

Ofcom: Second Review of Public Service Broadcasting Phase 1 - June 2008

Response by the Institute of Welsh Affairs

Our responses below, that are centred mainly on the needs of Wales, are based on a media audit of Wales that we carried out for the Institute of Welsh Affairs with the support of a grant from the Welsh Assembly Government. The Ofcom review deals with television, as is required by legislation, but it is our contention that in the present age television, radio, online and print – the complete media landscape – needs to be viewed as a whole and within the specific Welsh context.

We are fully in agreement with Ofcom's main conclusion that public service broadcasting will need additional financial support if it is to be sustained for the medium or long term. We would simply add that it is from the nations and regions that most public value has been lost in recent years or might yet be lost in the next few years. The nations and regions of the UK should have first call on any mechanism to restore and sustain public value.

Media development has been a live issue in Wales for more than 80 years, but the opening of the National Assembly in 1999 has introduced a new element to the discussion – the information needs of a democracy, especially of a young democratic institution needing to weave itself into the narrative of people's lives and to create an informed democratic engagement between governors and governed. This is now an issue in Wales, Scotland and Northern Ireland, but on any objective test media deficiencies in Wales are – with the exception of provision for the Welsh language – significantly worse than in the other two countries. Our concerns on this score have been deepened by the disturbing data contained in Professor Anthony King's report for the BBC Trust.

Of the three countries – Scotland, Wales and Northern Ireland - Wales has the weakest print environment and the weakest commercial radio sector, is the only country where none of its commercial radio stations is indigenously owned, is the only one of the three whose ITV franchise-holder was absorbed into ITV plc, and the country where the BBC is most dominant in both radio and television. It is also the country that has had the lowest population coverage for its analogue terrestrial transmission systems, and will have the lowest population coverage for the successor digital transmission systems in radio and television (DAB and DTT).

On the plus side, it is the only one of the three countries that has a third public broadcaster, S4C, has arguably the strongest independent production sector and, currently, is the most successful of the three nations outside England in penetrating the UK television networks.

In summary, Wales's distinct circumstances in the media field are unmistakable and raise questions about the status quo and future policy. Circumstances in Wales are sufficiently distinctive to warrant tailor-made solutions. PSB provision across the UK does not necessarily have to emerge from uniform structures. However, we realise that finding the right policy options is complicated by a realisation that while the next set of changes might radically alter the shape of public service provision, it might, even so, be only a transitional phase as broadband technology develops.

How well do the PSBs deliver public purposes?

3i) Do you agree with Ofcom's assessment that television continues to have an essential role in delivering the purposes of public service broadcasting?

Yes. We start from the proposition that in the next decade more things will change than we imagine but that, paradoxically, more things will stay the same than we might think. This is not in any way to underestimate the fundamental changes that are happening in media consumption, especially among the younger generations. However, the population over 50 years old will remain a large and growing segment of the population.

3ii) Do you agree that UK-originated output is fundamental to the delivery of public service broadcasting purposes?

Yes and, by extension, indigenously produced output is fundamental to the delivery of public service broadcasting purposes in Wales. For cost reasons this is likely to have to be delivered by a combination of output made specifically for the Welsh audience and other output commissioned from UK networks that also reflects Welsh society and perspectives.

Changing market environment

4i) Do you agree with Ofcom's conclusions about the way that other digital channels and interactive media contribute towards the public purposes?

Yes, but with an important qualification. Broadband penetration in Wales is still low, and the rate of increase in the last two years has been significantly lower than in the other countries of the UK, as Ofcom's Communications Market report, Wales (2008) indicates. The worsening economic climate, that may persist for some years, means it is also likely that competitive providers are now less likely to pay attention to more marginal areas. As a result it is unlikely that the gap between Wales and other parts of the UK, both in terms of take up and download speeds will reduce. Online public service content needs support and development, but online-based media are not going to be in a position to replace the prime PSB broadcast services for some time to come.

Prospects for the future delivery of public service content

5i) 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?

5ii) Do you agree with Ofcom's analysis of the costs and benefits of PSB status?

