



Question

Question 1: Do you agree that a new regulatory framework for Public Service Media (PSM) delivery should support a more flexible 'service neutral' delivery approach that is more outcomes focused?

Your response

The framing of the proposal, and of this question, is problematic. The term 'service neutral' appears three times only in the Consultation and is not defined. The question itself is a leading question, with positive values (flexible, outcomes, focused) attached to the proposition yet without the necessary disaggregation: do you agree a new regulatory framework is needed; do you agree that this should be a) service neutral b) outcome focused; do you agree with Ofcom's suggested approach? The wording seem designed to elicit a majority deemed to support Ofcom's approach, yet many, like myself, may offer only qualified support for the question as stated, accompanied by very serious concerns and criticisms about the proposals themselves.

Yes, a new public service media (PSM) framework 'should promote innovation, adapt to audience and market changes and be flexible enough to accommodate broader provision of PSM'. A new framework is certainly needed to deal with the ongoing shift from broadcasting to online and mobile communication services, and should be forward-facing. It should also include provision to enable those providing PSM to propose and identify how they will meet service requirements and outcomes. However, there needs to be strong, independent oversight to safeguard the public service outcomes.

The proposition that PSM services and obligations should be suitably flexible, as platforms, forms and markets develop is sound and broadly-supported. However, 'service neutral' delivery links to the other key propositions in the Consultation, that PSM provision can be provided by a variety of types of organisation including commercial firms and transnational corporations, and that PSM funding can and should be contestable. In this context, service neutral is not a means to serve the flexible delivery by PSM providers themselves, but part of a proposed regulatory architecture that displaces and threatens PSM providers, rather than protecting and enabling PSM. Even within the PSM system, there are very different implications and out-

comes for flexibility by corporate owned commercial PSMs seeking to increase advertising and user revenues, and the BBC. Moving from 'obligations are tied to specific television broadcasting services' would benefit existing PSMs but would also enable market access to other providers who do not have the assets/obligations of PSM broadcasters.

Service neutrality is also connected to a core set of claims made to support the opening up of PSM suppliers that offer an incomplete and insufficient account. This identifies certain features of the institutional arrangements of providers while ignoring others. This serves to advance arguments for the substitutability of commercial firms as PSM providers. Yet, this ignores or downplays key institutional features of PSMs that are not replicated by, and so not simply substitutable by, commercial providers. This approach has been evident in the thinking of the Conservative-led Coalition and then Conservative Governments during the BBC Charter renewal process. Some of these differences concern that historical-institutional legacy of the PSM system. The sunk public investment in the BBC, ITV, C4 and C5 services, but also the claims for governance and public oversight arising from that public investment, are ignored or downplayed as is the role and influence of advertisers and advertising.

Ofcom's consultation is shaped by an argument that the capacity to extract PSM/regulatory obligations from commercial PSMs has diminished in line with the value of broadcast licences and that there is limited scope to impose obligations on commercial service providers. This has been the dominant argument of Ofcom, and of its predecessor, the ITC, in its later years. There is a separate argument that audiences are migrating to non-domestic services provided by firms over whom Ofcom (or governmental) power are limited or weak. The expansion of transnational communications service is challenging, but firms wish to sell goods and services to those based in the UK and those goods and services, and those of intermediaries, can be subject to regulation.

The declining effectiveness of certain regulatory tools is not evidence that regulation has become ineffective. As the consultation makes clear

there are a wider variety of tools that can be used singly and together, including those of other countries cited. Their impact and 'effectiveness' is precisely at issue, as policy actors argue over how they do and should apply to themselves and others. The international examples discussed illustrate not only Government action on platforms but also on commercial and PSM media services. The salient discussion concerns the purposes to which governance tools are used, and combined, from regulation to levies and tax incentives.

