

SUBMISSION TO THE OFCOM'S CHILDREN'S CONTENT REVIEW OFCOM

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Introductory Remarks and Summary

The opportunity to contribute to this Children's Content Review in the light of Ofcom's new powers, (Digital Economy Act, 2017), to publish criteria and set conditions on commercial PSBs for the delivery or children's programming is welcome. It is especially welcome in the context of the well-documented decline in both PSB expenditure and amounts of first-run UK children's content across all PSB channels.¹

There is still a strong argument for a range of distinctive high quality children's content not only to encourage diverse voices, but also to fill the equally well-documented decline in certain UK-originated genres (live action drama, factual) and lack of provision for older children (11-15).² The case for UK children's content and the role of PSB in providing it, relates to PSB purposes connected to cultural identity, diversity and access to information and knowledge,³ whose value extends beyond what can be quantified in market terms.⁴ Desirable media policy goals for children should allow children to have access to content that reflects their diverse lives and culture, providing the 'prerequisites to children's participation in society'.⁵ Getting the balance right is all the more important, because children themselves are rarely consulted on the services that are supposed to serve them. Criteria for children's public service content, in accordance with the Digital Economy Act, should be connected to the public purposes outlined in the Communications Act. This suggests greater regulatory interventions for first-run UK originated content and criteria that prioritise drama, news and factual content across a range of formats and platforms.

However, children's content is problematic and has long been acknowledged as a market failure "genre".⁶ It is difficult to align provision with the business goals of commercial PSBs, and the market falls short in providing sufficient domestically-produced content or content, that society values such as drama, news and information.⁷ Without interventions, such as public service media, the next generation of children may grow up without a wide range of diverse content made *for* them. For some public service broadcasters, this is an existential issue, one clearly recognised by the BBC,⁸ who are committed to providing free, universally available, non-commercial content to all children. If children grow up without experiencing public service content, they are unlikely to recognise the public service ethos and support it as an adult.⁹ With PSB commissioning largely restricted to the BBC, it could be argued that it is not a problem for one publicly-funded-broadcaster to satisfy public service objectives connected to citizenship. However, as children's media consumption spreads across devices and platforms, there is still a strong argument in favour of competition for quality in public service commissioning to ensure content that is innovative, pluralistic and diverse.

The current regulatory framework is outdated and needs to reflect PSB's presence across multiple platforms and devices. Commercial PSBs commitment to children is currently discretionary, and

¹ Ofcom (2017) *PSB Annual Research Report 2017*, pp.22-3

² Ofcom (2007) *The future of children's television programming*; Ofcom (2008) *Annex 10 to Phase One of Ofcom's second review of public service broadcasting*; Ofcom (2013) *Public Service Broadcasting Report 2013: Annex F: Children's Report* p. 4

³ Ofcom (2014) *Public Service Content in a Connected Society*, pp. 10-11

⁴ Doyle, G. (2013). *Understanding media economics*. London: Sage, p. 95

⁵ UN Convention on the Rights of the Child <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

⁶ Steemers, J. (2017) Public service broadcasting, children's television, and market failure *International Journal on Media Management*

⁷ See ACTF (2017) *Stories to Tell* <https://actf.com.au/news/10385/stories-to-tell-protecting-australian-childrens-screen-content>; Steemers and Awan (2016) *Policy Solutions and International Perspectives on Policy Solutions and International Perspectives on the Funding of Public Service Media Content for Children: A Report for Stakeholders* <https://goo.gl/7phxVd>

⁸ Tony Hall's keynote address to the Children's Global Media Summit 5 December 2017

<http://www.bbc.co.uk/mediacentre/speeches/2017/tony-hall-own-it>

⁹ Messenger Davies, M. (1995). Babes 'n' the hood. In C. Bazalgette & D. Buckingham (Eds.), *In front of the children* (pp. 23) London, UK: BFI.

does not work in respect of original productions and investment as various Ofcom reports on PSB generally and C4 in particular attest. While Ofcom is only permitted to impose quotas on licensed public service channels (ITV, Channel 4 and Channel 5), there is scope to take account of provision on related services to ensure better distribution of children's content.