Broadly, yes. However, while there is undoubted substance in Ofcom's analysis, one cannot entirely discount the possibility of a degree of 'gaming' in the analyses and forecasts made by ITV and, to some extent, by Channel 4. In ITV's case, it implies an assumption that a turnaround in its fortunes is not possible while its public service obligations persist. In the case of its obligations to Wales that assumption needs further testing. We believe that the current state of ITV has as much to do with management mistakes of the past decade as with the advent of multi-channel television. There is also some reason to question the suitability of a listed equity-based company to fully discharge the Channel 3 obligations in the next few years. That said, we agree with the proposition that the continuation of highly

valued regional broadcasting, upon which we place a high priority, will need additional public support.

Meeting audience needs in a digital age

6i) Do you agree with Ofcom's vision for public service content?

Yes, but we would also stress that, by extension, the principles and purposes outlined for PSB have a relevance within specifically, Scottish, Welsh and Northern Irish contexts.

6ii) How important are plurality and competition for quality in delivering the purposes of public service broadcasting, and in what areas?

As Ofcom has recognised, plurality is particularly important in Wales because of the dearth of indigenous newspapers playing a Welsh national role, the paucity of coverage of Wales in UK newspapers and on UK broadcast news, and the lack of speech-based commercial radio stations. As a result Wales is currently heavily dependent on the BBC both as a provider of news and English language general programming. However, plurality cannot override all other considerations. It is essential that broadcasting in Wales maintains a capacity to deliver reach and impact for its indigenous programming.

It is for public service broadcasters to interpret audience needs in the light of changing circumstances, rather than to have programme services and genres bureaucratically, let alone legislatively, defined. But priority areas that need to be sustained within services for Wales include news and current affairs, high quality factual programming, music and arts, drama and children's programming.

The trade-off between plurality and reach and impact is most obvious when considering Welsh language broadcasting. During the course of the debate in Wales some have raised the issue of plurality in Welsh language output, pointing to the fact that the BBC is the source of S4C's news output, as well as to the concentration of commissioning power within S4C. Others have argued that the dominance of the BBC is such the sums spent from the licence by the BBC on Welsh language output for S4C should be transferred directly to S4C. Given the small size and fragility of the Welsh language audience we do not find these arguments convincing.

Although the concentration of Welsh language output on S4C - a single, minority language channel operating in a multi-channel environment - has meant an audience share closer to that of smaller digital channels than to those of the main PSB providers, it is arguable that its institutional value has been a major contributor to positive changes in perception of the Welsh language within Wales. That has been achieved by a concentration of resources. However, that concentration has been balanced by the involvement of the BBC as a statutory supplier and funder and as a co-commissioner. In terms of plurality, that has been a healthy division that would be lost if S4C were to become the sole commissioner and funder.

Likewise, the use of the BBC as a news supplier, has enabled S4C to access a depth of provision and economies of scale that would be difficult to replicate elsewhere. This has allowed S4C to maximise its direct investment in other genres. The current arrangement has ensured not only plural supply, but also that the largest broadcaster in Wales has remained a bilingual institution. The economies of scale achieved by bilingual operation have also benefited English language output.

This does not mean that issues cannot be raised about the performance of S4C or the BBC in specific areas, but it does suggest that the plurality argument is not in itself a convincing reason to change the present arrangement. Arguably, the Welsh language audience, which can equally access English language output, is served with greater plurality than the majority English language audience.

6iii) In maximising reach and impact of public service content in the future, what roles can different platforms and services play?

In the medium term Wales must retain a strong presence on the key channels that have dominant positions on the electronic programme guides. Despite the increasing use of online and personal video recorders this is where impact will be most easily achieved for some time to come. Online extension of broadcast services will, however, also be important in extending the reach and prolonging the impact of broadcast PSB.

6iv) Do you agree that the existing model for delivering public service broadcasting will not be sufficient to meet changing needs in future?

Yes. Given the nature of ownership in the broadcast market place, it is clear that, despite strong public demand, broadcasting for the nations and regions will not survive without additional funding support.

We agree that the existing model is unlikely to be sufficient on its own to meet existing, let alone developing needs, but that the current model still has strengths that are valued by a substantial audience. We would encourage Ofcom to be more robust in its dealings with ITV plc, and for Government to make clear that maintaining PSB in the nations and regions remains a key public objective, in line with all the evidence of public support conveyed in Ofcom's research. If ITV plc is unable to recover its empathy with regional broadcasting objectives, or were to withdraw completely from the PSB system, viable alternatives for the nations and regions will need to be developed.

