

UTV Television Response to Ofcom's Second Public Service Broadcasting Review.

Phase Two: Preparing for the digital future.

UTV Television has engaged throughout the Second Public Service Broadcasting Review with Ofcom in both a formal and informal manner. We wish all our comments to be taken into account in addition to this formal response to the PSB2 document and associated questions.

We cannot stress strongly enough how damaging we feel a number of the proposed solutions for a digital future could be for the newly devolved Northern Ireland.

The most damaging would be a single Channel 3 licence and the so called "Swiss cheese" options. Northern Ireland requires a broadcaster with a strong local presence and governance. The local presence will also maximise the viewership and therefore the advertising available from the region. We do not believe a company controlled in London could deliver anything like either the commercial model or quality programming currently and historically provided by UTV.

UTV has written this response to be reflective of the environment in Northern Ireland and not the UK as a whole, unless otherwise indicated.

UTV Responses:

Section 4: Models

- 1) Do you agree that public service provision and funding beyond the BBC is an important part of any future system?*

Yes. UTV agrees with Ofcom that the BBC only model proposed in Phase 1 would limit plurality and creativity.

Unlike most of the United Kingdom, in Northern Ireland the commercial broadcaster UTV is the most watched public service broadcaster. Our regional news far outstrips BBC Northern Ireland's provision in terms of both share and volume. Ofcom's own research as part of this Review, shows that UTV news delivers a greater satisfaction rating and a greater rating for handling breaking news than BBC Northern Ireland. A significant proportion of those questioned would miss UTV if we did not exist as a service provider.

While not a direct question in the consultation, we believe the BBC is core to a vibrant and diverse creative environment. However we have significant and commonly held concern over the ever increasing breadth of BBC interests. The licence fee should not be used to allow the BBC to deliver content that would be provided by the commercial sector, no matter which of the models (or variants of models) is ultimately recommended by Ofcom.

As UTV stated in its response to Phase One of the Second PSB Review, we have serious doubts over the long term viability of the licence fee (in its current form) as a funding mechanism for the BBC. As the BBC diversifies and fragments its own audience fewer people directly use the core radio and television services of the Corporation. While there is no doubt that some of the BBC's relatively new services are valued, they are not consumed by enough people to justify the universal licence fee. UTV would suspect that the level of the licence fee may come under downward pressure in the years ahead.

We also believe that while policy should never be shaped because of short term or single issues, the recent Ross/Brand incident and its handling, is just the latest in a long line of headline grabbing incidents which have a cumulative effect of knocking public confidence in the BBC.

2) Which of the three refined models do you think is most appropriate?

Model 1 plus competitive funding

UTV believes that no single model reflects the future direction that commercial public service broadcasting should take.

In broad terms however Model 1, the Evolution Model is most appropriate, but we believe this should be supplemented by a level of competitive funding.

While there has been much discussion of vested interests supporting their own historical positions, it is clear the audience in the devolved nations also view Model 1 as their preferred option.

Evolution and audience

We would argue very strongly that in many programme areas UTV is Northern Ireland's leading public service broadcaster. UTV has the highest audience share in both peak and off peak. We provide a greater volume of news and have significantly higher audience figures for our UTV produced news output than BBC Northern Ireland with their significantly greater resources.

We state this not for self congratulatory reasons, but because under any other model there would be a serious risk that the audience in Northern Ireland would lose a significant source of public service provision, provision which is trusted and recognised for its quality and depth of coverage.

This said we also believe that the television landscape must evolve significantly. We are not suggesting the status quo with no recognition of the changing market and economic conditions we currently face. We intend to develop this in our response to other consultation questions – namely Section 4: Models, Question 4 and Section 5: Long-term: nations and regions, Question 2.

Breakfast licence

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- 3) *Do you agree that in any future model Channel 4 should have an extended remit to innovate and provide distinctive UK content across platforms? If so, should it receive additional funding directly, or should it have to compete for funding.*

While not wishing to comment in detail on Channel 4, UTV believes that, as with the BBC, Channel 4 should have a tightly defined remit, perhaps returning to the spirit in which the Channel was launched. In recent years, Channel 4 has consistently chased ratings and the commitment to diverse and innovative programming in many genres has diminished.

We also believe that the remits of the BBC and Channel 4 should be complementary and not competitive. This may require a review of both organisations' output to ensure there is no significant overlap in services being offered across all platforms.

UTV fully supports the raising of Channel 4's out-of-London quota and the introduction of a new quota for the devolved nations, especially Northern Ireland which is significantly under-represented in terms of volume of origination, value of production and social representation on all channels in the UK.

