

# **Response of the Ofcom Advisory Committee on Older and Disabled People (ACOD) to Ofcom's Second Public Sector Broadcasting Review – Phase One: The Digital Opportunity**

## **1 Introduction**

1.1 ACOD had a very full discussion of the consultation document with members of Ofcom's PSB team at its meeting on 23 April 2008. The Committee's PSB sub-group subsequently drafted a response and all members have had an opportunity to comment. Our views are outlined below and, where relevant and appropriate, we have reiterated points made during the consultation on the first PSB review in 2004.

1.2 ACOD strongly believes in the value of public service broadcasting. Like other citizens, disabled and older people intrinsically value having a plurality of public service content and rely heavily on TV for information, news and entertainment.

1.3 The Committee believes that the broad purposes of PSB are still fit for purpose, but maintains the view (expressed in our response to the first PSB review) that 'promoting a tolerant and inclusive society' should also be a purpose of PSB. Public service content should help people learn about the world in a way that positively transforms their attitude towards other people in society.

1.4 PSB should promote programming that increases community cohesion. The true test of high quality PSB is programming content which maintains this theme across all output. This means, for example, drama story lines that match the real experiences of disabled and elderly people, comedy output that respects its audience, rather than ridicules or cheapens them, and factual television programming that achieves a balance, in portraying the lives and experiences of disabled people accurately.

1.5 As ACOD also noted in its response to the first PSB review, in many circumstances inclusion does not coincide with being older or disabled. We should be working to ensure that it does and PSB can help take us in that direction. We note that Channel 4's future vision includes public purposes that relate closely to ACOD's view.

1.6 Ofcom has noted that the PSB Review has shown the public's concern that portrayal of sections of society should not be at the expense of "mainstream" Public Service programming. If Ofcom took full regard of public opinion in this way, PSB would never address the needs of minority groups. PSB could do a lot more to promote positive attitudes towards minority groups.

1.7 Not all viewers will have the resources to purchase subscription channels outside of the PSB remit. Increasingly, access to the media is divided between those with the highest disposable incomes, and therefore the greatest choice, and those unable to access paid to air services because they do not have the resources to purchase them.

## 2. Key messages

2.1 A PSB strategy for the future needs to consider mainstreaming disability equality and Ofcom needs to continue to develop a deeper understanding of older and disabled people's attitudes towards and priorities for PSB. Specifically:

2.1.1 Public service broadcasting is inextricably linked to issues of access for older and disabled people. Major barriers exist to independent and easy access to PSB content (however it is delivered), and they should be tackled with greater urgency. These relate to the way services/systems are designed and also to cost - disabled people are more likely to live in poverty and face considerable extra costs that are not adequately compensated for by disability benefits.

2.1.2 Ofcom must seek to ensure that new platforms for PSB delivery build in inclusive access and maximum ease of use. PSB, especially on TV, has a vital role in promoting equality, inclusion and cohesion, promoting positive attitudes towards older and disabled people, and fostering their greater involvement/participation in public/civic life. These objectives find expression in the public sector duties to promote race, disability and gender equality respectively – duties that currently apply to the BBC and Channel 4. However they are not adequately captured either by the current definition of PSB at Section 264 of the Communications Act 2003 or by Ofcom's interpretation of the purposes and characteristics of PSB – both should be updated to tackle this dissonance. Specifically we want to see much more of a focus on disability within this. Channel 4's plans for example, seem to centre more on ethnic minority programming and young people and not have much to say about other very substantial sections of the community such as disabled and older people.

2.1.3 Many disabled and older people do not see themselves, their lives, concerns, struggles, or their contribution to UK society adequately reflected in PSB programming. This is not just a matter of having disabled and older people on screen throughout different genres of programmes. It means having more programming about them, including some that is made by them. The market will never deliver this and these groups do not have access to financial resources to create easily accessible public service content and get it out to a wide audience.

2.1.4 Channel 4's research<sup>1</sup> revealed that, while the general population was happy about portrayal of minority groups, the minority groups themselves were not happy. They wanted not only additional portrayal in mainstream broadcasting but also more by way of niche and targeted programming.

2.1.5 There should be monitoring of the portrayal of older and disabled people and on-screen inclusion by public service broadcasters. Similarly, analysis of PSB coverage of 'social issues' (as viewed by older and disabled people and their families and carers) would better inform broadcasters about how they are meeting the needs of these audiences.

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<sup>1</sup> YouGov survey of 11,000 viewers and users for Channel 4 cited in "Next on 4", March 2008

2.1.6 PSB programming which accurately reflects the lives and experiences of older and disabled people can have a positive influence on the public and other services designed to meet their needs, and on the attitudes and practice of the staff who design and deliver them.

