
Small Screen: Big Debate – a five-year review of Public Service Broadcasting (2014- 2018)

Annex 1: Statutory framework for the PSB review and
the wider media services review

Section 264 of the Communications Act 2003
Ofcom reports on the fulfilment of the public service remit

(1) It shall be the duty of Ofcom—

- (a) as soon as practicable after the end of the period of twelve months beginning with the commencement of this section, and
- (b) as soon as practicable after the end of each such subsequent period as may be selected by Ofcom for the purposes of this section,

to satisfy, for that period, the review and reporting obligations of subsection (3).

(2) The period selected by Ofcom for the purposes of subsection (1)(b) must be a period of not more than five years beginning with the end of the previous period for which Ofcom have satisfied those review and reporting obligations.

(3) The review and reporting obligations for a period are—

- (a) an obligation to carry out a review of the extent to which the public service broadcasters have, during that period, provided relevant television services which (taking them all together over the period as a whole) fulfil the purposes of public service television broadcasting in the United Kingdom; and
- (b) an obligation, with a view to maintaining and strengthening the quality of public service television broadcasting in the United Kingdom, to prepare a report on the matters found on the review.

(4) The purposes of public service television broadcasting in the United Kingdom are—

- (a) the provision of relevant television services which secure that programmes dealing with a wide range of subject-matters are made available for viewing;
- (b) the provision of relevant television services in a manner which (having regard to the days on which they are shown and the times of day at which they are shown) is likely to meet the needs and satisfy the interests of as many different audiences as practicable;
- (c) the provision of relevant television services which (taken together and having regard to the same matters) are properly balanced, so far as their nature and subject-matters are concerned, for meeting the needs and satisfying the interests of the available audiences; and
- (d) the provision of relevant television services which (taken together) maintain high general standards with respect to the programmes included in them, and, in particular with respect to—
 - (i) the contents of the programmes;
 - (ii) the quality of the programme making; and
 - (iii) the professional skill and editorial integrity applied in the making of the programmes.

(5) When—

- (a) determining the extent to which any of the purposes of public service television broadcasting in the United Kingdom are fulfilled, and
- (b) reviewing and reporting on that matter,

Ofcom must have regard to the desirability of those purposes being fulfilled in a manner that is compatible with subsection (6).

(6) A manner of fulfilling the purposes of public service television broadcasting in the United Kingdom is compatible with this subsection if it ensures—

- (a) that the relevant television services (taken together) comprise a public service for the dissemination of information and for the provision of education and entertainment;
- (b) that cultural activity in the United Kingdom, and its diversity, are reflected, supported and stimulated by the representation in those services (taken together) of drama, comedy and music, by the inclusion of feature films in those services and by the treatment of other visual and performing arts;
- (c) that those services (taken together) provide, to the extent that is appropriate for facilitating civic understanding and fair and well-informed debate on news and current affairs, a comprehensive and authoritative coverage of news and current affairs in, and in the different parts of, the United Kingdom and from around the world;
- (d) that those services (taken together) satisfy a wide range of different sporting and other leisure interests;
- (e) that those services (taken together) include what appears to Ofcom to be a suitable quantity and range of programmes on educational matters, of programmes of an educational nature and of other programmes of educative value;
- (f) that those services (taken together) include what appears to Ofcom to be a suitable quantity and range of programmes dealing with each of the following, science, religion and other beliefs, social issues, matters of international significance or interest and matters of specialist interest;
- (g) that the programmes included in those services that deal with religion and other beliefs include—
 - (i) programmes providing news and other information about different religions and other beliefs;
 - (ii) programmes about the history of different religions and other beliefs; and
 - (iii) programmes showing acts of worship and other ceremonies and practices (including some showing acts of worship and other ceremonies in their entirety);
- (h) that those services (taken together) include what appears to Ofcom to be a suitable quantity and range of high quality and original programmes for children and young people;
- (i) that those services (taken together) include what appears to Ofcom to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom;

(j) that those services (taken together), so far as they include programmes made in the United Kingdom, include what appears to Ofcom to be an appropriate range and proportion of programmes made outside the M25 area.