- 4) *Do you think ITV1, Five and Teletext should continue to have public service obligations after 2014? Where ITV1 has an on-going role, do you agree that the Channel 3 licensing structure should be simplified, if so what form of licensing would be most appropriate?*

UTV does not wish to comment on Five or Teletext except to say we believe many users of the teletext service get significant value from the regional news and information pages offered by the service.

ITV plc

In relation to ITV1, UTV does not need to remind Ofcom of the arguments put forward by ITV plc to reduce the regulatory burden. UTV has found many of these arguments deeply frustrating as UTV believes the lack of commitment to PSB licence obligations by ITV plc reflects negatively upon all the other Channel 3 licencees.

Indeed ITV plc's public attacks on UTV (and STV and Channel) have often occurred without prior warning and we believe it is at best an unprofessional way to deal with partner companies.

During this debate on the future of public service broadcasting in the UK, ITV plc has made it clear that it believes there is a flow of benefits away from ITV plc in the direction of the non-ITV plc licensees. Michael Grade has indicated he believes that

flow of benefits is £25M away from ITV. While he has not revealed how this figure is made up, much has been made of this so called subsidy by ITV plc in the media.

In order to address this allegation of subsidy, UTV and STV commissioned independent research from the Ingenious Consulting Network to look at the true value of membership of ITV Network to ITV plc. The research showed that through mechanisms such as transfer pricing, cross promotion and other benefits, ITV plc receives a benefit of between £28.2M and £30.8M directly from the UTV, STV and Channel Television licencees.

A copy of this report, the background and the methodology has been sent to Ofcom Chief Executive Ed Richards and UTV wishes it to be included as part of our submission to the Second Public Service Review as a confidential annex to this document.

ITV plc licence hand-back

We also believe should ITV plc take the view that there is not a value to holding a Channel 3 licence with PSB obligations, others will see a value. The concern Ofcom may have for a void being created in high quality commercial PSB provision would undoubtedly be filled by another operator.

The significance and value of the regulatory assets, not least the highly prominent EPG positions and a “must carry” mandate to all platform operators, will ensure this.

Future obligations

It is clear ITV plc is looking to reduce PSB obligations to a bare minimum and is continuing to threaten licence hand back.

UTV would argue very strongly that with the appropriate model there is value in a Channel 3 licence post 2014, even with a significant level of PSB commitment. As a bare minimum this should include a sustainable level of UK origination and high quality national and international news.

In addition the devolved nations should have the ability to place high quality news in peaktime and also be able to “carve out” slots for a sustainable level of peaktime regional programming. The level of this programming should be defined closer to licence renewal and reflect the prevailing commercial conditions.

Future licence arrangements – devolved nations

In relation to the simplification of the licence structure, we agree with both Ofcom and ITV plc that the current structure reflects a by-gone analogue map of the United Kingdom and change is required.

In terms of Scotland, Wales, Northern Ireland and the Channel Islands we believe one licence for each of these jurisdictions should be awarded. These should be full licences and not simply news opt outs or affiliates.

To quote directly from the Opinion Leader report which was an annex to the Phase 2 document, in relation to UTV, STV and ITV Wales “*guaranteed continuation in their current forms as providers of nation’s news...acts as a default decision criteria for most participants. These channels have a symbolic value beyond their PSB provision, and are seen to represent national identity in ways in which other TV channels do not.*” Opinion Leader report. 1.2 Overview of findings, p5.

Future licence arrangements – English regions

PLEASE SEE CONFIDENTIAL ANNEX FOR UTV RESPONSE

Single licence option

UTV strongly opposes a single Channel 3 licence for the whole of the UK.

Such a decision would be detrimental to the viewer and take local accountability away from programme makers. Currently both UTV and STV have strong regional pedigrees. Many in Wales wish they had similarly committed regional broadcasting.

A single licence would not benefit viewers as it would potentially lose all the regional strengths of the non-ITV plc licencees and lead to a homogenised service across the UK. This would lead to smaller audiences and significantly reduced advertising revenue. We will develop this argument in our response to Section 5: Long-term: nations and regions, Question 2.

Thus a single licence would lose substantial audience in the devolved nations and actually make the provision of public service content for these nations less viable rather than more viable. UTV believes that the sense of ownership a locally accountable and branded service provider adds to the audience loyalty could never be achieved by a single licence.

UTV’s peaktime share has always been substantially above the ITV Network average, we believe much of the increased share is due to our localness and the relevance of our regional output.