2.1.7 Ofcom should include access conditions in the digital teletext licences – as provided for by section 308 of the Communications Act.

2.1.8 We do not recognise some of the assumptions made in the review. We are concerned that the way forward for PSB content has been signposted by developments in children's programming where high quality, UK produced content has been replaced by low quality, non-challenging American imported cartoons. There needs to be a clear regulation of content which is supported by an adequate funding model that continues to ensure that older and disabled people have full access to a range of PSB programmes alongside high quality subscription and paid for channels that also address the same needs.

2.1.9 We note that Ofcom's vision of future public service content supplying "diverse content which meets the needs of all communities within the UK" includes specific content obligations on indigenous language provision. PSB should include programming for other linguistic minorities. Whilst indigenous sign languages (British Sign Language and Irish Sign Language) do not have the same legal status as some indigenous spoken languages, they have been accorded official recognition by the UK Government, the Wales Assembly Government and the Northern Ireland Assembly Government.

### **3. Consultation Questions**

#### **Section 3**

#### **How well are public service broadcasters delivering public purposes?**

3.1 ACOD believes that television is central to the delivery of PSB, and for older and disabled people in particular, it is likely to remain so for the foreseeable future. We support Ofcom's conclusions on the importance and significance of UK originated output in reflecting UK values, cultures and perspectives.

3.2 The review identifies areas where PSB is not delivering all it might, for example in relation to children's programming. However a gap in the consultation document is the absence of any assessment of disabled and older people's views on PSB performance. More work should be done on understanding what disabled people expect from PSB. Channel 4's recent research demonstrated that disabled people still feel a strong sense of exclusion – something PSB can play a major role in addressing.

3.3 Within PSB there is scope for broadcasters to mainstream disability effectively and to provide more information, news and feature programmes that reflect the current debates, issues, activities and campaigns of importance to older people, disabled children and adults and their families.

3.4 Two good examples of Channel 4 programming that reflects what is going on and helps change attitudes for the better were: the series “Truly, Madly, Deeply” about a dating agency for people with learning disabilities; and the programme “The Doctor who Hears Voices” that attempted to demystify/un-demonise ‘schizophrenia’, as well as challenging its audience to look again at traditional approaches to ‘treating’ mental illness. There is too little programming of this kind and Channel 4 seems to be providing most of it. What little there is should also be made widely available online and as repeats on digital channels.

**Do you agree with Ofcom’s assessment that television continues to have an essential role in delivering the purposes of PSB**

3.5 However much we may consume programming individually via the Internet, there is a significant social purpose in ‘family viewing’. Research by Nottingham University<sup>2</sup> on the importance of TV for blind people showed how important it is for social inclusion to be able to enjoy the same TV content as everyone else. A key issue not addressed here is the exclusion of disabled people from enjoying television because of the lack of easy, independent means of access and navigation.

**Do you agree that UK originated output is fundamental to the delivery of PSB purposes**

3.6 A significant amount of UK-originated output is fundamental to enhancing our understanding and appreciation of other cultures/ world events. Programmes made by older and disabled people in the UK and from around the world are very limited. In its response to the Ofcom Consultation on Proposals for co-regulation of equal opportunities in January 2008, ACOD called for firm action on tackling gross under representation of disabled people in the broadcasting industry. Perhaps if this were to be rectified we might see more relevant UK originated PSB programming.

## **Section 4**

### **The changing market environment**

4.1 Some public service content is being provided by IPTV and whilst Ofcom should be mindful that older and disabled people could be well served by this, a problem with an expanding range of platforms and modes is that there is no regulation of access services on these new methods of delivery. The BBC, via its iPlayer service, is doing what it can in this respect, but there is no obligation on the BBC to do so. IPTV presents opportunities, but without appropriate access conditions it can also be seen as a threat to accessible provision for groups represented by ACOD.

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<sup>2</sup> Professor Roberta Pearson and Elizabeth Evans, Institute of Film and Television Studies at the University of Nottingham, March 2008.

4.2 While such new technology offers positive opportunities for Public Service content, there are constraints to it being available to all. Older and disabled people would not benefit if it was either too difficult to access or was too costly. The increasing propensity for bundling telephone, broadband and television packages adds to the risk of disenfranchising these groups for the foreseeable future.

4.3 Accessibility considerations should be part of the initial thinking in the development of all new communications technologies, rather than the subject of later expensive or impractical adaptation. Leaving aside income, where a technology is not accessible, the fault lies with the design, not the user. Access and cost issues must be integral to any understanding of how PSB needs to be taken forward in the future.

