



UK Coalition for Cultural Diversity

**Submission to DCMS Select Committee
*Public Consultation on the Future of Public Service Broadcasting***

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1 Introduction

Cultural Diversity and Cultural Sovereignty: Why we value public service broadcasting

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 (ratified by the UK government) underpins nation states' rights to take measures aimed at enhancing the diversity of the media, including through public service broadcasting.

The UKCCD responds to this consultation as the civil society organisation contributing to the implementation of the UNESCO Convention in the UK, and national representative for civil society interests at Intergovernmental Committee meetings at UNESCO.

The Convention is the only UNESCO instrument to focus on the promotion of domestic independent cultural industries and there is explicit mention of public service broadcasting in the Convention as a measure for enhancing diversity of media, local creative content and as an enabler of promoting and protecting the diversity of cultural expression.

In this context it is important to recall that the oldest public service broadcasting organisation, the BBC, has taken initiatives to promote diversity of expression in the corporation's employment, output, audiences, strategy and business planning, with the goal of "becoming a true reflection of the nations and regions it serves."¹

The past three decades have seen huge changes in the broadcasting sector with growth in the number of channels available to the viewer and the development of new platforms for delivery. Despite these changes, PSB has remained a strong constant feature of the British broadcasting ecology.

In the UK it should be stressed that the BBC provides a range of services that in terms of creativity, innovation and volume are unmatched by any other broadcaster in the world. It caters for every citizen and community. This has been ensured through a model of long-term security of funding and independent governance which must be sustained.

"Audiences continue to highly value the purposes and objectives of PSB, including trustworthy news and programmes that show different aspects of UK life and culture."² Despite the growth of choice in channels the viewers and

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Assessment of policies and measures aimed at enhancing diversity of the media, including through Public Service Broadcasting Prepared by Christine M. Merkel. Presented to 8th session of UNESCO Intergovernmental Committee on Cultural Diversity of Expression on 9-11 December 2014.

² OFCOM Small Screen: Big Debate 2020
https://www.ofcom.org.uk/data/assets/pdf_file/0013/192100/psb-five-year-review.pdf

listeners remain loyal to the PSB generalist channels that still retain significant audience share.

The Broadcasting and Telecommunications Legislative Review Panel in Canada have raised another relevant concern recently. In its Final Report, issued in January 2020, the expert panel stressed the importance of having a strong public broadcaster in the face of a digital environment that all too often disseminates harmful content, fake news and disinformation and violent and extremist content. As the Report stated, “nowhere will the role of a well-resourced public media provider be more important than in the area of news and information content.”³

In the ever-increasing globalisation of audio-visual content and its reception across borders, regulation requires constant update. The way in which cultural diversity is delivered through our screens, if regulated well, can act as a glue for social cohesion as well as protecting national cultures and providing a mirror into one’s own culture and society. It can remove misconceptions and it can add to the understanding of the richness of the world.

The on-demand video market is expanding: This market is increasing by €1 billion per year. Revenues for subscription and over-the-top VOD services (such as Netflix) increased from \$40 million in 2011 to \$1.7 billion in 2015 and are estimated to reach \$34.6 billion in 2021. Indeed, subscription and over the top VOD and other VOD (like catch-up) services have an increasingly important impact on the traditional television market. They attract increasing audiences, sales and rentals. Subscription/OTT VOD services have the particularity of also being in the markets for the acquisition, production and ordering of content. This impacts the entire value chain of content production, increasing production costs and competition for exclusive licenses. As SVOD/OTT platforms compete directly with other platforms and TV channels, they have recently been asked law ⁴ to comply with new investment and discoverability rules. It is urgent that such rules, endorsed by the UK government, should be transposed into or considered for inclusion in UK audiovisual law.

In addition to the severe loss of advertising revenues, the non-linear SVOD/OTT players also further encroach upon commercial budgets of commercial television, while public and commercial television station revenues are stagnating.