Recent policy decisions on tax reliefs for animation and children's programming, a contestable fund, enhanced obligations on Channel 4 to cater for older children and the introduction of origination quotas for the BBC's CBeebies and CBBC channels, all bear testimony to the belief that the market is not working to provide a sufficient range of high quality original programming for UK children. There is no shortage of producers who are incentivised to make content; the problems lie in funding, commissioning and distribution, resulting in an imbalanced production ecology.

The case for regulation through PSB continues to be justified within the wider context of children's content and the distinction with online platforms and services, where broadcasting rules, for example on the separation of advertising and the exclusion of inappropriate material simply do not apply. There are deep public concerns about what is being offered on the internet by global platforms (including YouTube), which are barely regulated in terms of content (except illegal content) and privacy. The case for curated and regulated content is stronger now than ever. 89% of parents asked by Ofcom in 2016 agreed that it was important that children's PSB provides a wide range of high quality programmes for children (although they were only asked about CBeebies, CBBC, Five and Four on importance and delivery).¹⁰ We also know that parents are increasingly more worried about online risks, including presumably about what their children watch online.¹¹

Instead of piecemeal reform, the UK needs a more comprehensive overhaul of regulation and support mechanisms to support UK-originated children's content that brings it in line with children's viewing habits in the 21st century. Without regulatory intervention, however, there is a danger content for UK children might vanish on online platforms where search engines and algorithms tend to prioritise popular over public service content.

It is important, that any alternatives for regulating and funding public service content are informed by better research about the use by and impact of public service content on children. Children's TV wherever and however it is consumed, is still enormously important, but current audience measurement techniques provide an incomplete picture of how children 'watch' online on devices other than a television set. There needs to be better research about how children are discovering and consuming content including public service content; as their media engagement shifts from viewing on a TV set to viewing on other devices; from TV remote controls to search engines favouring popular over niche content; and from broadcasting to on-demand and online platforms, which remain largely unregulated in respect of local content and the promotion of commercial products. At the moment, there is little research that looks at what children are *watching* online, that measures how much public service content they are consuming across platforms, and what type of public service content they value.¹² Without this evidence, it is difficult to make policy, that goes beyond short-term issues. As Sonia Livingstone and Claire Local rightly point out 'Measurement matters' when it comes to policy interventions.¹³

In addition to regulating and funding children's content, more attention needs to be paid to what a public service commitment to children is likely to mean *in future* across both TV and a variety of digital platforms and services. With policy often focused on buttressing domestic TV production,

¹⁰ The questions appear to have been asked mainly in relation to CBeebies, CBBC and Five, so parents were not given an option to comment on ITV's delivery, and the sample for Channel 4 and older children is so small as to be indicative only. If all PSB services are expected to offer a suitable quantity and range of high quality and original programmes, parents or children might be expected to comment on the performance of ITV and C4 and related services (CitV, E4). See PSB Annual Research Report 2017: PSB Audience Opinions Annex.

¹¹ Ofcom (2017) Children and Parents: Media Use and Attitudes Report P. 186p

¹² See S. Livingstone and C. Local (2017) Measure matters: difficulties in defining and measuring children's television viewing in a changing media landscape *Media International Australia* Vol. 163 (1) 67-76.

¹³ *Ibid.*

there is little evidence yet that larger issues concerning the distribution, discovery and social value of public service content for children are being fully recognised, addressed and evaluated. Until these are tackled, the diversity of providers and greater plurality in provision for domestically produced content will continue to be an issue, which no amount of tinkering with broadcast quotas and small-scale alternative funding mechanisms such as contestable funds are likely to solve longer term. There is a high risk that the principles embedded within public service purposes will become the preserve of one financially-strapped publicly-funded PSB, the BBC, if no action is taken.