While ITV plc has removed regional names from almost all output, UTV uses promotional time to reinforce our position in the centre of the community we serve. Without this relevance to our audience there is no doubt that their loyalty would not be as strong and our figures would not be as high.

As well as the audience falling, the commercial viability of Northern Ireland within a single licence would also diminish. UTV has been close to the advertisers and the agencies in Northern Ireland and the Republic of Ireland for almost 50 years. This familiarity would be lost if UTV were to be replaced by a presumably London based

company. Relationships built up over many years would end. Many advertisers want to be seen on UTV because we are “their local television company”, some of that spend would be lost to local radio and local papers if that sense of localness was to go with a single licence.

The final commercial issue that reduces the argument for a single licence is the fact that UTV works hard to find advertisers in our area, a centralised sales structure would not get maximum spend out of the regions. Effort would be put into nationwide advertisers and London based agencies. The campaigns and accounts that are sought in the regions which are UTV’s bread and butter, would be seen as crumbs by a single licensee.

With these factors taken into account we believe a substantial proportion of our island-wide revenue would be lost per year from Channel 3 nationwide if a single licence was to be considered from 2014. As a result of the fall of audience, some further loss of revenue would occur from London based agencies.

5) What role should competition in funding play in the future? In which areas of content? What comments do you have on our description of how this might work in practice?

BBC licence fee

Firstly we disagree with Ofcom’s assumption of the viability of a universal licence fee. All Models are based on the continued existence of the BBC as the cornerstone of PSB provisions.

While UTV does not wish to diminish in any way the role of the BBC, recent research – some of it commissioned by Ofcom – has shown a drop in support for the licence fee. There is also a significant and growing lack of public regard for many aspects of BBC provision. The King Report earlier this year pointed to a significant failure of provision in relation to news from the Home Nations from the BBC.

Nevertheless significant revenue is obtained via the licence fee and will still be obtained for a number of years to come. However UTV does not support the distribution of licence fee, or any of the digital switchover surplus, being made available to other broadcasters. In that way the link between the charge and the accountability may be lost to the detriment of all broadcasting.

Regulatory assets and industry levy

UTV support the continued use of indirect funding through regulatory assets (we will detail this in our response to the next question) and although little discussed, we also support the industry levy.

Steve Morrison, Chief Executive, All3Media made a very persuasive argument at a recent London School of Economics (LSE) event as to how indirect taxation, commonly used in a number of European countries and levied against storage media and hardware plus some audiovisual equipment could fund broadcasting.

During this review Ofcom has regularly made it clear that original thought is required to deliver PSB content moving forward. We urge Ofcom to recommend this very thinking to the Department of Culture, Media and Sport when shaping future legislation. This levy is a sustainable and relevant mechanism for funding future PSB provision.

Direct Government funding

In the current economic environment no Government or Assembly is likely to find the public willing to fund broadcasting directly.

Throughout the whole debate around the future of PSB in the UK, there has been no persuasive argument for direct funding. While S4C may be a working example of this right now, the wider use of direct funding for content provided by commercial operators is questionable.

Section 5: Long term: nations and regions

- 1) *Do you agree with our findings that nations and regions news continues to have an important role and that additional funding should be provided to sustain it?*

Value of existing provision

UTV is of no doubt that the most important aspect of nations and regions' provision is news from the licensee's own area.

The well publicised audience ratings in Northern Ireland for both UTV and the BBC, and Ofcom's own research as part of this phase of the second PSB Review make this self evident. The Opinion Leader qualitative study significantly supports UTV, STV and ITV Wales, "*which are all considered more local and relevant and understand national issues in a way which the BBC does not*", and the BBC is described as "*too English*".

Future sustainability

However, we believe that the provision of high quality news for the licensee's area should be the ONLY (in-region) licence obligation after renewal in 2014. To offer - or request - funding for news for the devolved nations would mean that a licence would have almost no obligations. (Other content should be provided at commercial risk or through a competitive funding system).

There will remain a value in the licence through digital spectrum and EPG position as a bare minimum.

We believe digital spectrum to be worth between £6M and £10M per year per channel. The front page positioning on any digital television platform EPG will also have a significant value, even in an environment where some viewers will watch On-

Demand on multiple platforms. For some time linear television will remain the primary method for consuming television content.

For these reasons, any new licensee in any devolved nation and indeed the English regions in the licencing model we have suggested in the response above (Section 4: Models, Question 4), should be able to sustain a high quality news service, in return for the regulatory assets which would be awarded with the licence.