Whatever changes planned in future, maintaining a strong BBC - with the guaranteed funding which enables it to deliver across all genres to all people and in the interests of UK citizens - is essential in safeguarding the diversity and universality central to our public service broadcasting ethos.

³ *Canada’s Communications Future: Time to Act*, Final Report of the Broadcasting and Telecommunications Legislative Review Panel (Government of Canada, January 2020), at p.164.

⁴ EU 2018 Audiovisual Media Services Directive. <https://ec.europa.eu/digital-single-market/en/revision-audiovisual-media-services-directive-avmsd>

2. Response to questions

2.1 Reasoning for strengthening and extending broadcast and investment obligations on PSBs, cable and satellite channels and SVOD/OTT streaming services

The DCMS Select Committee, as far back as 2003, called for more support for film production and exhibition of British product from the public service broadcasters. “We hope and expect that these hopes will not be disappointed and that OFCOM will be able to take meaningful action to improve the relationship between the British Film Industry and the PSBs to the benefit of the British people’s enjoyment of, and access to, film. One avenue will be through the Statements of Programme policy required from the broadcasters.” (See UK Parliament Report, Sixth report, 2002-3 HC 667 para 114 and 117)

Film is of critical importance in reflecting the diversity of our culture. However streaming services focus mainly on film made outside Britain. It is therefore, important to revisit the investment obligations in our audio-visual regulations so they include reinforcing PSB obligations on all cable/satellite channels and on demand SVOD services to support local content as indicated below.

As early as 2017 senior audio-visual voices were making alarming predictions about the declining levels of investment in original UK drama. They recognized that VOD/OTT was already undermining our PSB model.

BBC Director General Tony Hall recently estimated a £500m programming shortfall if nothing was done.⁵

“We know that Netflix were reported to have spent as much as £100 million on The Crown. That’s equivalent, by the way, to well over a dozen drama series on the BBC - from Sherlock and Happy Valley to Poldark and Line of Duty.

Now, I think what Amazon and Netflix are offering consumers is good and impressive. And they’re offering producers here some fantastic opportunities too. But the reality is that their investment decisions are increasingly likely to focus on a narrow range of very expensive, very high-end content - big bankers that they can rely on to have international appeal and attract large, global audiences.

Even the most generous calculations suggest they are barely likely to make up half of the £500 million gap in British content over the decade ahead. And a more realistic forecast points to them contributing substantially less.”

On 29 November 2017 Executive Chairman of ITV Peter Bazalgette made similar warnings⁶.

⁵ Speech by BBC Director General Tony Hall, 2nd November 2017
<https://www.bbc.co.uk/mediacentre/speeches/2017/tony-hall-roscoe#heading-the-future-of-british-content>

⁶ Peter Bazalgette Reality TV: public service broadcasting shows us who we are
<https://www.theguardian.com/commentisfree/2017/nov/29/public-service-broadcasting-reality-tv-netflix-amazon-reith-vision>

Distinguished UK film and television director, Peter Kosminsky and the former Head of Ofcom are therefore absolutely right to argue for a levy on video-on-demand providers to go to a national drama fund to ensure free-to-air drama by public service broadcasters can thrive.⁷

2.2 The BBC and feature film production

The BBC film budget stands at approximately £12 million. Other BBC equivalents spend in the region of £75 million per annum on feature co-production. The BBC should invest more, with particular attention to family films, thereby further strengthening the UK's creative industries and cultural diversity of expression in the critically important area of feature film and films targeted at a young audience.

2.3 The UK as signatory to the 2018 EU Audio-visual Media Services Directive

This Directive, backed by the then UK government, regulates both linear and online platforms like SVODs and other streaming services. The distinction between linear and on-demand services in the Directive is the basis for a graduated regulatory approach. In a two-tier system of rules the Directive acknowledges a set of core societal values applicable to all audio-visual media services, but provides lighter regulation of on-demand services where the users have a more active, "lean-forward" approach and decide on the content and the time of viewing. This regulation is important in bringing relevant online streaming services into the ecology of audio-visual regulation to ensure fair competition, protection of minors and proportionate investment in and the promotion of local programming such as drama, film and documentary reflecting local, regional and national cultures.