Future models for funding and providing public service content

7i) What are your views of the high-level options for funding public service broadcasting in future?

Effective PSB, especially at the Welsh level, will need the continuation of the licence fee as well as the development of other supplementary funding sources. On the options that Ofcom canvasses, we would make the following comments:

Regulatory assets: Ofcom should use its regulatory assets to the full to strengthen services to the nations and regions, both broadcast and online. For instance, in the case of income from spectrum awards, this could be diverted to a trust that would have the advantage of being at arm's length from government.

Licence fee: We do not favour a reduction in licence fee funding to the BBC, but were such a reduction to be contemplated we believe that, given the traditional vulnerability of regional and national services, prior guaranteed commitments to services for the nations, regions and localities would need to be written into the BBC's *raison d'être*, constitution, management and governance. However, we are impressed with the argument that extending the licence fee (or that portion of it currently devoted to assisting digital switchover) to some other services might actually increase and prolong support for a funding mechanism that, despite

its regressive nature, has stood the test of time. The question will be the effect upon recipient broadcasters.

Lottery funding: It is worrying to see lottery funding even mentioned as a possible source of funds. We have seen increasing raids on lottery funds in recent years for all manner of public purposes, most spectacularly for the forthcoming London Olympics. The lottery is not a proper source of funds for a fundamental public service, least of all if it were to be extracted from Wales's current share of lottery proceeds.

Welsh Assembly Government funding: While there may be a case for some Assembly Government funding to support the development of Welsh production capacity, we would not be in favour of direct Assembly Government funding of programming, without prior consideration of the issues inherent in any further devolution of responsibility for broadcasting.

While it is open to the Assembly Government to fund any cultural purposes, the prime financial burden of providing broadcasting services for Wales should not fall on the Assembly Government's Barnett-based budget. Calls for the devolution to Wales of responsibility for broadcasting are entirely legitimate, but they should not be pursued without regard for the financial dimension to the issue. Without such devolution the funding of PSB remains a UK responsibility.

7ii) Are the proposed tests of effectiveness for future models for public service broadcasting the right ones?

We would add one further test: that new systems increase accountability at the Welsh level. The IWA's media audit has demonstrated conclusively that the public needs much greater transparency about the activity and investment of broadcasters, particularly in the nations and regions. While Ofcom's own regular reviews of the communications market have added greatly to top line information about broadcasting, its work is primarily geared to economic assessment. There is a need for greater, more regular and more detailed monitoring of investment in specific programme genres, and of audience trends in the nations and regions. This would have the added advantage of encouraging critical debate about public service content, broadcast and online, in Wales.

7iii) 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?

[See answers to 9.i. and 9.ii. below.]

Options for commercial public service broadcasters

8i) What do you think is the appropriate public service role for Channel 4 in the short, medium and long term? What do you think of Channel 4's proposed vision?

We believe that there is a role for Channel 4 as a distinctive public service broadcaster, able to take more editorial risks than the BBC, and for which innovation would be at the heart of its mission. We would support its vision, although we would hope that in future it would give a much fuller reflection in its output of the nations and regions of the UK than it has done to date. Channel 4 should be a channel where cultural representation of differing cultures has a natural home, regardless of any production quotas. We see no reason why Channel 4's

quota for production from outside the south east of England should be any smaller than the current quota placed on ITV – i.e. 50 per cent. Channel 4 should also be required to adopt a quota for UK production outside England.

8ii) Which of the options set out for the commercial PSBs do you favour?

[See answers to 9.i. and 9.ii. below.]

Scenarios for the UK's nations, regions and localities

9i) To what extent do you agree with Ofcom's assessment of the likely future long term issues as they apply to the nations, regions and localities of the UK?

9ii) Which model(s) do you think will be most appropriate in each of the nations and in the English regions in the long term, and why?

We start from the proposition that total English language television output for Wales should not be less than 30 hours per week, across all services. This level is required to provide for plurality, strong competing news services, and a range of well-resourced general programming, of differing tonalities, that should encompass a stronger diet of drama, factual programming, music and arts. News and current affairs alone cannot provide the necessary rounded reflection of a multi-faceted society that Wales requires. Investment levels should be such as to ensure that this output is of high quality, and that different broadcasters can be truly competitive with each other. The current level of ITV output for Wales, both in terms of hours and investment, must be sustained until new arrangements are put in place that will allow the restoration of a level of investment that can be truly competitive with the BBC in range, quality and ambition.

