
Annex 5: PSB regulatory framework

Small Screen: Big Debate statement

ANNEX:

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A5. PSB regulatory framework

Introduction

- A5.1 Public service broadcasting (**'PSB'**) is an intervention designed by Parliament to ensure that UK audiences can enjoy a wide range of high-quality programmes that meet people's needs as citizens and their interests as individuals. PSB services must collectively fulfil certain statutory purposes and individually meet a set of service-specific requirements. They also receive several regulatory benefits including access to spectrum, prominence on electronic programme guides and, in the BBC's case, licence fee revenues.
- A5.2 There are lots of rules which apply to all broadcasters, such as the requirement to observe content standards, which also apply to the PSB services. This Annex sets out obligations and benefits that apply specifically to the **'PSB providers'** in relation to their **'PSB channels'**, as defined below.

PSB providers' obligations

Collective responsibility to contribute to the fulfilment of PSB purposes

The PSB statutory purposes and objectives

- A5.3 The PSB purposes are set out in the Communications Act 2003 (**'the Act'**) and are to provide:
- programmes that deal with a wide range of subject matters;
 - television services that meet the needs and satisfy the interests of as many different audiences as practicable;
 - television services which are properly balanced, so far as their nature and subject matter are concerned, for meeting the needs and interests of audiences; and
 - programmes which maintain high general standards, including in terms of content, quality of programme making and editorial integrity.¹
- A5.4 Fulfilment of the PSB purposes must also be compatible with the PSB objectives, which are to:
- inform, educate and entertain;
 - reflect and support cultural activity in the UK, such as drama, comedy and music;
 - facilitate civic understanding and fair and well-informed debate on news and current affairs;
 - satisfy a wide range of different sporting and other leisure interests;

¹ Section 264(4) of the Communications Act 2003.

- e) include a suitable quantity and range of educational programmes; and programmes dealing with science, religion and other beliefs, social issues, matters of international significance or interest and matters of specialist interest;
- f) include a suitable quantity and range of high-quality and original programmes for children and young people; and
- g) reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom; and include programmes made outside the M25.²

The 'PSB channels'

A5.5 The Act designates which television services are, together, responsible for delivering PSB. The services are: all of the BBC's public broadcast television services, each Channel 3 service,³ Channel 4, Channel 5 and S4C.⁴ We refer to these services as '**the PSB channels**'. While all BBC public broadcast television services are PSB channels, only the main channels of each of the other public service broadcasters have this status.

The 'PSB providers'

A5.6 In this annex we refer to the public service broadcasters as the '**PSB providers**', which are: the BBC, S4C, the providers of the Channel 3 services (ITV, and STV in Scotland), Channel 4 Corporation ('**C4C**') and the provider of Channel 5 (owned by ViacomCBS).⁵

A5.7 The current BBC Royal Charter runs until the end of 31st December 2027,⁶ while the current licensing period for the Channel 3 services, Channel 4 and Channel 5 will expire at the end of 2024. There are renewal provisions for these licences in the Act.⁷

Individual obligations

A5.8 In addition to contributing to the fulfilment of the PSB purposes, each PSB channel also has a specific remit set out in legislation, together with further commitments established in their broadcasting licences or, in the case of the BBC, its Royal Charter and Agreement.⁸

PSB statutory remits

Channel 3 and Channel 5

² Section 264(6) of the Communications Act 2003.

³ There are 15 regional Channel 3 services plus a national Channel 3 service that provides the national breakfast-time service (<https://www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees/channel-3>).

⁴ Section 264(12) of the Communications Act 2003.

⁵ MG ALBA (the Gaelic Media Service) is a statutory body with functions to secure Gaelic programming. It fulfils its remit principally through BBC ALBA, the Gaelic television service which it operates in partnership with the BBC.

⁶ Royal Charter for the continuance of the British Broadcasting Corporation, December 2016, paragraph 2(3) http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/charter.pdf.

⁷ Section 216 [Channel 3 and Channel 5] and section 231(7) [Channel 4] of the Communications Act 2003.

