obligations to television (and, I would add, radio) broadcast services. Indeed, PSM providers should be supported and encouraged to consider the best way(s) to fulfil their obligations and reach their audiences.

(For a discussion about who should be considered a PSM provider, see below).

I broadly support the proposition for a new regulatory framework which is more outcomes-based, but includes a combination of quantitative and qualitative measures. I would welcome the opportunity for Ofcom to explain in more detail its thinking on what a more 'outcomes based' regulatory framework would entail in a future consultation document.

**Question 5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?**

There is a need for **additional funding** of PSM. Funding needs to respect the core value of PSB (see above) and be independent of commercial and party political influence.

PSB budgets, which in the UK account for roughly 35% of all programme spend, are diminishing due to weakened advertising revenues and reductions in the BBC licence fee (a formidable 30% decline in real terms only in the last decade since 2010<sup>2</sup>). The COVID19 pandemic has put extra pressure on public finances and the media industry.

The need for additional funding of PSM is urgent. Suggestions here include:

**Industry levies:**

1. Serious consideration should be given to the imposition of levies on commercial VOD providers, both domestic and foreign, in order to make up the shortfall which is becoming apparent in UK PSB funding.
2. According to the European Audio-visual Observatory, 10 countries impose financial investment obligations on VOD services.<sup>3</sup>
  - In 7 countries (Denmark as of 2020, France, Germany, Greece, Italy, Portugal and Spain) domestic VOD providers contribute a percentage based on their turnover (between 0.5% and 3%). These financial investment obligations are mandatory.
  - In 3 other cases, the obligation on VOD providers is optional. In Belgium (both communities), domestic VOD providers can choose to make either a direct or an indirect (levy) contribution typically to the film/audiovisual fund. In Slovenia and the Czech Republic, VOD providers can choose between a direct contribution and quotas of European works in their catalogues.
3. It is noteworthy that France and Germany have, in addition, imposed financial obligations on *foreign* VOD providers targeting the domestic audience, and other countries are in the process of doing so (e.g. Italy, Denmark, and Belgium - Flemish Community).

<sup>2</sup> VLV. (2020). *VLV report into BBC funding*. Voice of the Viewer and Listener. <https://www.vlv.org.uk/wp-content/uploads/RESEARCH-DATA-VLV-research-into-BBC-public-funding-March-2020.pdf>

<sup>3</sup> European Audiovisual Observatory (2019) *Mapping of National Rules for the Promotion of European Works in Europe*, Strasbourg: EAO. < <https://rm.coe.int/european-works-mapping/16809333a5> >

### Digital services tax:

The digital services tax can expand to include video streaming services

### IP – Terms of Trade:

I note that Ofcom has launched a separate consultation on this. Suffice here to say, that the terms of trade introduced in 2003 aimed to address the imbalance between the more powerful PSBs and the less powerful independent producers at the time. These terms supported the independent production industry which was in its infancy at the time.

Since then, however, the market has changed. We now have so-called ‘super indies’ that do not qualify to benefit from the Terms of Trade. In addition, SVOD platforms rely on cost-plus funding whereby they pay for the full cost of production plus a reasonable percentage of profit upfront and in exchange they acquire the global rights, thus depriving producers of further rewards.

There is need to reconsider the Terms of Trade in light of these market developments. Adjustments need to create a level playing field between PSBs on the one hand and commercial broadcasters and streaming platforms on the other, take into account the weakened position of PSBs, and target support for smaller independent producers.

**Question 6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven't identified?**

I welcome the suggestion put forward by Ofcom for collaboration which aim to support the sustainability of PSB, by increasing efficiencies and reducing the cost.

We already have many successful examples of collaboration and partnerships among PSBs (e.g. BritBox), between PSBs and other public service providers (e.g. BBC and Royal Shakespeare Company), and between PSBs and commercial partners. Examples of the latter include co-productions with SVOD players, partnerships with commercial players in the area of distribution (e.g. Freeview, Freesat, and YouView), and collaborations with international platforms, like C4 News and Facebook.

Regarding collaboration among PSBs: initiatives here are welcome and share the same public service goals. One could foresee more collaboration (for instance in R&D, acquisition of sport rights, advertising sales) but at the same time the established brand identities and existing investment commitments of the individual PSBs may put limits to such collaboration.

Collaboration between PSBs and commercial partners may raise tensions between the public service mission of PSBs and the commercial objectives of the commercial partners. PSBs will need to ensure that their public service mission is not put at risk.

Regulation can support the fulfilment of the PSB's public service mission and allow them to serve their audiences better. I'll highlight three issues here.

1. Regulatory intervention is needed if PSB is to continue to fulfil its crucial public service objectives. **Prominence** rules for PSB content should be extended to include connected devices (e.g., smart TVs, home assistants) and commercial online platforms at no extra cost.

2. PSBs should be entitled to have access to their own **data**, data that relates to their content/ services when available and consumed on commercial platforms. Audience data is important for broadcasters and producers alike and can feed into future content investment decisions and better serve audiences.
3. Finally, the industry as a whole would benefit for common measurement standards in the online environment. Ofcom can support such an initiative.