Audience behaviour and preferences

Ofcom asks for detailed evidence about children's changing audience behavior and preferences, including what parents and carers in the UK value in terms of genres and formats from different types of providers. Reliable publicly available data on this is currently not available and this is particularly the case for public service broadcasters, whose services now expand beyond TV on a TV set to non-broadcast services. BARB data do not capture viewing/watching across all devices, platforms and services. Self-reported online surveys do not adequately capture the time spent *watching* programming online or on other devices either live, or downloaded or time-shifted. This means that we have only partial information about the extent to which children are shifting their viewing on the TV set to *viewing* on other devices and services and what they are watching online. There is anecdotal evidence, proprietary evidence (for example from SVODs and Pay TV) and smaller-scale research studies carried out by broadcasters and research companies - but relevance, reliability and transparency are key. As Livingstone and Local rightly point out:

Put simply, we no longer know how many children watch *Postman Pat* or *Tracy Beaker*, because children's often enthusiastic viewing of television content on new platforms or devices is rendered largely invisible by present measurement technologies.¹⁴

It would be enormously helpful if Ofcom expanded its current research with children and families to cover the questions it poses for the UK market (Q1-5), and commissioned a literature review, as it did in 2007, to inform decision-making by providing context. This would be especially welcome, since it is now responsible for regulating both commercial PSBs and the BBC's adherence to an operating licence, with commissioning quotas for CBeebies and CBBC.¹⁵

New research would build on earlier studies that clearly demonstrated the enduring importance of a range of children's genres (for learning, socialization and citizenship and identity) and access to UK-originated content that children value.¹⁶ It would build on previous research, which showed that UK children value UK drama and news,¹⁷ and could also draw on international comparisons about what children think about gender representations,¹⁸ and why they love humour.¹⁹ In addition to asking questions about what they are doing and with what devices, it would be useful to ask children more questions about what they value about e.g. humour, drama, information, visuals, characters, the chance to interact and engage, how they go about finding that material, and what help they need to find it.

The difficulties in measuring audiences as well as in the presentation and interpretation of data about PSB, can have repercussions when it comes to making policy decisions about regulation and investment, and risks being used to downgrade public service provision, based on the assumption that children are watching less television (on a TV set).²⁰ A better understanding of the extent to which children engage with public service broadcasting and related services, matters because it is

¹⁴ Livingstone and Local, p. 72

¹⁵ Ofcom (2017) *Holding the BBC to Account for delivering audiences* (3.7)

¹⁶ See Ofcom (2007), *The Future of Children's Television*; Messenger Davies, M., & Thornham, H. (2007). *Academic literature review. The future of children's television programming*. London, UK:

¹⁷ M. Messenger Davies (2001) *Dear BBC*; C. Carter, M. Messenger Davies et al (2009) *What do children want from the BBC?*

<http://www.bbc.co.uk/blogs/knowledgeexchange/cardifftwo.pdf>

¹⁸ M Götz and D Lemish (2012) *Sexy Girls, Heroes and Funny Losers*

¹⁹ M. Götz & M. Berg (2014) So What's funny about that? *Television* 27/2014

²⁰ Ofcom (2018) *Children and parents*, p. 8

central to deciding whether interventions like quotas for children's content are necessary. If the argument is accepted that children are spending less time watching TV on a TV set (as certain interpretations of Ofcom data suggest), then the argument for introducing quotas is weakened, even if there is no reliable information on what and how much children are watching or consuming online. If the argument is accepted that, actually, children continue to watch a great deal, but on different devices and online, the argument for intervention becomes stronger for safe, easily-located reliable, curated public service content across platforms that meets public service purposes.