⁸ Agreement between the Secretary of State for Culture, Media and Sport and the BBC made on 7 November 2016 http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/agreement.pdf.

A5.9 The statutory remit for the Channel 3 services and Channel 5 is the provision of a range of high quality and diverse programming.⁹

Channel 4

A5.10 The Channel 4 service was set up in 1982 with a unique model of being a publicly owned but commercially funded provider of public service content, which it must source from external producers.¹⁰

A5.11 Its statutory remit is to provide a broad range of high quality and diverse programming which, in particular, demonstrates innovation, experiment and creativity; appeals to the tastes and interests of a culturally diverse society; makes a significant contribution to educational programming; and exhibits a distinctive character.¹¹

A5.12 In addition to providing the Channel 4 service, C4C has a range of statutory media content duties which it can deliver across all of its television services and online services¹². They include requirements to:

- a) make a broad range of high-quality content that appeals to the tastes and interests of a culturally diverse society;
- b) provide news and current affairs;
- c) provide content which appeals to older children and young adults;
- d) make, broadcast and distribute high-quality films, intended to be shown to UK audiences, and broadcast and distribute films (including third party films) that reflect cultural activity in the UK to audiences;
- e) support the development of people with creative talent;
- f) promote alternative views and new perspectives;
- g) promote measures intended to ensure that people are well-informed and motivated to participate in society; and
- h) support and stimulate well-informed debate on a wide range of issues, including by providing information and views from around the world and by challenging established views.

S4C

A5.13 S4C's statutory remit is to provide a broad range of high quality and diverse programming in a service in which a substantial proportion of the programmes consists of programmes in Welsh.¹³

⁹ Section 265(2) of the Communications Act 2003.

¹⁰ Section 295 of the Communications Act 2003. The licence for the Channel 4 service must include a requirement that C4C is not be involved, except to such extent as Ofcom may allow, in the making of programmes to be broadcast on Channel 4.

¹¹ Section 265(3) of the Communications Act 2003.

¹² Section 198A of the Communications Act 2003.

¹³ Paragraph 3(3), Part 2 of Schedule 12 to the Communications Act 2003.

The BBC: Mission and Public Purposes

- A5.14 The BBC's Mission and Public Purposes are set out in the BBC's Royal Charter. The Mission of the BBC is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain.¹⁴ The BBC Public Purposes are:
- a) to provide impartial news and information to help people understand and engage with the world around them;
 - b) to support learning for people of all ages;
 - c) to show the most creative, highest quality and distinctive output and services;
 - d) to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom; and
 - e) to reflect the United Kingdom, its culture and values to the world.¹⁵

Specific PSB requirements

- A5.15 Ofcom is required by statute to include specific conditions in the licences for the Channel 3 services, Channel 4 and Channel 5.¹⁶ The conditions include requirements for:
- a) news and current affairs programming. In particular, requirements to provide high quality news and current affairs programming throughout the day, including specific time allocations or quotas as appropriate;¹⁷
 - b) regional programme-making, specifically requirements to make a proportion of programmes outside London, and for a proportion of expenditure to be on making programmes outside London. Ofcom determines the level of these quotas, which are set out in the relevant broadcasting licences. For Channel 3 services, Ofcom must also set quotas for regional programmes, including regional news;¹⁸
 - c) advertising minutage limits (see also paragraph A5.31 below);¹⁹
 - d) the broadcast of independent productions.²⁰ In particular, there is a statutory minimum quota (which may be amended by the Secretary of State by way of order), and PSB providers must abide by a code of practice when agreeing terms for the commissioning of independent productions (see further paragraphs A5.25-A5.30 below); and

¹⁴ Article 5 of the BBC Charter.

¹⁵ Article 6 of the BBC Charter.

¹⁶ All of the PSB licences are published on Ofcom's website <https://www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees>.

¹⁷ Section 279 of the Communications Act 2003.

¹⁸ Sections 286 – 288 of the Communications Act 2003.