4.4 Ofcom's regulatory powers need to be extended to cover all the routes by which PSB content is delivered. Meanwhile, the provisions of the Disability Discrimination Act (DDA) apply to services delivered via the Internet – Ofcom could usefully ensure guidance is developed on the application of the DDA to these new technologies (something ACOD could assist with) to help raise service providers' game in this area.

### **Do you agree with Ofcom's conclusions about the way that other digital channels and interactive media contribute towards the public purposes?**

4.5 ACOD agrees that the contribution of non-PSB channels towards PSB is growing, but from a limited base. This reinforces the need for PSBs to deliver more in this area. Despite a growing population of older and disabled people (in 2006 16% of the UK population was over 65 (source: [www.statistics.gov.uk](http://www.statistics.gov.uk)), and it is estimated that one in seven of the population has some form of disability (source: Disability Rights Commission)), there has been no emergence of channels (apart from RNIB's Insight radio) to cater for the wide range of specific information needs/interests. It would be interesting to know the extent to which the Community Channel (beyond involvement in Sign TV) engages with disabled and older people and their organisations. Similarly, analysis of initiatives by these groups (including any partnerships with broadcasters) to use interactive media to inform, entertain, or inspire would be valuable.

## **Section 5**

### **Prospects for the future delivery of public service content**

#### **Do you agree with Ofcom's assessment of the implications of different economic scenarios for the UK TV market for the future prospects for delivery of the public purposes?**

5.1 The analysis presented here confirms the need to identify new investment for PSB.

5.2 ACOD agrees that ‘the extent and speed of change’ means that ‘the prospects for delivery of public purposes across multiple platforms, particularly after 2012 are highly uncertain’. We are concerned that issues of discoverability will particularly impact on older and disabled people’s access to public service content and will reduce the overall impact of PSB.

5.3 Content that is deemed to be public service broadcasting should be freely available to people of any age or disability without any restriction of access over any other group in society. If older or disabled people have to pay more for accessing it, or are disenfranchised by the process of using it, then it is not truly in the public interest. As disposable income becomes increasingly squeezed there is a particular risk for older people and disabled people that they will be excluded from access to the full benefits of digital broadcasting simply because they will not be able to purchase non-free to air channels.

5.4 ACOD would wish to see assurances that PSB will continue to act as a gateway to high quality programming so that those who are unable to purchase premium channels can still have access to a range of high quality free to air channels. In this respect we are sceptical that the market can meet the needs of those elderly and disabled people whose needs tend to be ignored in a market place dominated by broadcasters who want to maximise profit whilst driving down costs.

5.5 The Committee accepts that there is uncertainty around how an increasingly ageing population will choose to access media. Similarly, the extent to which the greater experience of information technology of succeeding generations will influence the choices they make as older people, is also unknown. However, an equally uncertain but important influence on choice will be economic factors affecting the disposable income of older and disabled people.

See also Section 4 above.

### **Do you agree with Ofcom’s analysis of the costs and benefits of PSB status?**

5.6 ACOD agrees with Ofcom’s analysis. ACOD believes, however, that Five and ITV ought to be doing more, in a PSB context, to justify their due prominence on the EPG and listings access.

## **Section 6**

### **Meeting audience needs in a digital age**

6.1 We welcome plurality and believe that all PSB providers should be required to ensure that they take into account the interests of people who are older or disabled. New PSB providers will be able to innovate in programme formats and delivery

mechanisms; new technologies should facilitate the accessibility of their output in the widest sense.

6.2 ACOD supports Ofcom's view that 'Achieving the public purposes of broadcasting will...continue to require significant intervention to ensure availability and access to content that the market would not otherwise provide'.

See also Section 4 above

**i) Do you agree with Ofcom's vision for public service content?**

6.3 ACOD supports Ofcom's vision for the future of public service content but would wish to see it also reflect the need to encourage participation, encourage mutual respect across communities and challenge negative attitudes. It should also be more explicit about reflecting communities of interest/experience beyond religious and national/regional identities.

**ii) How important are plurality and competition for quality in delivering the purposes of PSB and in what areas?**

6.4 Very important especially in news and current affairs.

**iii) In maximising reach and impact of public service content in the future what roles can different platform and services play**

6.5 Issues of access, cost and discoverability will disproportionately affect older and disabled people's capacity to benefit from public service content. Failure to reach such large sections of the potential audience will affect the overall impact of PSB.

**iv) Do you agree that the existing model for delivering public service broadcasting will not be sufficient to meet changing needs in future?**

6.6 It is clear that Channel 4's position in particular is not sustainable and that it needs additional public support to maintain and strengthen its contribution to public service value. This seems to be a question of financing as much as anything. See section 7 below.