There also needs to be a distinction between content for children, and content that is aimed at children and other audiences. One significant risk is that children are seen as an undifferentiated audience, who can be satisfied with family programming. The commercial PSBs do provide very good popular family programming. However, the child audience comprises many different audiences (gender, age, class, ethnicity, location) with different needs, that cannot be wholly satisfied as part of the family audience. Even if family co-viewing constitutes half of children's viewing time including popular entertainment programmes (p.13), this is no substitute for dedicated children's content. Children in the same ways as adults like variety. If it is believed that the PSB purposes relating to children can be satisfied with family programming, then regulatory interventions are superfluous, because commercial broadcasters invest in family programming anyway: but this is not the same as 'a suitable quantity and range of high quality programmes *for* children'.

There are things that we do know and they serve as a starting point. Ofcom's own research about the UK Market provides some tantalizing insights but the picture is incomplete and more research is needed, particularly on how children discover content, and how, what, for how long and when they consume UK-originated content:

- We know that children's viewing *on a TV set* is declining, but what are children watching online, for how long and when? We are told that 66% of teens used YouTube to watch TV programmes compared to 38% of all adults in 2017, but we have little insight into what they are watching and why.²¹ According to the same report 58% of teens use PSB on-demand services, not far short of SVOD and streaming (63%) and Facebook and YouTube (69%) to watch TV programmes and films, but again we have little comprehension of what they are watching and how much of this is public service material.²²
- In Ofcom's Digital Day 2016 research (albeit with a limited sample of children aged 6-15) while 71% of children's weekly watching time was attributed to the TV Set (just under 14 hours) a further six hours of watching was attributable to phones, tablets, games consoles and computers.²³
- As the consultation document indicates we also know that more than a third of 8-15 year olds, a sizable minority, feel that there are not enough TV programmes that show people like them, compared to just half who are satisfied. Additionally, 33% of 8-11 year olds and 41% of 12-14 year olds feel that their localities are not represented in programmes, suggesting the public service purposes of reflecting UK cultural identity and representing diversity and alternative viewpoints are not always being met on 'television', although we know less about whether these answers reflect viewing on a TV set or online.
- Only UK originated children's programmes feature regularly in the top 40 most popular programmes for the BBC iPlayer including CBBC dramas (*The Dumping Ground*, *Millie Inbetween*), factual entertainment (*The Dengineers*) and for CBeebies' animation (*Bing*), drama (*Topsy and Tim*) and entertainment (*Go Jetters*), irrespective of the separate iPlayer children's app, suggesting that younger and older children *do like* to watch and access a range of genres from on-demand services. It would be useful to have more of this information.
- If PSBs shift more of their content online, as the BBC has indicated, then children need to find it and research needs to address how children use *new types of public service content* (short-form, interactive), new creative tools and new ways of reaching (streaming, apps) and engaging (social media, personalization) alongside those offered by commercial providers.

²¹ Ofcom (2017) *Communications Report*, p. 38

²² *Ibid.* p. 14.

²³ Ofcom, (2016) *Digital Day Slide Pack 2*, Slide 24

If Ofcom is to take on a larger role in children's content as the regulator of public service values for both the BBC and commercial PSBs, it would be helpful to ask more in-depth questions (qualitative as well as quantitative) that establish the value of public service children's content compared to non-public service content.

Availability of children's content

Are there specific genres within children's content (on any platform) where demand or audience need is not currently matched by supply from PSBs, commercial channels, or on-demand and streaming services, or a combination of the former? What supports your view on this?

Children do have access to swathes of content on multiple platforms, but not all of these options are free to air (Netflix, Sky, Amazon), and the vast majority of this content is sourced from North America, and to a lesser extent Asia.²⁴ As previously stated and documented by Ofcom, the commissioning of UK drama, factual and news shows is now largely confined to the BBC, where it works well (see IPlayer above), but is rarely commissioned elsewhere.