¹⁹ Section 322 of the Communications Act 2003 and Ofcom's Code on the Scheduling of Television Advertising https://www.ofcom.org.uk/data/assets/pdf_file/0014/32162/costa-april-2016.pdf.

²⁰ Section 277 of the Communications Act 2003.

- e) the broadcast of original productions. The definition of original productions is drawn up by the Secretary of State by order, and Ofcom sets the specific programmes quotas for each PSB at an appropriate level to ensure that the channel is consistently of a high quality²¹.
- A5.16 Ofcom has specific powers to publish criteria and impose conditions in relation to the provision of children’s programmes on Channel 3 services, Channel 4 and Channel 5.²²
- A5.17 Ofcom must also set a quota for Channel 4 for a suitable proportion of programmes to be programmes that are intended for use in schools.²³
- A5.18 S4C does not have a broadcasting licence, but it is subject to quotas set by Ofcom, including quotas regarding news and current affairs, original productions, and independent productions.²⁴

The BBC Operating Licence

- A5.19 Ofcom is required under the BBC Charter²⁵ to set an Operating Licence for the BBC’s UK Public Services, which include all of the BBC’s television services. Ofcom must set conditions in the Operating Licence that we consider appropriate for requiring the BBC:
- a) to fulfil its Mission and promote the Public Purposes;
 - b) to secure the provision of distinctive output and services; and
 - c) to secure that audiences in Scotland, Wales, Northern Ireland and England are well served.²⁶
- A5.20 Under the BBC Agreement Ofcom must also set the Operating Licence in accordance with the requirement to impose specific conditions which relate to:
- a) distinctiveness;
 - b) third party online material;
 - c) quotas for news and current affairs (quantity and scheduling);
 - d) quotas for original productions; and
 - e) quotas for regional programme-making and for nations and regions programming.²⁷
- A5.21 The Operating Licence which Ofcom has set contains a broad range of requirements, including the following:²⁸

²¹ Section 278(6) of the Communications Act 2003 and the Broadcasting (Original Productions) Order 2004 (S.I. 2004/1652).

²² Section 289A of the Communications Act 2003.

²³ Section 296 of the Communications Act 2003.

²⁴ Paragraphs 7-9 of Schedule 12 to the Communications Act 2003.

²⁵ Further information on the BBC’s operating framework and how the Royal Charter and BBC Agreement places a range of obligations on the BBC can be found on [our website](#).

²⁶ Article 46(3) of the BBC Royal Charter.

²⁷ Schedule 2 to the BBC Agreement.

²⁸ [BBC Operating Licence](#).

- a) quotas for current affairs and for news programming;
- b) quotas for arts, music, comedy and religious programming;
- c) quotas for drama and factual programming for children;
- d) a requirement for BBC Online to provide support for education in all parts of the UK;
- e) quotas for original productions, and for first-run UK originations;
- f) minimum hours and minimum spend for productions made outside London and in the nations;
- g) regional programming requirements; and
- h) reporting requirements in relation to the BBC's diversity targets and a commissioning Code of Practice for diversity.

A5.22 The BBC is also required to comply with provisions on independent productions (equivalent to those that apply to the other PSBs) to ensure that 25% of the total amount of time allocated to the broadcasting of qualifying programmes included in its television broadcasting services is allocated to the broadcasting of a range and diversity of independent productions²⁹. The BBC must also abide by a code of practice when commissioning from independent producers.³⁰ Additionally, the BBC must comply with specific requirements to secure competition between BBC producers and external producers.³¹

Further requirements for PSBs

Statements of programme policy, C4C's statement of media content policy and BBC's annual plan

A5.23 The Commercial PSB providers and S4C are required to publish an annual statement of programme policy, setting out how in the coming year their PSB channel will satisfy its statutory public service remit and its specific quotas and other requirements. Statements of programme policy must be prepared with regard to guidance drawn up by Ofcom. Broadcasters must monitor their performance against these statements and must report on their performance for each year in the following year's annual statement of programme policy.³² C4C's statements must cover also their media content policy.^{33 34}

A5.24 The BBC must prepare and publish an annual plan including (among other things) the BBC's proposals for how it will comply with its general duties including measurable criteria to assess compliance.³⁵ In addition, the BBC must prepare and publish an annual report

²⁹ Paragraph 6 of Schedule 3 to the BBC Agreement.