These licences will be able to cross promote their news content on other platforms such as online, they will also be in a position to offer – whether commercially or otherwise – this content to other organisations and maximise the value of the Channel 3 content in other ways.

Accelerated evolution

UTV has made it clear that we support the Evolution Model, but we believe that accelerated evolution is essential. We do not believe that the current Channel 3 model is sustainable, but the ability to use content made for the licenced area television service on other platforms should allow other forms of revenue to be maximised.

UTV has proved that there is an audience for news programming and a demand for high quality news content. Our news audiences have grown for the past three years against the trend in other licence areas. We believe the reason for this is very simple - other licensees simply see the news obligations as a cost centre. If viewed as a key obligation and produced with the audience in mind, then investment in high quality news can be commercially sustainable. (This comment is based on our proposal of eight digital regions as opposed to the multiple analogue licensees – we fully agree that in England, regional news at the current level of multiple licences is not sustainable).

2) Which of the three refined models do you think is most appropriate in the devolved nations?

Evolution plus

As previously stated we believe the Evolution Model is the most suitable model for the devolved nations, but the model needs further refinement and should include an element of competitive funding.

As Ofcom's own focus groups show, the audience is also in support of this model. In the Opinion Leader research which was an annex to the PSB2 document, those sampled in the devolved nations have a firm preference for Model 1 (fig3, p61). On page 62 figure 4 and 5, there is also a majority of respondents who favour Model 1 plus competitive funding across the whole of the UK, not just in the devolved nations. UTV strongly believes in the competitive funding model for non-news output on the Channel 3 licences after 2014.

High approval levels

Indeed if you look at the satisfaction rating for the current providers, UTV delivers by far the greatest satisfaction score for any licensee – 87% of the respondents are either satisfied or very satisfied by UTV news output. 85% are also satisfied or very satisfied with UTV's response to breaking news. These figures are by far the highest for any licensee or BBC region in the whole of the UK. Any future model must take note of this staggering level of audience satisfaction.

In our opinion, no model totally reflects how the future landscape should evolve but as those questioned by Opinion Leader show, their favoured model is Model 1 plus competitive funding. This in UTV's opinion is the ideal model moving forward: it preserves the best of the current system, while giving support to the diverse programme output most under threat.

The news provision for the regions should be quantified and qualified in the licencing of future Channel 3 services. The non-news programming should be delivered through competitive funding as well as at commercial risk. Independent producers should require a broadcast partner to apply for funding through a scheme similar to the Sound and Vision Fund run by the Republic of Ireland broadcasting regulator, the Broadcasting Commission of Ireland.

Again we would argue that the "pot" for this funding should be provided by an industry levy rather than BBC licence fee or direct grant from Government either central or devolved.

3) Do you agree with our analysis of the future potential of local content services?

UTV fully understands the desire to deliver local content and indeed the audience move towards localised news provision. However as Ofcom is aware even local radio – with a far lower cost base – in some areas is now struggling commercially.

The ferocity with which many newspaper groups attacked the BBC plans for local services was also proof of how difficult even newspapers established for decades are finding the current market. Many already offer online services some with video content, yet the commercial sustainability is challenging.

With the downturn in economic conditions since the start of this consultation it would be hard for any new provider to launch a commercially sustainable local content service.

Even those local services already in existence are delivered at a loss to the parent company or are funded by grants and not advertising. A number of high profile local television services have failed in the last 12 months.

Indeed those services which do exist provide neither the depth nor breadth of coverage that the existing Channel 3 licensees deliver. They also have little impact or reach in the market they serve. While Northern Visions service, NVTV, lobbied hard during the last consultation period, it is difficult to find anyone in Belfast who has in fact seen the service. This statement is in no way meant to demean the service – but it

is unlikely to fill any gap left if there is no Channel 3 licensee for Northern Ireland post 2014.

The interwoven spectrum being made available by Ofcom as part of the Digital Dividend Review (DDR) may have the possible application of local television, but it is likely that much will go to telecoms companies who will have far superior bidding ability than local content providers.

In addition, many during this review have asked why UK cities, unlike American cities, cannot support multiple broadcasters. The answer is straightforward: in the USA there is not a significant public service broadcaster, like the BBC, with licence fee funded programming. The sheer size and market impact of the BBC makes commercial operations near impossible on a city scale.

Section 6: Funding

- 1) Do you agree with our assessment of each possible funding source, in terms of its scale, advantages and disadvantages?*

UTV broadly agrees with Ofcom's assessments.