This gap in UK content, specifically drama and factual content, is not being filled by online providers or SVODs, who are targeting international audiences. Past analyses of the schedules of US-owned channels have shown quite clearly that their genre mix is not as diverse as UK PSBs (CBBC and CBeebies) and that they prioritise non-UK content, including animation.²⁵ These trends are reflected in other markets where US transnationals rarely invest in local content.²⁶ Preschool content on YouTube is dominated by computer animation, often produced in the Far East (sometimes scripted and voiced in the UK), and 'unboxing' videos that blur the distinction between content and advertising. Some of this content is highly inappropriate in its targeting and subject matter, and is sustained by algorithms that promote the most popular content.²⁷

Some PSBs in other countries have used new platforms to counteract this market failure and experiment with new forms of drama to attract older audiences. For example, *Skam*, may have been picked up by *Facebook*, but it was originally developed as a web series by Norwegian public service broadcaster, NRK, for youth, not child audiences. Its success in Norway is clearly rooted in its real-time local appeal and depiction of Norwegian localities, but this has attracted other audiences in Denmark and Sweden. The success here is not about Facebook, but a PSB taking a risk on an online soap, and recognising that it needs to reach out to hard-to-reach new audiences online and on mobile devices.

Regulators also need to make better distinctions about what constitutes a genre. For example, Ofcom groups all preschool programming together, without making the distinction that pre-school shows can include news, factual content, live action drama and animation (which is not a genre). This is an important distinction, because with the exception of CBeebies, many preschool broadcast channels and online preschool brands are dominated by animation.

What is the role and importance of first-run UK-originated programming for audiences? For broadcasters? Does this vary by sub-genres or by age group?

There is still a strong case for all UK children having access to a range of high quality first-run UK originated content, that is relevant to their lives, regulated, impartial, free at the point of access and relevant to their age group and interests. As the market is not able to meet the requirement for a 'suitable quantity and range of high quality and original programmes', particularly across UK drama

²⁴ See Steemers, J and D'Arma A. (2012) Evaluating and regulating the role of Public broadcasters in the children's media ecology, *International Journal of Media and Cultural Politics*, 8 (1), p. 72-75 for levels of US content and animation on transnational and public service channels.

²⁵ Ibid.

²⁶ Potter A (2015) *Creativity, Culture and Commerce*. Bristol: Intellect; Zanker (2017) The future isn't coming; The future is here. The New Zealand Children's Trust's engagement with Media policy for children, *Media International Australia* 163 (1), 56-66.

²⁷ James Bridie (2017) *Something is wrong on the internet*. Medium, 6 November <https://goo.gl/umeMhY>

and factual content, it has been left to the BBC to meet this demand. The lack of provision in some genres (drama, factual) and in content for older children (12-15) has been well documented by Ofcom over a decade, including in Ofcom assessments of Channel Four's performance. The BBC is now, because of its new operating licence, thinking about older children again. The market serves pre-schoolers well because it can be profitable for broadcasters, producers, and online providers (e.g. Little Baby Bum). There needs to be better research about what children value about different types of content, and UK-originated content, especially as we now know, from Ofcom, that a significant minority of UK children do not see themselves or their locality represented on screen.

SVOD and pay TV operators (including Sky Kids) do provide an alternative. However, SVODs and apps offered by Pay TV operators (Sky Kids) are not free to air, and they do not commission across a range of content. Online platforms also offer more content, including content that is very attractive to both younger and older children. However, online material is not regulated for harm and offence or for accuracy and impartiality unlike broadcasting content. In the wake of public debate about 'fake' news, and parental concerns about inappropriate online material, there is a stronger case to be made for curated content that meets public service purposes, particularly in relation to information and accuracy, and that also reflects the greater trust of older children in TV news.²⁸

Repeats are one way of making sure you reach the largest possible audience, and smaller children may watch the same show many times. However, this is not true of content for older children, and innovation, originality and distinctiveness may be stifled by a lack of new commissions, which reinforces the view that older children are difficult to reach, when in fact it may be that the market offers them very little that is new or of relevance to them.

Incentives and disincentives to produce children's content p. 25

How are on-demand and streaming services changing the nature of competition in children's content? Is this impacting on the range or quality of content available to UK audiences?