³⁰ Paragraph 8 of Schedule 3 to the BBC Agreement.

³¹ Paragraph 7 of Schedule 3 to the BBC Agreement.

³² Section 266 and paragraph 4 of Schedule 12 to the Communications Act 2003.

³³ Section 198B of the Communications Act 2003.

³⁴ Ofcom's [Guidance note for completion of C4C combined statement of programme and media content policy](#) (15 February 2011).

³⁵ Article 36(2)(e) of the BBC Royal Charter.

including (among other things) how the BBC complied with each of its general duties and its regulatory obligations in the Operating Framework.³⁶

Commissioning independent productions

- A5.25 The Act requires Ofcom to include conditions in the licences of all licensed PSB channels in order to secure that at least 25% of the time allocated to the broadcasting of “qualifying programmes” on that channel is allocated to the broadcasting of a range and diversity of “independent productions”.³⁷ Equivalent provisions also apply to the BBC and to S4C.³⁸
- A5.26 The meaning of “qualifying programmes” and “independent productions” is specified in the Broadcasting (Independent Productions) Order 1991 (the ‘**Independent Productions Order**’), which can be amended by the Secretary of State.³⁹ In the context of PSB, a “qualifying programme” refers to all programmes provided on a PSB channel that have either been made or commissioned by that PSB Provider, excluding news.⁴⁰ The Independent Productions Order also defines “independent producers” as (i) producers who are not employees of a broadcaster; (ii) do not have a shareholding greater than 25% in a broadcaster; and (iii) which are not a body corporate in which any one broadcaster has a shareholding greater than 25% or any two or more broadcasters have an aggregate shareholding greater than 50% (where “broadcaster” essentially means a broadcaster intending to broadcast to the UK).⁴¹
- A5.27 PSB providers must draw up and, from time to time, revise and comply with a code of practice setting out the principles they will apply when agreeing terms for the commissioning of independent productions.⁴² These codes of practice must secure the high-level outcomes prescribed in legislation in the manner described in Ofcom guidelines on commissioning.⁴³

³⁶ Article 37(2)(c) of the BBC Royal Charter.

³⁷ Section 277 of the Communications Act.

³⁸ Paragraphs 1 [BBC] and 7 [S4C] of Schedule 12 to the Communications Act 2003.

³⁹ See section 277(2) of the Communications Act 2003 and The Broadcasting (Independent Productions) Order 1991 (S.I. 1991/1408), as amended by S.I. 1995/1925, S.I. 1999/1820, S.I. 2003/1672, the Communications Act 2003, S.I. 2012/1842, S.I. 2013/2217 and S.I. 2014/3137.

⁴⁰ For a full definition of “qualifying programmes”, see article 2 of the Broadcasting (Independent Productions) Order 1991 (S.I. 1991/1408), as amended.

⁴¹ See definition of “independent broadcaster” in article 3 of the Broadcasting (Independent Productions) Order 1991, as amended. For the definition of “broadcaster”, see article 3(7).

⁴² Section 285 of the Communications Act 2003 [licensed PSBs], paragraph 8 of Schedule 3 to the BBC Agreement [BBC] and paragraph 10 of Part 2 of Schedule 12 to the Communications Act 2003 [S4C].