We believe the most important evidence in the document relating to funding is the public view. In Figure 36 on page 94 of the Review document, the leading public preference is Industry Charge for future funding.

It is both the most acceptable funding mechanism and the least unacceptable among those questioned by Ofcom.

- 2) What source or sources of funding do you think are the most appropriate for the future provision of public service content beyond the BBC?*

Funding

As already stated UTV believes that Industry Levy and the Regulatory Assets are the correct way forward for funding. Any other method requires either taxation, or top slicing of the licence fee, or an increased licence fee. It is clear from public opinion that these would not be their preferred methods. Indeed as the research was carried out before the recent turmoil in the financial markets we suspect that public willingness to pay directly for television services will have fallen dramatically.

Airtime

We also believe that a reduction in the amount of television airtime available will help drive up the price of airtime. We believe that additional advertising revenue would be derived by public service channels if the advertising minutage allowed on digital multi-channel services was reduced to that permitted on public service channels.

Another way of adding commercial value to regional programmes would be to allow the minutes around regional programming to be excluded from the total peaktime / daytime maximum. This would allow increased minutes of advertising to be inserted around this output, but not diminish the overall total of peaktime advertising permitted around the most profitable programmes.

Currently there is a significantly reduced amount of advertising around local programmes as this airtime is less valuable than that around drama, entertainment and primarily the soaps. We do not suggest any increase in the hourly maximum around regional output.

BBC partnership

Partnerships with the BBC have also been discussed as a way of reducing costs for commercial PSB operators. UTV is highly sceptical about this approach. We believe that while benefits may be derived in the very long term, property and infrastructure decisions take many years to implement and even longer to see benefit. While some operators may see a benefit in working closer with the BBC on facilities sharing, this cannot be assumed on a nationwide basis.

The sharing of news resources and even footage and facilities has been discussed as a way of continuing the sustainability of nations and regions' news output. Again we struggle to see how this may work in practice. Indeed there is a risk that the sharing of news footage and coverage would reduce plurality and impede strong journalistic endeavour.

While we see the suggestion as a defensive move by the BBC, the reality of operating in practical terms seems challenging to say the least.

In Northern Ireland where the audience has a higher appreciation of UTV than the BBC, we would also see it as a dilution of our highly successful public-facing brand and could even be commercially damaging to be seen to be operating in cooperation with the BBC.

3) Which of the potential approaches to funding for Channel 4 do you favour?

UTV does not wish to comment on future funding of Channel 4 except to reiterate UTV believes as with the BBC, Channel 4 should have a tightly defined remit to secure future funding from any source.

We also argue that the remits of the BBC and Channel 4 should be complementary and not competitive. This may require a review of both organisations' output to ensure there is no significant overlap in services being offered across all platforms.

Section 7 and annex 1: Matters for short term regulatory decision

- 1) *Do you agree that our proposals for “tier 2” quotas affecting ITV plc, stv, UTV, Channel TV, Channel 4, Five and Teletext are appropriate, in the light of our analysis of the growing pressure on funding and audience priorities? If*

not, how should we amend them, and what evidence can you provide to support your alternative?

UTV wish only to comment in relation to UTV's "tier 2" quotas.

In UTV's previous submission we were bullish as to the commercial viability of the future level of "tier 2" commitments. In the brief period since that submission, the economic environment has deteriorated significantly. In addition, competition from multi-channel and increased competition from channels in the Republic of Ireland has had a noticeable impact.

News

In the first phase of the PSB2 review, UTV supported a move away from the little watched off peak bulletins in daytime, we agree with the proposed level of 4 hours of news output as being sensible and sustainable. We have always viewed peak and near peak television news output as core to our licence obligation and our public offering. This will not change; in fact we intend to strengthen our evening and night time bulletins as a result of having resources feed up from daytime news output. UTV's programme plans for 2009 and onwards will deliver a higher level of news output than this minimum quota.

Non-news

In non-news programming, we now believe the original proposed level of 3 hours of regional programming for 2009 would be a challenge to deliver in the current conditions. The new proposed levels of non-news programming at 1.5 hours a week is a sensible level of delivery for the period up to digital switch over in 2012 in Northern Ireland and should be a sustainable quota.

The proposal to deliver this output in peak and near peak is also welcome. The ability to get peaktime slots for our high quality output for Northern Ireland has been challenging at times. We believe our audience value UTV Northern Ireland output and we will sustain high quality content under the new proposals, albeit at a reduced level.

UTV fully support the proposals for minimum licence obligations as outlined in the Phase 2 document.

UTV Television 4 December, 2008