The introduction of on-demand and streaming services has intensified competition in the UK market, but there is little evidence that this has promoted a greater range or quality of UK originated content for UK audiences. YouTube and YouTube Kids are a platform for promoting existing brands (often US brands) and user generated content. SVODs and Pay TV invest in limited amounts of UK content. Greater competition and the ban on HFSS advertising around broadcast content (but not online), no longer make it possible to realize sufficient profit from children's programming. A failure of incentive on the part of commercial PSBs over many years, has been reinforced by a failure of regulation and enforcement (removal of regulatory tools for quotas on commercial PSBs) and a failure of structure (the BBC's emergence as the sole commissioner of domestic children's content). Self-regulation has not worked since the removal of quotas for commercial PSBs resulting in a diminishing range of original UK programming for children.

How have funding models and investment in children's content changed over the last five to ten years? Do you have evidence you can share with this to support your view?

The struggle to fund children's content is not unique to the UK. To support domestic children's content several countries operate origination quotas (France, Canada, Australia), levies (France, Canada), contestable funds (Ireland, New Zealand, Denmark), expenditure obligations (France, Canada), tax incentives and other forms of subsidy in recognition of the fact that children's content is subject to market failure.²⁹ These interventions also recognise that domestic commercial broadcast players have frequently played an important role in sustaining home-grown children's content alongside PSBs within a balanced production ecology.

²⁸ Ofcom 2017 *Children and Parents: Media Use and Attitudes Report*, p. 11

²⁹ Steemers and Awan (2016); Steemers (2017) *International perspectives on the funding of public service media content for children Media International Australia* 163 (1) 42-55.

Producing broadcast quality content as opposed to YouTube animations at £300 or less per minute is expensive, and has to be brought together from a variety of sources. While we know that commercial channels in the UK spent £41m on children's content in 2016³⁰ it is not clear how many hours they commission and what they spend on originations, although we do know that their spending has also declined. The decline in PSB funding (£113m in 2006 to £84m in 2016) for first-run originated content and the decline in originated hours (1584 to 673 hours) is documented in the last public service broadcasting report. Expenditure on a further 36 hours of first run children's content on PSB portfolio (possibly CiTV) and BBC online services (only) in 2016 suggests that few additional children's commissions are currently generated.³¹

Funding models are complex and while there are new opportunities with evolving technologies and online consumption, this can be risky for smaller production companies and not particularly rewarding financially. New players, such as Netflix have preferences for content that will play well internationally, featuring international/US leads e.g. the recent Netflix recommission from Lime Pictures of the tween horse-riding drama *Free Rein*. YouTube and the app YouTube Kids are important outlets for children's content, but the YouTube Kids app tends to prioritise well-known animation brands and live action videos (often involving children) that promote toys and food and drink that would not be permitted on broadcast platforms.³² It could be argued that the many YouTube channels featuring low cost preschool animation based on songs and nursery rhymes are not indicative of range and diversity. Inappropriate use of algorithms to generate particular types of content, the circulation of 'fake' versions of well-loved shows and the promotion of 'popular' content over other forms may drive up revenues, but serves to undermine trust in the platform.³³ UK-based children's apps such as Azoomie and Hopster do not have the scale to commission, but might benefit if producers had access to a contestable fund.

Broadcast commissioning fees have declined not just in the UK but worldwide, making it difficult to even secure support from traditional English-language partners in Australia and Canada, who face their own funding problems.³⁴ The existence of tax breaks in both the UK and Ireland has benefited animation co-productions between the two countries (*Little Roy, Zig and Zag*), but there is some evidence to suggest that tax relief, presales and other financial incentives have simply encouraged broadcasters to reduce commission fees further, on projects which do not necessarily reflect cultural specificity.³⁵ Income from licensed merchandise is a long-term prospect because it takes time for a property to bed down and generate interest and revenues. Pressure on funding and licence fees goes back a long way and was accelerated in the 1990s by the practice of giving broadcasters animation for a small fee, in the expectation of pre-sales and revenues from licensing. The downward thrust on licensing fees has persisted with few broadcasters willing to fully fund all but the most modestly budgeted shows.