⁴³ These outcomes are set out in section 285(3) of the Communications Act 2003, and are: “(a) that a reasonable timetable is applied to negotiations for the commissioning of an independent production and for the conclusion of a binding agreement; (b) that there is what appears to OFCOM to be sufficient clarity, when an independent production is commissioned, about the different categories of rights to broadcast or otherwise to make use of or exploit the commissioned production that are being disposed of; (c) that there is what appears to OFCOM to be sufficient transparency about the amounts to be paid in respect of each category of rights; (d) that what appear to OFCOM to be satisfactory arrangements are made about the duration and exclusivity of those rights; (e) that procedures exist for reviewing the arrangements adopted in accordance with the code and for demonstrating compliance with it; (f) that those procedures include requirements for the monitoring of the application of the code and for the making of reports to OFCOM; (g) that provision is made for resolving disputes arising in respect of the provisions of the code (by independent arbitration or otherwise) in a manner that appears to OFCOM to be appropriate”.

- A5.28 The statutory requirements for PSB providers in relation to these codes of practice are limited to commissioning of content from independent producers intended for use on PSB channels. Therefore, material commissioned specifically for use on other services, such as video-on-demand services, or other (non-PSB) channels does not fall within the scope of these requirements.
- A5.29 Ofcom's guidance does not set the exact terms that should be agreed but contains principles about what Ofcom would expect to see in the codes of each PSB provider.⁴⁴
- A5.30 The code of each PSB provider must be submitted to Ofcom for approval and will have effect only if approved by Ofcom.

Restrictions on advertising minutage on PSB channels

- A5.31 In relation to their PSB channels, the licensed PSBs as well as S4C must observe more restrictive rules on advertising minutage than other (non-PSB) broadcasters, which are set out in the Code on the Scheduling of Television Advertising (COSTA).⁴⁵ For example, non-PSB channels must show no more than an average of 12 minutes of television advertising and teleshopping spots for every hour of transmission across the broadcasting day, while this time-limit for PSB channels is 7 minutes.

Accessibility

- A5.32 As with all television channels licensed in the UK, the PSB linear TV services are required to observe Ofcom's Code on Television Access Services (the '**Accessibility Code**').⁴⁶ The Code includes specific targets for each PSB service and guidance about how to provide television access services, particularly in relation to subtitling, audio-description for audiences with a visual impairment, and translation into sign language.

Must offer and must provide

- A5.33 In order to ensure wide availability of their PSB services, the licensed PSBs are required under their licences to supply PSB services to the holder of the relevant multiplex licence for broadcast by digital terrestrial television. They are also subject to "must-offer" and "must-provide" obligations in their licences in relation to the broadcasting of their PSB services on other services, including cable and satellite platforms. These obligations secure the following objectives:

⁴⁴ See Ofcom's publication of [21 June 2007](#) entitled "Guidance for Public Service Broadcasters in drawing up Codes of Practice for commissioning from independent producers".

⁴⁵ See https://www.ofcom.org.uk/_data/assets/pdf_file/0014/32162/COSTA-311220.pdf

⁴⁶ Section 303 of the Communications Act 2003 requires Ofcom to draw up, and from time to time review and revise, a code giving guidance as to the extent to which linear TV services should promote understanding and enjoyment for persons who are deaf or hard of hearing, blind or partially sighted, or with dual sensory impairment. Ofcom's Code on Television Access Services is available at <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/tv-access-services>. Compliance with the Accessibility Code is a condition of the Broadcasting Act licences held by the commercial PSBs (s.307); and a requirement for the BBC under the BBC Agreement (see Schedule 4, paragraph 5(3) and Schedule 3, paragraph 9).

- a) that digital channels or services are offered for broadcasting and distribution over every appropriate network;⁴⁷
- b) that each provider of those channels or services enters into arrangements which ensure that their digital channels or services and any ancillary services are broadcast or distributed on appropriate networks so that those channels and services are made available for reception by as many members of the intended audience for a given service as possible; and
- c) that such arrangements prohibit the provider of the network from charging for reception of the channels or services.⁴⁸

A5.34 In addition, the BBC is required to do all that is reasonably practicable to ensure that viewers, listeners and other users are able to access the UK Public Services that are intended for them, or elements of their content, in a range of convenient and cost effective ways which are available or might become available in the future. These could include (for example) broadcasting, streaming or making content available on-demand, whether by terrestrial, satellite, cable or broadband networks (fixed or wireless) or via the internet. The BBC Board must set its distribution policy, consulting with Ofcom.⁴⁹

A5.35 The “must offer” requirements applying to PSBs are matched with “must carry” obligations which apply to certain networks, to ensure the wide availability of PSB channels. The “must carry” obligations are set out below (see paragraphs A8.43-A8.46).