**Question 7: What are your views on the opportunities for new providers of PSM?**

Ofcom suggests that given the challenge of reaching all audiences online and across broadcast TV services “the future PSM system may benefit from including new providers offering additional content, alongside the breadth of content provided by existing PSBs” (para. 7.17). It adds that “Core PSM services provided by a few bigger companies could be supplemented by other providers, including smaller players with a narrower focus, or larger companies that focus only part of their business on PSM content” (para. 5.7). Even though it is not clear how a possible inclusion of new providers would work (for instance, what obligations and benefits they would have), I am sceptical about this proposition. Expanding public service provision beyond the designated PSB institutions:

- risks fragmenting the provision of public service content,
- scattered provision will make it harder for audiences to find it,
- will undermine the existing PSB institutions, further disadvantaging audiences, and
- will ultimately undermine the sustainability of public service provision and associated public policy objectives.

I support the point that PSBs should continue to offer a comprehensive range of content, and not just content (genres) where market failure is more likely. PSB is about ‘information, education and entertainment’ and it works at its best when it does all three at the same time. There are, for instance, excellent examples of how sensitive social issues have been addressed in soap operas, reaching millions of viewers.

The reasons I am sceptical about the proposition of expanding PSM to new providers:

1) PSB has never been about exclusivity. PSBs are not the only players that provide high quality content (e.g., SVODs do so too) or content that is relevant to the British society (e.g., Comcast/Sky does so too). However, there is no guarantee that non-PSB players will do so. There is no commitment on their part and they are under no obligation to do so. Investment in high quality by non-PSBs takes place if and when it aligns with their commercial operating objectives.

2) Designated PSB institutions matter, as opposed to random offers of PSB-like content here and there. Citizens need to know who to trust and who is under an obligation to offer public service content. This makes access to public service content easier. The providers mentioned in the Ofcom document are not, so there is nothing to guarantee regular and sustainable provision of public service content by them.

3) Other market players often invest in high-quality content to a large extent in response to the established quality that PSBs offer and audiences have been accustomed to over the years. In other words, PSBs have shaped the market and provided a high yardstick for competitors. PSBs have been fundamental in shaping the market and prompting competitors to offer good quality content in order that they are able to compete with the established PSB quality offer. PSBs have pushed up the standards of the entire market.

4) High quality content is but one characteristic of PSB. PSB, as noted at the beginning, stands, in addition to high quality, for independence, regulated remit, universality and free at the point of use access. For an institution to qualify as a PSB provider, it needs to tick all these boxes at the same time. A PSB provider cannot choose one or two of these fundamental features and ignore the others, or else the provider in question would not qualify as public service provider. It would, therefore, be a misnomer to characterise a provider as a public service provider, simply because they may on occasion offer high quality content (meeting one criterion of PSB in some cases).

5) Investment in UK content is not enough in itself. SVODs and national commercial providers (e.g., Netflix and Comcast/Sky) have pledged to invest more in UK productions. While increased investment is to be welcome for the likely economic benefits it can bring, we need to differentiate between economic value on the one hand and social, and cultural and social value on the other. Audiences are interested in social and cultural representation in a wide range of programmes which reflect UK society, culture and concerns. A greater financial commitment does not necessarily equal greater representation of UK society and culture. For example, contrasting the public service broadcasters' core public service mission, the main objective of SVOD providers and is to increase subscriptions and profits. They target the international, not the national, market. They place emphasis on content that can travel easily across as many national borders as possible and that is typically content which is void of local cultural characteristics.

6) Moreover, an increase in content spend does not necessarily equal to an increase in hours of UK content. It could be that all or most of the spend goes to a single or just a handful of high-profile productions.

7) National and international commercial media companies can pick and choose if, when, how much and what types of public value content to offer. Crucially, access to such random offers of public value content is typically subscription-based, and thus serves the few. Indeed, Comcast/Sky and others may produce public service content. But given the terms of access to such content (that is, subscription for those who can afford it) this is different from offering a public service. By definition, a public service is available to all, regardless of income. Such content therefore would not have the same reach nor impact as PSB content has.

Two main challenges that policy makers and regulators face are 1) how to assist the digital transformation of existing national media players, and 2) how to encourage innovation in media markets. I suggest that a **way forward** that supports and strengthens PSM delivery is as follows:

- a reformed policy and regulatory framework that
  - supports PSM delivery by allowing the existing designated PSB institutions to expand to the online environment and afford them the flexibility to be able to provide content on the platforms best suited to reach the intended audiences;
  - guarantees prominence of PSB content across all platforms and devices available in the UK;
  - allows PSBs to diversify income sources with a view to provide financial stability and sustainability and introduces new sources of funding, common in other countries, notably industry levies;
  - encourages cooperation among PSB providers as well as between PSB and other public institutions;

- outlines the terms of cooperation between PSB institutions and commercial players (must-offer/ must-carry), in particular digital platforms and make the sharing of data relating to PSB content a requirement;
  - the reformed policy and regulatory framework will need to be thought alongside other regulatory initiatives, such as Online Harms, and platform regulation and competition.
- Consider innovation in public service news specifically. There may be a case to look in the news market separately from PSB. Innovation here should support new players, operating in particular at the (hyper)local level, rather than the existing big commercial titles. Innovation could involve experimentation with new business models and new ideas for delivery. Examples include various crowdfunding initiatives and delivery through SMS or podcasts to reach underserved communities. Some initiatives may require seed money to get off the ground. There have been small steps in the UK in this area. I suggest that given growing concerns around misinformation and hate speech that such initiatives received much greater attention, and use the expertise and experience of existing institutions, like the Public Interest News Foundation.

THE END