

## Your response

Question	Your response
Do you have any comments on our proposals?	Confidential? No

### Better Media Ofcom Programme of Work Consultation Submission

This submission is on behalf of Better Media, which is a members-based organisation, advocating for openness and transparency in media policy, pluralism in media ownership, and access to media platforms as a civic right. <https://bettermedia.uk/>

Among the many economic and technical regulatory issues that Ofcom has proposed it covers in the workplan for 2021/22, four areas are of concern which Better Media wish to comment on. Our submission is made with the intention of ensuring that Ofcom widens the scope of its work, so that this work is informed by broader equal opportunities, civic engagement and public deliberation practices. Our submission is therefore themed on the basis that Ofcom must remain mindful of its obligations to promote equality; so that Ofcom's work is informed by socially inclusive research and policy development practices, and that Ofcom is able to promote and support regulatory practices that reduce public harm, rather than provide protection for private interests.

### Monitoring Diversity and Equality of Opportunity in Broadcasting

Ofcom says it will *"continue to report on diversity in the UK TV and radio sectors to provide a picture of how well individual broadcasters – and the industry as a whole – are promoting equality of opportunity, diversity and inclusion within their organisations."*

The principles and resources indicated in the workplan for monitoring of diversity and equality of opportunity by Ofcom, do not identify community media as a significant or distinct area of concern.

This means that Ofcom is neglecting essential information about the role, purposes and practices that relate to community media in the UK, such as the work undertaken by the community radio stations that it licences.

These stations play an essential and vital route that enables many minority or marginalised groups to engage socially using common media platforms. Community media is a principal route for people of a BAME and other protected characteristic social groups to gain access to broadcast media platforms.

As we have seen with the differential impact of Covid-19, along with other public health indicators, people from BAME communities have been impacted disproportionately and have suffered in greater numbers from the effects of Covid-19.

It is essential, therefore, that Ofcom is informed by up-to-date public policy research and practices, particularly research that account for the significant differences in access to

media resources, opportunities for media access and programming which contributes to public health and wellbeing for members of these communities.

In this respect, community radio has been overlooked in Ofcom's work planning, suggesting that grassroots and community media practices and patterns of engagement have not been accounted for in the research that Ofcom has undertaken to determine its workplan.

This oversight amounts to systemic discrimination.

Furthermore, the vital lived experiences of many people, particularly those from BAME communities, have not been meaningfully accounted for in Ofcom's equality and diversity monitoring, which is an oversight that must be corrected.

The effect of this oversight is that any differential effects of Ofcom's regulatory policies and operational practices are not being accounted for or compensated for in this workplan.

For example, Ofcom is prioritising the rollout of SSDAB licencing without due regard to the impact the model of licencing implementation and roll-out is having *in practice* on minority groups.

Ofcom have indicated that no analogue Community Radio Licences will be advertised or issued during the SSDAB rollout period, which is due to take at least four years. This therefore discriminates against protected characteristic groups and minority communities who may have identified a specific social need that a community radio broadcasting service may urgently wish to respond to at this immediate point in time, but which they are denied access to because of the capacity restraints of the proposed workplan.

While this might be viewed as a largely technical issue in relation to the efficient use of management capacity, spectrum and broadcast choice for consumers, we believe that Ofcom has an obligation to assess the impact of these policies under the Equalities Act 2010.

No equalities evaluation has been produced to accompany the workplan, and we ask Ofcom to revise its consultation, planning and capacity management with due regard to the relevant equalities legislation and statutes.

## **Making Sense of Media**

*Ofcom says it will "continue our work to help improve the online skills, knowledge and understanding of UK adults and children by providing research and collaborating with relevant organisations and industry. We will do this by further understanding people's experiences online through our existing longitudinal research, as well as deploying innovative research tools and approaches."*

The Covid-19 pandemic has accelerated concerns that there is a deficiency in public capability to verify information that is reported and discussed in the public domain, what is commonly called misinformation or fake news.

Ofcom has rightly made the challenging of disinformation and so-called fake news' a priority, however, the media literacies model that Ofcom uses is passive and largely consumer focussed, and therefore inadequate to this task.

We believe that the media literacies model used by Ofcom lacks a meaningful regard for citizenship, civic engagement and participative media practice, and as a result is incapable of supporting or accounting for the building of media literacies capacity within society.

Ofcom's media literacies model is inadequate because it does not prioritise the development of practical tools and resources that citizens may take advantage of, as a form of participative civic engagement, self-representation, and decentralised distribution of content, using legacy media platforms, social media platforms and other emerging media platforms.

We propose that Ofcom should re-examine the function and capacity of its media literacies model to better reflect the need for independent and critical media capabilities, based on accountable principles of civic participation and deliberation as its principal model for civic and public understanding about information and news.