**Section 7:**

**Future models for funding and providing public service content**

**i) What are your views of the high-level options for funding public service broadcasting in the future?**

7.1 ACOD believes that PSB is a proper use of public funds. The market alone will not meet the interests of people who are older or disabled. The level of future funding for PSB cannot be fully determined until decisions have been made about how it should be provided. Those decisions need to take into account the cost of programmes aimed at people who are older or disabled and costs to ensure that

both groups are fully represented in mainstream output, as presenters, participants or otherwise.

**ii) Are the proposed tests of effectiveness for future models for public service broadcasting the right ones?**

**iii) Of the four possible models for long term delivery of public service content, which, if any, do you consider the most appropriate, and why? Are there any alternative models or combination of models that could be more appropriate, and why?**

7.2 ACOD believes that an appropriately-funded, independent BBC should remain the cornerstone of PSB. However, future governance and regulation of the BBC should take much more account of the requirements of people who are older or disabled. Audience research should not be the only tool to determine those requirements. The Communications Act requires Ofcom to ensure that it receives advice and is aware of issues affecting older and disabled people; the BBC Trust need to ensure that it receives similar advice.

7.3 ACOD is concerned, however, that, increasingly competing with private sector providers in the type of programming, and in the ways in which programming is output, is a distraction for the BBC from its public service remit. Similarly, with the advent of the multiplicity of digital platforms the pressure on broadcasters is to fill bandwidth with quantity rather than quality. The BBC has been drawn into that too. It feels like it is under pressure to compete with commercial broadcasters and should not be.

7.4 ACOD supports the concept of plurality in the provision of public service content where such competition brings benefits to all consumers. However, irrespective of the approach that is adopted, ACOD believes that PSB providers must have a duty to progress the interests of people who are older or disabled and to routinely anticipate inclusive practices. If a contestable fund is adopted, bidders should be required to demonstrate how they would meet such a duty.

7.5 We remain sceptical that commercially driven broadcasters will see the production of dedicated output such as 'See Hear' as anything other than a drain on their resources. In such circumstances the need for PSB increases as it must address the development and broadcasting of programming that satisfies needs that are not simply driven by a mass market.

7.6 ACOD is unconvinced that any of the proposed models will secure a PSB network that delivers programming reach and range that addresses the needs of older and disabled people. We are particularly concerned that the proposals to reduce the obligations on commercial broadcasters in Model 1 will simply squeeze out relevant content that will appeal to older and disabled viewers. All the options

have similar inherent risks. However Model 4 would appear to have, on balance, some merit of at least spreading the mix of quality PSB through a range of providers.

7.7 We do not believe that accessible content should be left entirely to PSBs. There is a risk that too much emphasis is being placed on PSBs' ability to deliver, for example, sign language content. PSB should set standards that commercial broadcasters should be expected to follow and embrace. In this respect the risk for non-PSB broadcasters can be reduced as PSB demonstrates the added value of the approach.

7.8 A wider range of competitively provided public service broadcasting will require closer monitoring of content against the purposes of PSB. Key performance indicators may be required for what is being delivered.

## **Section 8:**

### **Options for the commercial PSBs**

#### **i) What do you think is the appropriate public service role for C4 in the short, medium and long term? What do you think of C4's proposed vision.**

8.1 ACOD likes the dynamic feel to C4's "Next on 4" vision, especially on changing the way people see the world. It would be helpful to have more detail from C4 on what their proposed new Head of Diversity will do on disability portrayal and programming.

#### **ii) Which of the options set out for the commercial PSBs do you favour?**

8.2 ACOD has concerns about Ofcom's view on Teletext that 'it may be unnecessary to continue intervention through a statutory licensing regime for a text based service delivered by television'. Such a move may mean it would be impossible to regulate accessibility of an alternative text service. Delivery of text-based services via other platforms may also preclude access for many deaf and hard of hearing people. A feature of Teletext valued by deaf people is the availability of regional information and news services which are readily available to hearing people via other media such as local radio.

8.3 Access for visually impaired people to digital teletext is also an important issue. There is a need to ensure digital teletext providers are working to accessible design standards, which would enable the pages to be read by a device such as Portset's Accessible Freeview decoder and PVR. Ofcom should be addressing this under s308 ('Assistance for the visually impaired with the public teletext service'), which reads: 'The regulatory regime for the public teletext service includes the conditions that Ofcom consider appropriate for securing, so far as it is reasonable and practicable, by the inclusion of features in that service, to do so, that persons with disabilities affecting their sight are able to make use of the service'.

As can be seen from the comments above ACOD believes very strongly that getting the PSB programmes right for older and disabled people is paramount. We do not want to create a world where these citizens and consumers are unable to access the kind of programming highlighted in our response because we leave it to competition in the market. We wish to be fully engaged with the team at all stages of this consultation process.

**M R Whittam CBE**

**Chair**

**ACOD**

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