It is also important to transpose the Directive into UK law so that the nearly 1000 television channels licensed in the UK can continue broadcasting (in a Brexit context), without hindrance to the rest of the European Union. This is because the revised AVMS Directive contains a strengthened Country of Origin Principle with more clarity on which Member State's rules apply, and giving aligned derogation procedures for both TV broadcasters and on-demand service providers.

2.2 Extending AVMS rules to cable/satellite channels proportionately

Hitherto, UK governments have believed that it is only necessary and sufficient that BBC, ITV, Channels Four and Five have clear investment obligations in local content. This is despite the EU audiovisual media services Directive (legislation) that advocates that Member States ensure that over 50% of programming, excluding sports, news and information, comes from local production.

Therefore, in the interests of additional investment in British drama, film and documentary and fair competition, the stipulation in Article 13 of the original AVMS directive that channels should carry 51% local production outside of

⁷ Call for 'drama tax' on Netflix and Amazon, The Times. 28.9.2019.

news, information and sport, should be applied to all relevant TV channels, including those only available on cable and satellite. Hitherto, it is only the designated PSBs that have met this quota. Proportionate investment obligations in local drama/film/documentary relative to turnover and viewing audience could be considered for channels not able to meet the 51% quota.

2.3 Extension of regulation on content to on-demand streaming services

Regulation should apply to on-demand services where users select from a catalogue offered by the media service provider, to watch at their own convenience. This should draw on Article 1, 12 and 27 of the Directive on the protection of minors and Article 13 on the general promotion and distribution of European works. Article 13 obligations mean they will need to have at least a 30% share of national/European content in their catalogue and to ensure the prominence of this content. Prominence is important as it is key that a diversity of works is discoverable.

In this respect, the development of Artificial Intelligence (AI) has brought new opportunities for the dissemination of local works online. Indeed, on-demand services, streaming services and e-commerce platforms are using AI to recommend series, films or music thanks to machine learning and **recommendation algorithms**.

However, the use of recommendation algorithms can be a threat for the promotion of cultural diversity as filter bubbles can arise from their use. A filter bubble is the intellectual isolation that can occur when online services make use of algorithms to selectively assume the information a user would want to see, and then give information to the user according to this assumption. This assumption can be based on the profile of the user, what they have previously listened to, watched or bought and therefore tends to lock the user into certain tastes and cultural choices. The filter bubble has then a negative impact on cultural diversity, because the user is not given the chance of finding something serendipitously: discovering a new type or genre of works that they might like even if they don't match a priori their tastes. Therefore streaming platforms should provide search possibilities that extend rather than narrow viewing options.

In addition, streaming services prioritise programmes that appeal globally, even whilst some originate in the UK. This limits the genres attracting investment, as OFCOM has recognised in its 2020 report *Small Screen: Big Debate*. The specificities and variety of British culture and of UK communities/nations are not a driving force for non-UK streaming services. These SVOD services also exploit archived programming which invariably does not originate in the UK and was not made with UK audiences in mind.

In recognition of the impact on diversity of large wealthy audio-visual SVOD competitors, German audio-visual law now stipulates that relevant streaming services should contribute nearly 3% of their annual turnover to the German national Film Fund. Likewise in France, their AV legislation requires levels of investment in local film/drama production by streaming services and video sharing platforms, as well as proportionately by all other linear broadcasting

channels.⁸ Other EU countries also implement investment obligations⁹ and Canada is now considering such systems in return for the market access enjoyed by global players.

This is a matter of cultural diversity of expression, cultural sovereignty and democracy. Audio-visual programmes carry meaning, values and affect our identity. Our varied stories up and down the land need telling on all our screens for us to understand one another and for our creators' work to be seen by everyone.