Charging prohibition

A5.36 The PSB channels are free at the point of delivery, without subscription or contract. Specifically, the licensed PSB providers and the provider of S4C are subject to statutory licence conditions which prohibit them from imposing charges on persons in respect of their reception of PSB services.⁵⁰ Similarly, under the BBC Agreement, the BBC may not charge for reception in the UK of UK Public Services or associated content (the licence fee is not to be considered a charge for this purpose).⁵¹ However, the BBC may provide (or develop, test or pilot) a subscription service for UK Public Services with the approval of the Secretary of State, which would not be considered as breaching the general prohibition on the BBC charging for reception of UK Public Services or associated content.⁵²

⁴⁷ ‘Appropriate network’ is defined in section 272(7) of the Communications Act 2003.

⁴⁸ Sections 272 – 276 of the Communications Act 2003.

⁴⁹ The [BBC Distribution Policy](#).

⁵⁰ Sections 207 [S4C]; 214(8) [Channel 3 & Channel 5]; and 231(9) [Channel 4] of the Communications Act 2003.

⁵¹ Schedule 3, paragraph 1 of the BBC Agreement.

⁵² Article 50 of the BBC Agreement.

PSB benefits

The BBC licence fee

A5.37 The BBC Charter provides for the current licence fee funding model for the BBC. This will apply until the end of the Charter period (2027). Ofcom has no role in relation to the BBC's funding.

Prominence

A5.38 Ofcom is required to set a code giving guidance to providers of electronic programme guides ('EPGs') on practices to follow, including giving the degree of prominence that Ofcom considers appropriate to the listing and promotion of public service channels.⁵³ The Secretary of State may add to, or subtract from, the list of relevant public service channels. The public service channels which must be given appropriate prominence on EPGs are the BBC's television services, the Channel 3 services, Channel 4, Channel 5 and S4C.⁵⁴

A5.39 In 2019, Ofcom carried out a review of the appropriate prominence provisions in its code for EPG providers and revised those provisions to secure appropriately prominent specific slots or minimum slot positions for all public service channels on licensed EPG services. These new provisions came into force on 4 January 2021.⁵⁵

A5.40 As viewing increasingly shifts online, prominence for PSB content for UK viewers using connected devices has become increasingly important. In July 2019, Ofcom made recommendations to Government for a new legislative framework to safeguard PSB prominence online.⁵⁶

Spectrum access

A5.41 Digital terrestrial television ('DTT') is transmitted on television multiplexes. A multiplex is a collection of television programme, radio and data services that are broadcast together in a digital signal. Multiplexes are licensed by Ofcom under the Broadcasting Act 1996 or, in the case of multiplex 1, operated by the BBC under their Royal Charter and Agreement. All multiplexes use radio spectrum, and their use of radio frequencies for this purpose is licensed by Ofcom under the Wireless Telegraphy Act 2006.

⁵³ Section 310(2) of the Communications Act 2003. Ofcom's current [code of practice on electronic programme guides](#) is available on our website.

⁵⁴ Local television services are also included in the list of 'public service channels' that are entitled to appropriate prominence.

⁵⁵ See Ofcom's statement of 4 July 2019 entitled [Review of prominence for public service broadcasting Statement on changes to the EPG Code](#).

⁵⁶ See Ofcom's publication on 4 July 2019 entitled [Broadcasting: Recommendations to Government for a new framework to keep PSB TV prominent in an online world](#).