In addition, the definition of relevant organisations and industry bodies that Ofcom uses to define its approach to media literacies must be broadened to include the communications needs of citizens operating actively in the public domain, such as when citizens interact with public authorities, civic and charitable organisations, faith groups, campaign groups and advocacy organisations, political parties and mutual aid and grassroots social groups.

### **Preparing to Regulate Online Harms**

*Ofcom says it will "complete the introduction of the new regime regulating UK-established video-sharing platforms, which will provide a foundation ahead of the introduction of broader online harms laws. The UK Government has stated that it is minded to appoint Ofcom as the regulator for online harms and we are preparing for this potential new role."*

The regulation of Online Harm must be balanced with civic rights for free expression and freedom of association. It is not for the state, or its agents, to control, manage or shape public opinion and expression, unless at times of national emergency or to respond to clearly defined and delineated harms.

In introducing new regulatory regimes, and in whatever form they may be anticipated, we expect that Ofcom must show due regard to the principles of human rights, active citizenship, public deliberation and social accountability.

The models being anticipated by Ofcom in its preparation for its role as online harms regulator, must include, and be sensitive to, the concerns of independent public authorities, civic and charitable organisations, faith groups, campaign groups and advocacy organisations, political parties and mutual aid and grassroots social groups.

Ofcom's planning for the role of regulator of online harms, we believe, must be clearly identified and designated as a separate matter of public concern that is independent from economic and platform regulation.

Any organisational resources, capacity and systems must be managed, therefore, in a ring-fenced and protected manner, that is clearly separate from and independent of any concerns for economic and technical capacity development.

The organisational management of online harms regulation by Ofcom must, therefore, demonstrate an overriding commitment to freedom of speech, interpersonal expression and self-representation, which is not compromised by private or political interest, economic gain, or administrative convenience.

If this independence cannot be achieved within the organisational structures of Ofcom, a recommendation to government should be made that this role must be pursued by an independent and separate organisation.

### **Emerging and Disruptive Technologies**

*Ofcom says it will seek to “understand, by engaging with technologists in academia and industry internationally, the potential impact of technological innovation on the sectors we regulate, including evolutions of known technologies and radical new technologies. These include technologies such as artificial intelligence (AI), quantum communications, new computing architectures and new materials.”*

The work proposed by Ofcom to enhance its understanding of emerging and disruptive technologies, and the roles they play in delivering services to consumers and businesses, must be expanded to include the needs of public authorities, civic and charitable organisations, faith groups, campaign groups and advocacy organisations, political parties and mutual aid and grassroots social groups.

The investigation of the emergence of disruptive technologies must be democratically accountable, with civic engagement, public transparency and social deliberation at the heart of the regulatory process.

This work must be undertaken under a Creative Commons and Open Source charter, with a commitment to open, collaborative, and shared intellectual property that is accessibly maintained and managed in the public domain.

IT systems managers are not usually associated with, or under an obligation to consult and consider the wishes of citizens in the way that they develop and implement their systems. This means there is a democratic deficit and a lack of dispersed regulatory oversight.

Ofcom should establish, and give recognition to, citizens juries or panels to act as co-developers of insight and guidance as these matters are recorded and discussed.

Ofcom must be mindful, then, that when it plans to investigate the effects of any emerging communications technologies, that principles of public accountability and transparency must be central to any planning.

With the rollout of 5G networks, for example, Ofcom is presently forced to maintain a significant public relations campaign aimed at assuaging civic concerns about this technology. Had citizen deliberation and accountability been integrated into the development and regulatory process at the start, then the challenge of public disinformation may not be so acute.

Ofcom’s planning and assessment for new technology, therefore, must account for any development undertaken in the public domain on the basis of Creative Commons and Open Source principles, and with a shared and social economy intent.

We believe that the development of disruptive tech in the commons and public domain must be on equal footing in Ofcom's research, investigation and regulatory approaches.

Ofcom should anticipate an integrated use of the Social Value Act 2012 when considering technical and platform developments, and the regulation of innovation that involves.

A public good or social value test must be prioritised, therefore, in Ofcom's planning for investigation and modelling of new and innovative technologies.

## **Summary**

This programme of works consultation must be considered separately from the consultation framework associated with each of these individual areas of work. We would remind Ofcom that it has an obligation to meaningfully consult, not only on the issues specified, but on the resources and priorities that are allocated to the programme of work that subsequently affect their implementation and operation. Denying adequate resources to any one element of the work plan will have a detrimental effect, thereby shutting down discussion on these issues in practice. By arguing that there are insufficient operational resources in any these areas Ofcom may unintentionally exclude and marginalise easy to ignore members of our communities, who themselves may offer significant insight and potential for innovation in the future.