Model 1:

The above implies that Model 1 is deficient in several respects. The implied restriction of regional services to news and current affairs would not be acceptable in Wales. In our view ITV plc, given its clear lack of sympathy for regional services, would not be an appropriate recipient of funding for regional services. The creation of regional news trusts to deliver regional services in England, and the possibility of a full affiliate partner to the Channel 3 provider in Wales are possible ways around this, though this takes us closer to Model 3.

Model 2:

This is the only model we would reject out of hand. The British public has a high regard for the BBC that even survives those moments when it feels the organisation is too powerful or has let the public down. It is a brand that is of value across the world. But to make it the sole focus of PSB would be to court disaster at all levels. It would damage the BBC. At the level of nations and regions, the market place would not provide any competition for the BBC.

Model 3:

i) This model also implies a distinction between ITV plc/SMG/UTV (the franchise holders) and Channel 3 (the franchise). As such it opens up the possibility of negotiating a better space for Wales in the Channel 3 system – e.g. Wales as an autonomous affiliate of Channel 3 (See IWA's Wales media audit, Appendix 1) - although adequate new public funding would be essential to its success. This needs a thorough economic evaluation, as no one would have an interest in setting up a new structure only for it to fail. Given the lack of transparency about ITV's regional expenditures, only Ofcom could carry out such a study. Ofcom should do so.

The network affiliate concept not only keeps open the question of who the Channel 3 provider would be, but would also allow support to be directed to a specific public goal, rather than to a wider corporation whose internal allocations may be more opaque. It would be a more appropriate recipient than ITV plc of Welsh Assembly Government funding, were that ever to be put in place. Even if ITV's decline were to continue, the affiliate model would have established a degree of leverage for Wales in discussing any future arrangements.

Given the speed with which the HTV ball was passed through different owners until ITV's final consolidation, and given, too, the financial pressures on listed companies, it would be better, if not essential, for such an affiliate to adopt a more benign ownership model that offers flexibility to prioritise public needs even when profit margins are slight.

ii) Although, under this option, Ofcom suggests that Channel 4's remit might be extended to cover other public service obligations, we note that this falls short of including regional services.

In the event that the concept of Channel 3 affiliate for Wales were proved not to be a viable option for Wales, or that ITV were to decide to minimise or withdraw from its public service obligations in the nations and regions, another alternative would need to be assessed.

In such the circumstances, another option would be to extend Channel 4's public service remit to include regional broadcasting. Although this has not been part of Channel 4's remit to date, its current ownership structure is more conducive to the maintenance of PSB objectives, especially in the nations and regions, than that of ITV. The level of investment in programming would need to compensate for the loss of impact of moving regional output from ITV to Channel 4. Any technical transmission obstacles could be overcome by exchanging the technical infrastructures of Channel 4 and ITV.

Such an exchange would create two clear public service broadcasters, and a clear two-pronged focus for any financial support from the licence fee or other sources. In terms of ownership structures, there would be clarity as between a) the BBC, a public corporation funded by the licence fee; b) Channel 4 (and possible affiliates in the nations and regions), a public corporation/s funded by advertising and some additional public support; and c) ITV and Five funded solely by advertising with, perhaps, some limited assistance, through the preferential deployment of regulatory assets, for maintaining commitments to UK production.

iii) The idea of the using some spare capacity on the DTT multiplex, also used by S4C, for English language broadcasting is referred to by Ofcom as a possible 'mini-licence' for Wales. While this might be a useful colonising of space for English language broadcasting for Wales, it should never be regarded as a replacement for guaranteed space on the main channels that command the first three slots on electronic programme guides. It is also possible that such a mini-licence might hinder the viability of a Channel 3 affiliate for Wales.

Model 4:

The Phase 1 document suggests that a new independent funding agency would need to be created to award and oversee long term but transferable supply agreements. This is put forward in a UK context, but there is no guidance in the Phase 1 report as to how this might work at the level of the nations. It is inconceivable that an agency set up to fund content could operate only centrally in relation to the nations and regions. We must assume, therefore, either that autonomous funding agencies would be created for Scotland, Wales and Northern Ireland, or that they might be linked together in some federal or con-federal organisation. Whatever arrangement was adopted for Wales, the funding agency would have to have practical autonomy within Wales in assessing audience needs, making funding allocations and in the assessing of performance.