This response is based on an alternative view to the Consultation, one that seeks to expand and diversify PSM while retaining core features of public service provision, accountability and oversight. First, all those providing public communication services (outside of the PSM), should meet public interest obligations. These obligations should be set in bands appropriate to the types of service, the reach of services amongst key market sectors (news services; children), and share of the relevant market. Second, only public service media organisations should receive public service funds. PSM organisations should be expanded to include various public and community organisational forms (including non-profit distributing social enterprises) but should not include commercial organisations, except those involved in commissioned work or co-productions with PSMs, subject to full PSM governance and oversight. Commercial firms, depending on status, should be eligible for tax relief and other incentives. This should include employment diversity, equal opportunities and other standards for the creative industries, over and above generally applicable employment standards, as well as outputs such as original production, regional employment and other criteria. This should not be derived from or associated with public service funds, from licence fee, household tax, levies or public funds.

There should be a set of standards met for any non-PSM to collaborate with a PSM. These should be in bands so that small providers are not excluded, and diversity thereby reduced. However, there should be minimum standards for any external organisation to collaborate with or provide PSM services, with requirements set

	<p>in accordance with criteria including the turnover of the contracting entity.</p> <p>The vision outlined in the Consultation is one in which commercial firms seek contestable funding for content and services deemed to be PSM. On the contrary, there should be public interest obligations on commercial operators. In addition, commercial companies should be required in relevant licencing, or otherwise encouraged, to produce content that fits some PSM definitions and should be incentivised by tax relief measures. However, commercial companies should not be eligible for PSM funds except in the very specific circumstances of PSM commissioned production and co-production under PSM governance. There should be no competition for declining licence fee funding and all such funding should be used exclusively for the provision of PSM by, or on behalf of, the BBC. Overall, the governing principles should be to protect and extend the PSM system. It is not acceptable to allow a range of commercial services to be reclassified as PSM.</p>
<p>Question 2: Do you agree with our proposals for a clear accountability framework?</p>	<p>A key feature of the BBCs PSM is that it is free from advertising and advertiser-finance. As commercial media services expand and take a greater share, this advertiser-free elements is of great and increasing importance and is highly valued by audiences. The commercial PSM are challenged by their dependence on advertising and under pressure to oppose measures adopted on public interest and welfare grounds, such as the 9pm watershed on HFSS advertising and restrictions on gambling advertising that ITV opposes. The framework must include and safeguard the importance of advertiser-free PSM services.</p> <p>The framework needs not only 'robust and transparent accountability measures' but democratic input and oversight, achieved through deliberative research, public consultations, Parliamentary select committee scrutiny and other suitable means.</p> <p>The accountability framework should also link to a wider agenda on digital information and media literacy. As various research studies and data</p>

	<p>cited in the Consultation make clear, audiences have difficulty in attributing content accessed on platforms such as Netflix and YouTube to PSM producers. The online harms policy agenda is increasing attention to digital information and media literacy, which the 2003 Communications Act established as a duty. Ofcom should add to calls on the Government for media literacy provision in education to be enhanced, to encourage better understanding and active debate about the merits and implications of different ways of financing and providing media and communications services. This would not be to promote conformity with any views, for or against PSM, but the opposite, to foster active research, investigation and debate.</p>
<p>Question 3: What do you think should be included in the PSM 'offer'?</p>	<p>The provision of advertiser-free PSM is a crucial feature that needs to be added to the list in section three.</p>
<p>Question 4: What options do you think we should consider on the terms of PSM availability?</p>	<p>I agree that Ofcom should propose that the Government should set out new rules to ensure public service media content remains widely available online. This should include must carry and must be found regulations. The consultation is right to highlight the challenge of universality. However, greater consideration is needed to the implications of tiered services, based on ability to pay. There is a risk that focusing on whether or not access to services is universal or not, reduces attention to different kinds of service offer and exclusivity within pay services, what the Consultation refers to as PSM offering 'enhanced forms of their services to platforms in return for commercial value'. The implications of divisions between basic and enhanced services needs careful research across all connected dimensions, socio-cultural, regional and geo-cultural, race, gender, disability, age etc. This research should include and connect with an ongoing equality audit.</p> <p>The proposal of the commercial PSMs for a 'regulated offer' that they would be required to offer – and platforms would be required to accept – is the right approach, with access to BBC services based on terms set out in the BBC's existing Distribution Policy.</p>

