

Additional comments

It is my view that OFCOM continues to give priority to the consumer and business interest as opposed to the public and especially the citizen interest- as required by the terms of the Communications Act 2003 which prioritise the citizen interest as the first priority for OFCOM.

To take one example: OFCOM claim:

'3.161 There may be a policy concern regarding the provision of high quality here may be a policy concern regarding the provision of high quality television news for nations and regions. It is secured in terms of hours on Channel 3 services, through licence quotas. However, there are no legislative or regulatory levers to guarantee specific levels of funding of news for the nations and regions.'

It is difficult to accept or indeed believe this assertion. What is the legal advice here to sustain such a claim? What is a regulator for but to regulate? Is it really impossible to vary the licence conditions? Indeed, we can see that the changes to the provision of news in the Border region allowed by OFCOM demonstrated that there can be change for the worse- reductions in quantity and quality and for the better- the new settlement proved to be unpopular and untenable and had to be reversed.

Therefore OFCOM's position here is – I believe- wrong and in contravention of the 2003 Act.

Questions

Question 1: Do you agree with our assessment of the context in which the PSB system operates, and how the trends identified might affect the PSB system? In particular, do you agree with our analysis of the independent production sector

ANSWER

Your assessment is welcome and provides an evidence - based analysis which is impressive.

However, the devil as always is in the detail and there seems to be a tendency to "spin" some factors or give them undue weight which goes beyond the evidence per se and this has the effect of diluting your credibility and analysis.

For example, you point. In 1.14 to research which claims that

‘younger adults in the nations feel it is more important for PSB channels to represent diversity at the level of communities present throughout the UK, such as specific ethnicities, religions, socio-economic groups or sexual orientations.’

This may or may not be true depending upon sample size and research methodology but it is undoubtedly the case- especially but not only in Scotland- that the issue of cultural/national identity and media coverage and representation thereof is a live issue- see for example the demographic breakdown of those voting yes in the referendum and the well established evidence on purpose gaps (both BBC and OFCOM research).

It is clear that the fact that younger viewers and listeners give priority to other forms of diversity does not detract –per se- from what I would suspect is nearly equivalent or close perceptions and wishes regarding the portrayal of Scotland in PSB output.

Your framing of this issue in this way could conceivably lead to or enable misinterpretation and/or fail in terms of impartiality and accuracy. The emphasis in wording requires attention.

Question 2: Have we identified the key differences in Northern Ireland, Scotland and Wales?

ANSWER

You have identified some of the key differences but have avoided the question of how to address and resolve some of the weaknesses.

My comments relate to Scotland only and should be read in conjunction with the oral and written evidence I provided to the House of Lords Communications Committee investigation into media plurality. (evidence session October 29th 2013 and report published early 2014.)

There remains a serious democratic deficit to be addressed by OFCOM in relation to the equivalence of provision in the realm of news and current affairs as between viewers in the STV franchise areas and that provided for viewers in the South of Scotland Border region.

Put simply, those in the Border region do not receive anything like the quality of provision enjoyed by their fellow citizens in the rest of Scotland.

Secondly,, there remains a strong need for ITV PLC –and indeed Channel 4 News – to demonstrate that they have taken due and full account of the lessons

to be learnt from the BBC Trust 'King' report in to impartiality and accuracy in news reporting in, of and for the Nations and Regions.

I have raised this issue directly with OFCOM and received profoundly unsatisfactory answers. Comprising avoidance tactics by referring to the fact that it was a BBC Trust report and ignoring the substantive issues. I can provide copies of the correspondence.

At a time when the challenge of reporting the changing UK is so important, it is surprising to say the least that OFCOM has given so little importance to addressing this issue and more. Much more than rhetoric or obfuscation is required. I exempt the head of broadcasting at the OFCOM Scotland office from this but am not so sanguine about others in OFCOM.

Question 3: Do you agree with our assessment that the PSB system remains strong overall?

ANSWER

In broad terms, yes but if there are no improvements in delivering originality and quality- especially in genres such as drama- and also in making news and current affairs more interesting to a younger audience, then PSB 'as a whole' will not be serving well our democracy and society.

There remain particular challenges in the field of sports broadcasting rights. I was disappointed not to see reference to and support for the Davies review of - and report on- the Listed Events system and would have expected OFCOM to do more in this area, as it is important for the citizen interest.

It is wholly unreasonable that a Scotland football team supporter should have to subscribe to satellite television in order to watch his or her national team playing a football match. The same is also true of rugby although the pass seems to have been sold on this one- at least as far as games with England at Twickenham are concerned.

Again, this would have been an opportunity for OFCOM and government –in reviewing the listed events system- to approach these matters with the public rather than the commercial interest uppermost. A missed opportunity indeed.

Question 4: Given the resources available, to what extent is the system meeting the needs of as wide a range of audiences as practicable?

ANSWER

The framing of this question seems designed to induce an answer based on realpolitik. Starting with, given the resources available sets a clear agenda- in research terms. The same limitation is sometimes present in OFCOM research methodology. Why not just ask the question beginning with “to what extent”? This might enable a different set of answers.