It has been argued that the major advantages of such an arrangement would be that a) it would create an agency that would have the flexibility to respond to any change in the balance between broadcast and online that might develop in the coming years; b) it would allow comprehensive assessments to be made of the total public service provision in Wales and for funding to be adjusted accordingly; and c) it would also be able to view English language and Welsh language provision together. It would also, in effect, create a de facto Welsh National Broadcasting Authority, that would give Wales greater clout in all future discussions of media policy. The concept merits further detailed study.

However, much would depend on the extent of the agency's remit, the inclinations of the remaining broadcasters, or the willingness of government or regulators to impose obligations, albeit funded, upon them. The concept, as applied to Wales, raises two key questions:

- i) For as long as the concept of broadcast channels remains, the agency will operate alongside broadcast institutions. The value that the agency would bring would have to exceed the increased overheads that would be inherent both in the agency itself and in the transaction costs between producers or broadcasters and the agency. Would the resulting total Welsh broadcasting overheads be disproportionate to the output?
- ii) This might be avoided if BBC Wales were to be included in the contestability regime. However, where would this leave plurality? The concept of a single agency dispensing funding across all broadcast outlets and both languages might be thought a concentration of media power that has not been seen since ITV broke the BBC monopoly in 1955.

We believe that it would be preferable to aim for a system that has diverse sources of funding, sustaining suitable broadcast organisations subject to more stringent tests of transparency and accountability. A case could still be made for an agency specifically to fund public service content online.

9iii) What are your views on short/medium-term issues referred to, including the out-of-London network production quotas?

All PSB broadcasters should continue to be required to set targets for production outside London. Targets for all PSB channels should also include specific targets for 'production outside England'. The Channel 4 target for production outside England should not be less than the target of 17 per cent adopted by the BBC, to be implemented during the current charter period. Progress towards network targets should be monitored closely both by Ofcom and the Assembly Government.

Ofcom and the BBC Trust should jointly commission an independent review of the extent to which decentralisation of production in all PSB services also enlarges cultural diversity and representation.

The ITV non-news quota for Wales should not be changed until long-term decisions have been agreed. If this requires additional public support in the interim, that should come from UK sources, not the Assembly Government. The ultimate aim should be to restore a level of investment in non-BBC, non-news output for Wales fully competitive with the BBC's output.

Prospects for children's programming

10i) Do you agree with our assessment of the possible short term options available relating to children's programming

The provision of children's content should remain an important task for public service broadcasters. The launch of S4C's Cyw service is an important step forward in Wales, and we would fully support Ofcom's notion that the S4C investment in children's programming should be leveraged to make it a major provider for the UK.

At the same time we believe that S4C might also be a source of English language children's programming specifically tailored for children in Wales. Such a development would need to be accompanied by imaginative online support.

Timetable for implementing a new model

11i) Do you agree that new legislation will need to be in place by 2011 in order to ensure continued delivery of the public purposes in the medium and long term?

Yes. Decisions need to be taken urgently, particularly given ITV's intention to continue to reduce their investment in programming for Wales.

Other issues relating to Wales

- i) An independent investigation, from a Welsh perspective, should be commissioned of the physical and financial practicality of different options for cost-effective broadcast and online distribution of radio and television in Wales.
- ii) The BBC Trust should develop and publish options for a more decentralised BBC, and the BBC's Audience Council for Wales should express its view publicly on this matter.
- iii) Ofcom should set in train an investigation into the future of radio in Wales, including the possibility of devolving radio licensing to Wales.
- iv) Ofcom and the BBC Trust should jointly commission an independent review of the extent to which decentralisation of production in all PSB services also enlarges cultural diversity and representation.
- v) We believe that the Assembly Government should commission a detailed review of the issues inherent in the devolution of responsibility for broadcasting.
- vi) Ofcom should initiate a review of cross-media ownership rules to ensure that they are appropriate for Welsh circumstances given the need to strengthen journalism in Wales.

Annexes:

1 – *Media in Wales: Serving Public Values* report

2 – *The Future of Welsh Broadcasting*, edited transcript of an IWA-Ofcom Wales seminar