3. Representation:

PSBs are mandated and encouraged by regulation through the BBC Charter and UK law with oversight by the BBC Board and by OFCOM to increase their investment in and coverage of all the nations and regions of the UK. This model should be built on, not disrupted. It plays a significant role in growing our independent production industry, regionally and nationwide, and delivers cultural diversity, ensuring that voices/stories from the whole of the UK are represented on screen. This is a key component of our democratic and cultural settlement.

4. Accessibility:

Critical in terms of democracy is universal access, whereby the invaluable content produced by the UK's PSBs is delivered free at the point of use to every citizen, irrespective of their access to digital technologies. This would not be the case with wholly internet-based services.

5. Impact:

The PSB system is critical for the UK's wider creative economy. Investment by the PSBs makes up the bulk of the UK production sector's revenues. How the money is spent is underpinned by regulation that supports a vibrant and diverse production sector across the nations and regions. For every direct audio-visual job created by the PSB broadcasters, at least 1.7 extra jobs are created in the local economy.

The BBC's investment in local, original content across a very diverse spectrum is a principal driver of the creative industries and the employment which depends on them. Through its wide, decentralised production structure the BBC is ideally placed to disseminate material which addresses the

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https://www.academia.edu/42065287/Antonios_Vlassis_The_review_of_audiovisual_policy_in_Europe_Between_cultural_sovereignty_and_digital_globalisation_Analysis_report_International_Federation_of_Coalitions_for_Cultural_Diversity_n_1_February_2020

⁹ https://www.obs.coe.int/en/web/observatoire/home/-/asset_publisher/9iKCxBYgiO6S/content/mapping-of-national-rules-for-the-promotion-of-european-works-in-europe

different nations and communities of the UK and to build the culture, citizenship, and democratic values which market-led programming does not deliver.

The UK PSBs enhance the diversity of cultural expression making programmes for all UK citizens from all the UK diverse communities. In this they fulfil the main tenets of the 2005 UNESCO Convention on Cultural Diversity of Expressions which the UK government has ratified.

At a time when the enormous fragmentation of media on the one hand, and the domination of online media by non-British players on the other (in some cases 20 times the size of the BBC), the PSBs play a critical role in sustaining a common conversation between the UK's diverse communities thus strengthening social cohesion and mutual understanding.

6. Looking ahead:

The principles of “public service broadcasting” regarding diversity and local content must be sustained, for reasons detailed above. The digital age does not inherently change the need to produce and disseminate strong local content.

It should be noted that BBC's I-player is a leader in the field. The digital platform is exemplary in disseminating the diversity of its archive and universality of access to all UK citizens.

OFCOM weekly research during the Covid 19 epidemic shows that over 80 % of population are trusting PSB channels' news/information underlining the essential role played by PSBs in delivering reliable factual information and in bringing the country together when it is most needed.¹⁰

As detailed previously, PSB obligations, in the citizen, local production and competition interest should be extended proportionately to all linear channels and to relevant SVOD/OTT services. In this respect, Non-BBC audio-visual services should be accountable to OFCOM.

To build on our PSB model and rebalance the rules of our audio-visual ecosystem, all providers of audio-visual works on-line, wherever they are based, should participate in funding it.

BBC governance

The BBC is a unique public broadcaster, the most respected in the UK and across the world, paid for and owned by every citizen in the UK. It is therefore imperative that decisions on the licence fee, whether concerning its

¹⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0031/193747/covid-19-news-consumption-week-one-findings.pdf

continuation or its amount, should be politically neutral and independent of the government of the day.

An independent organisation should be set up responsible for the oversight of the BBC remit and the financial resources needed to deliver this. Its specific mission should not only set out the financial needs of the BBC, but also act and regulate, on an annual basis, to ensure that public money is being invested in the right areas.