One obvious matter to raise here might be the question of the number of residents in the UK from- say – Poland and the associated question_ in return for their licence fee and attractiveness as a market for advertising goods and services- How and how well (or not) are they served by targeted programming – perhaps in the Polish language- as an ethnic minority

To ask this question of the PSB system is to raise profound questions regarding relationships of equity, national identity, inclusiveness and diversity and also hypothecated expenditure and taxation/licence fee allocations.

My starting hypothesis would be that this particular group are ill served by current PSB institutions although STV in Scotland have made some progress in programming provision for POLE

Question 5: Given the resources available, does the PSB system deliver the right balance of spend and output on programming specifically for audiences in Wales, Scotland and Northern Ireland and programmes reflecting those nations to a UK-wide audience?

ANSWER

No. There remains a particular problem regarding the issue of cultural portrayal and representation. This is also an issue of economic investment and value for money. To take but one example – the BBC Soap “River City” constitutes a substantial economic investment by the licence fee payer. Yet this series is shown only on BBC Scotland and not on the BBC UK Network.

It is difficult to understand the economic case for this and the BBC Trust and OFCOM should question why this state of affairs exists.

Please see also my comments above regarding the need for ITV network news to take account of BBC Trust research into impartiality and accuracy in reporting of the nations and regions across the UK.

OFCOM needs to demonstrate that its has ensured that its licensees address this issue and improve their performance by taking account of the research

Question 6: Is declining investment affecting the quality of PSB and is it a cause for concern?

ANSWER

Of course. Yes. You do not need research to demonstrate this as so many people can be heard claiming “there is nothing on television tonight” This is despite your research claiming that satisfaction has increased and your explanation to support this.

My hypothesis here is that your results reflect your research methodology and this is where further attention should be directed.

I would have serious questions to ask in relation to interrogating your work here.

More channels have not necessarily led to more choice. They have led to more channels and it may be that the spreading of investment and expenditure on these has reduced the funds available for main channels.

One example is what has happened to BBC 2 as so many programmes which once would have found a home there are now to be found on BBC4.

A case exists for merging BBC2 and BBC4. Likewise, Channel 4 may be trying to do too much on too many channels and platforms.

The impact of commercial pressures on all PSB’ s has led to policies of safety first and copycat programming. Regulation and legislation which set up Channel 4 led to innovation and quality.

OFCOM should remember that regulation can help to deliver quality

Question 7: Do you agree with Ofcom's provisional findings in the Review of C4C's delivery of its media content duties?

ANSWER

Yes but Channel 4 Corporation should be required to address diversity and plurality of supply by having to adopt higher and nation specific targets in commissioning. For Scotland, for example, the target should be aligned with the BBC population related aspiration. Ie 9% of programming on channel 4 should be made in/come from Scotland.

Question 8: To what extent do you agree with our assessment of the degree to which the non-PSB services play a role in helping to deliver the public service objectives? In doing so please set out your views on the delivery by the PSB portfolio channels, other non-PSB channels, on-demand and internet services and also radio services separately.

ANSWER

Non-PSB services do, of course, play a role and partnership is important. The increasing availability of London based opera and theatrical performances across the UK via streaming to cinemas is one good example although research needs to be undertaken as to the effects on local and regional cultural activities etc.

However, overall cultural policy eg the world famous Edinburgh Festivals exists in tandem with PSB and other television, radio and online programming. PSBs remain the best way of making the best quality available across the UK as a whole. Not everyone can attend events in cities.

Question 9: How likely are we to see steady evolution and have we identified all of the potential alternative scenarios and risks to the system?

ANSWER

Given the speed and unpredictable nature of technological change, you have done as well as could be expected. Steady evolution seems a reasonable expectation, especially as the viewing of prime time television on PSBs has held up much more than the doom sayers were predicting at digital switchover.

Question 10: How might incentives to invest change over time?

ANSWER

Incentives are all very well but regulation in the public interest should take priority. OFCOM should apply its first duty to take account of the citizen interest.

Question 11: Have we identified all the relevant ways in which the PSB system might be maintained and strengthened?

ANSWER

No; See answer to question 10 above.

Question 12: Does universal availability and the easy discoverability of PSB remain important and how might it be secured in future?

ANSWER

Yes. Regulation in the public interest.

Question 13: Should we explore the possibility of giving greater flexibility to PSB institutions in how they deliver public service content, including examining the scope (in some or all cases) for regulating by institution, not by channel?

ANSWER

Yes BUT am not at present convinced by the quality of the regulatory decisions emanating from the Authority for Video on Demand and take the view that the regulation of media content will continue to be priority and there needs to be clear equivalence and harmonization of standards of regulation by the OFCOM Content Board and ATVOD

Question 14: Do the current interventions in relation to the independent production sector need to change in light of industry developments?

ANSWER

No and Contestable funding via top slicing of the licence fee should be completely ruled out.

Question 15: Have we identified the right options when considering potential new sources of funding, are there other sources of funding which should be considered, and which are most preferable?

ANSWER

Broadcasters such as BskyB should be required to pay for their use of PSB channels which comprise an important part of their bundles and provision to and for their consumers.

In addition there needs to be research into the ways in which Google , BT etc benefit from aggregation of news content etc and way found to require them to pay for such media content

Professor Robert Beveridge FRSA

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