<p>Question 5: What are the options for future funding of PSM and are there lessons we can learn from other countries' approaches?</p>	<p>There are strong grounds to replace the licence fee by a more progressive funding mechanism such as a household levy set at Council tax band rates, and with exemptions based on health, disability, age or social needs. However, those changes should be debated as part of a wider review and so this response does not discuss proposals.</p>
<p>Question 6: What do you think about the opportunities for collaboration we have referred to? Are there other opportunities or barriers we haven't identified?</p>	<p>The response to Q6 and Q7 is closely linked. The direct provision of PSM services should be expanded but commercial companies should only provide services that are commissioned or co-produced with PSMs, and not independently of PSMs. Future PSM needs a mix of types of providers and should not be limited to 'companies with sufficient scale to compete with global players and have broad appeal to audiences'. The Consultation elsewhere proposes to include 'some companies with scale to compete and reach audiences. This vision appears to favour and reflect the interests of large-scale commercial providers, both UK and international firms, seeking contestable 'PSM' funding. In addition to the objections already outlined, this also seeks advantages for large firms over smaller independents, yet that latter can provide a vital source of innovation, employment access, employment diversity and the diversity of voice. The emphasis in the Consultation on mass (capability, provision, reach, appeal, content) is one of the ways in which the proposals promote commercial players to bid for PSM money.</p> <p>There should be no extension of PSM funding to 'larger companies that [would] focus only part of their business on PSM content'. Instead, there should be public interest obligations on larger companies. There should be tax and other incentives linked to production – for commercial players – to promote a diverse and thriving creative industries sector but there should be no independent access by commercial firms to PSM funding.</p>
<p>Question 7: What are your views on the opportunities for new providers of PSM?</p>	<p>The definition and regulation of public service media providers should be expanded to include new providers but this should only apply to public or community-owned and non-profit distributing entities. Commercial firms may</p>

establish such entities but subject to tightly drawn rules and oversight.

The BBC has seen a 30 per cent fall in public funding since 2010. Any contestable funding for PSM needs to come from sources other than the licence fee which should fund BBC services only, including those outlined below. Contestable funding may be suitable for the new public or community-owned and non-profit distributing entities outlined above. However, this is a costly mechanism for all concerned and so applications for grant funding will be more suitable for smaller organisations, provided this enables renewable grants over suitable 3-5 year periods to support capacity building. Contestable funding would increase costs for PSMs. These costs, and their non-welfare enhancing effects, need to be subject to rigorous research and evaluation that is not evident in the documentation provided so far. Just as the disastrous and inefficient model of NHS marketisation is being dismantled, it is proposed to introduce a market competition system into PSM.

Ofcom's proposal to move from PSB to PSM is very welcome. The future for PSM is dependent on the integration of PSM content with the provision and support for public services across information, communications and cultural activities. This envisages the interconnected provision of information and services linking media services with other public subsidised resources: museums, performing arts; public subsidised sports, health, recreation and leisure; libraries and their digital services; community media including hyperlocal information and media resources; education and training services, from pre-school to lifelong learning. The BBC should be at the centre of this networking of provision but all PSMs should contribute. For the BBC, this might be achieved over three main zones

i) the BBC's own services ii) BBC partnerships - links with other public and third sector services – joint information, joint content (e.g. Arts Council, Open University etc), iii) Links to external content, non-BBC services, (including what's on information and content services for local areas, and communities of interest) – links with local/hyperlocal media but also commercial media services. These services would not be

permitted to compete for advertising revenue and would be hosted on distinctive public service platforms. The BBC would be the principal PSM content provider, but also serve as a gateway to networked public services across communications, culture and community life.

The Consultation proposals, taken together, clear the ground to facilitate commercial media access to the funds and advantages of PSMs while minimising the obligations. In the context of falling funding for PSM and rising competition, this is not a path to strengthen PSMs at the heart of a diverse media system, but to shift towards 'PSM' as a component provided by a market system with an uncertain, residual PSM presence. The evidence presented in the Consultation shows that commercial providers can be innovative, serve audiences and add to the diversity and quality of content but also that they are under market pressures that limit their investment across the range of PSM. It is vital that the regulatory path is towards an expansion and pluralisation of PSM, provided by accountable, public providers, and not to a market system that will undersupply, and do so especially when PSM competition is reduced.