(7) In carrying out a review under this section Ofcom must consider—

- (a) the costs to persons providing relevant television services of the fulfilment of the purposes of public service television broadcasting in a manner compatible with subsection (6); and
- (b) the sources of income available to each of them for meeting those costs.

(8) Every report under this section must—

- (a) specify, and comment on, whatever changes appear to Ofcom to have occurred, during the period to which the report relates, in the extent to which the purposes of public service television broadcasting in the United Kingdom have been satisfied;
- (b) specify, and comment on, whatever changes appear to Ofcom to have occurred, during that period, in the manner in which those purposes are fulfilled;
- (c) set out the findings of Ofcom on their consideration of the matters mentioned in subsection (7) and any conclusions they have arrived at in relation to those findings; and
- (d) set out Ofcom's conclusions on the current state of public service television broadcasting in the United Kingdom.

(9) In performing their duties under this section, Ofcom must have regard, in particular, to—

- (a) every statement of programme or service policy which has been made by virtue of this Chapter by a public service broadcaster, or which is treated as such a statement;
- (b) every equivalent statement of policy made by the BBC in pursuance of the BBC Charter and Agreement; and
- (c) such matters arising at times before the coming into force of this section as Ofcom consider material.

(10) Every report prepared by Ofcom under this section must be published by them—

- (a) as soon as practicable after its preparation is complete; and
- (b) in such manner as they consider appropriate.

(11) The following are relevant television services for the purposes of this section—

- (a) the television broadcasting services provided by the BBC;
- (b) the television programme services that are public services of the Welsh Authority (within the meaning of section 207);
- (c) every Channel 3 service;
- (d) Channel 4;
- (e) Channel 5;
- (f) the public teletext service.

(12) The following are public service broadcasters for the purposes of this section—

- (a) the BBC;
- (b) the Welsh Authority;
- (c) the providers of the licensed public service channels; and
- (d) the public teletext provider.

(13) In this section—

“belief” means a collective belief in, or other adherence to, a systemised set of ethical or philosophical principles or of mystical or transcendental doctrines; and

“drama” includes contemporary and other drama in a variety of different formats.

Section 264A of the Communications Act 2003

Ofcom reports: wider review and reporting obligations¹

(1) When carrying out a review under section 264 for a period, Ofcom must also carry out a review of the extent to which material included in media services during that period (taken together over the period as a whole) contributed towards the fulfilment of the public service objectives.

(2) Every report under section 264 must—

- (a) include a report on the matters found on the review under this section,
- (b) specify, and comment on, whatever changes appear to Ofcom to have occurred, during the period to which the report relates, in the extent to which the public service objectives have been fulfilled,
- (c) specify, and comment on, whatever changes appear to Ofcom to have occurred, during that period, in the manner in which those objectives are fulfilled, and
- (d) set out Ofcom’s conclusions on the current state of material included in media services.

(3) “The public service objectives” are the objectives set out in paragraphs (b) to (j) of section 264(6) (as modified by subsection (4)).

(4) Paragraphs (b) to (j) of section 264(6) have effect for the purposes of subsection (3) as if—

- (a) references to the relevant television services were to media services, and
- (b) references to programmes were to material included in such services.

(5) In this section—

“material” does not include advertisements;

“media services” means any of the following services that are available to members of the public in all or part of the United Kingdom—

- (a) television and radio services,
- (b) on-demand programme services, and

¹ This section was inserted into the Communications Act by section 2 of the Digital Economy Act 2010.

(c) other services provided by means of the internet where there is a person who exercises editorial control over the material included in the service.

(6) The services that are to be taken for the purposes of this section to be available to members of the public include any service which—

(a) is available for reception by members of the public (within the meaning of section 361);
or

(b) is available for use by members of the public (within the meaning of section 368R(4)).