- A5.42 The PSB providers have privileged access to spectrum for DTT transmission, so all of the PSB services are reserved capacity on multiplexes.⁵⁷ The PSB services are currently carried on Multiplexes 1, 2, A and B.⁵⁸
- A5.43 Except for Multiplex 1, which is operated by the BBC, the other multiplexes require a broadcasting licence.⁵⁹ These licences are due to expire at the end of either 2022 (Multiplex 2 and Multiplex A)⁶⁰ or 2026 (Multiplex B).⁶¹ The holder of the current Multiplex 2 broadcasting licence must be a company owned by the providers of the Channel 3 services and the Channel 4 service.

Must-carry obligations

- A5.44 The Act allows Ofcom to set general conditions of entitlement in relation to must-carry obligations. In particular, section 64(1) provides that:

“general conditions may include conditions making any provision that OFCOM consider appropriate for securing that particular services are broadcast or otherwise transmitted by means of the electronic communications networks described in the conditions”.

- A5.45 Section 64(2) of the Act makes it clear that general conditions can only impose must-carry obligations in relation to a specified list of services (the ‘**must-carry list**’) and in relation to networks of a certain type. The must-carry list contains the following services: the BBC’s public television services, the Channel 3 services, Channel 4, Channel 5 and S4C. The Secretary of State has power to make changes to this list of services.
- A5.46 Section 64(2)(b) of the Act says that the effect of the must-carry requirement should be confined to networks by means of which public electronic communications services are provided that are used by a significant number of end-users as their principal means of receiving television programmes.
- A5.47 General Condition A5 of the general conditions of entitlement has been set by Ofcom under section 64 of the Act and provides a framework for imposing must-carry obligations by means of a direction.⁶² This condition requires a communications provider of an appropriate network to broadcast or otherwise transmit certain specified services as directed by Ofcom. No direction has to date been made by Ofcom under this provision.

⁵⁷ See the Television Multiplex Services (Reservation of Digital Capacity) Order 2008 (S.I. 2008/1420), as amended.

⁵⁸ See <https://www.freeview.co.uk/corporate/platform-management/channel-listings>.

⁵⁹ See <https://www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees/multiplex>.

⁶⁰ The Mux 2 licence is held by Digital 3&4 Ltd, jointly owned by Channel 3 and Channel 4. The Mux A licence is held by SDN Ltd, which is owned by ITV. See <https://www.ofcom.org.uk/consultations-and-statements/category-2/tvmux>.

⁶¹ The Mux B licence is held by BBC Free to View Ltd.

⁶² For Ofcom’s [General Conditions of Entitlement](#).

Ofcom's duties to review PSB

- A5.48 The Act requires Ofcom to report periodically on how the PSB channels have, when taken together, fulfilled the PSB purposes.⁶³ Ofcom must conduct a review at least every five years.⁶⁴ We must consider how the PSB purposes have been delivered by the PSB channels, with reference to the PSB objectives. The PSB purposes and objectives are set out above at A8.3 and A8.4, respectively.
- A5.49 In carrying out our review of how the PSB purposes have been fulfilled, we must also consider the costs of provision and the sources of income available to the PSB broadcasters to meet those costs.⁶⁵ Finally, our report should consider how the quality of PSB may be maintained and strengthened.⁶⁶ Ofcom's general duties under section 3 of the Act are also relevant to our function of carrying out the PSB review, including our duty to have regard to the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom.⁶⁷
- A5.50 Only the PSB channels are responsible for fulfilling the PSB purposes. However, the Digital Economy Act 2010 introduced additional duties for Ofcom when conducting a PSB review. We therefore also consider the contribution that other media services make to the PSB objectives, including the commercial portfolio channels of the PSB broadcasters, television services provided by the multichannel sector, radio stations, and online services such as on-demand players.⁶⁸

⁶³ Section 264(3) of the Communications Act 2003.

⁶⁴ Section 264(2) of the Communications Act 2003.

⁶⁵ Section 264(7) of the Communications Act 2003.

⁶⁶ Section 264(3) of the Communications Act 2003.

⁶⁷ Section 3(4)(a) of the Communications Act 2003.

⁶⁸ Section 264A(2) of the Communications Act 2003.