If certain genres within children's content (for instance news, factual, or drama) are becoming increasingly difficult to obtain funding for, what are the reasons for this? Are certain genres more difficult to generate financial returns from, and if so, why?

The inability of the market to fund children's news, factual content and drama is well documented in earlier Ofcom studies³⁶ and other recent inquiries including BBC Charter Review. SVOD services such as Netflix and Amazon are providing a new platform for children's content, but these are transnational operations commissioning for an international marketplace, and are unlikely to fund much UK specific content. While a small minority of shows (e.g. *Peppa Pig*) are successful in international markets as licensed brands, the vast majority of under-represented genres (drama,

³⁰ Ofcom (2017) *Communications Report*, p.26-27).

³¹ Ofcom (2017) PSB Annual Research Report, p. 24

³² E.g. EvanTube

³³ James Bridie (2017).

³⁴ See Steemers and Awan (2016)

³⁵ Potter, 2015, pp.-Xi.

³⁶ Ofcom *The Future of Children's Television* 2007

information) have only a limited market beyond the UK. This does not render them without value, and it should be noted that dramas such as *The Dumping Ground* (CBBC) and *Topsy and Tim* (CBeebies) are some of the most popular shows on platforms such as IPlayer. Internationally, news, factual content and drama for children remains the preserve of a few comparatively well-funded public service broadcasters in the UK (BBC), Germany, Scandinavia and the Netherlands. As one PSB executive once said “If we don’t make it, no-one else will.”

Are there other incentives and disincentives you think we should consider as part of the review?

Policy-makers who wish to ensure the production of a diverse range of quality domestic content for children have pursued a range of interventions in the face of increasing competition. In the UK, the preferred solution has been regulated public service broadcasting, but this has become difficult to sustain with the relaxation of rules on commercial PSBs in recent years.³⁷

The question needs to be asked: who needs incentivising? There are many talented producers who want to produce children’s content, and are adept at pulling together multiple sources of funding: from commissions, pre-sales, co-production finance, tax breaks, EU subsidies and bank loans. Unfortunately, commercial PSBs have demonstrated little incentive to commission or broadcast content, leaving UK producers reliant on the BBC, which has limited funds and slots.

The question arises as to whether quotas on commercial PSBs would lead to greater levels of original content commissioning or investment. This is a difficult question to answer. Under the Digital Economy Act amendment, Ofcom can only impose quotas on licensed commercial PSBs (ITV 1, Channel 4 and Channel 5). If commercial PSBs are unwilling to transmit children’s shows on their main free to air outlets, Ofcom could in theory come to an agreement whereby any quota on commercial PSB channels is satisfied, for example, by transmitting content on CiTV, ITV’s non-public service children’s channel and on the ITV Hub rather than the main channel. This is possible and would be in the spirit of the DEA amendment. The availability of children’s content on free-to-air platforms (both online and broadcast) means that any content supported by a contestable fund is far more likely to be discovered, and would also benefit from association with a regulated outlet.

The second issue revolves around the type of quota. Transmission quotas, effectively fulfilled, for example by rebroadcasting the CiTV magazine show *Scrambled* on ITV at weekends are unlikely to lead to more investment in original commissions, if channels simply buy-in material, show programmes from their catalogue, or satisfy their obligations with entertainment magazines that frame imported animation (see New Zealand). Annual quotas on first-run UK originations, similar to those now imposed on CBeebies (100 hours) and CBBC (400 hours) might stimulate commissions, but are unlikely to work in similar volumes to those demanded of the BBC which operates two children’s channels. It should also be pointed out that the BBC quotas do not take account of online distribution, particularly pertinent as the BBC seeks to invest £31.4m ‘online’ by 2019-2020. If a quota covering volume of commissions is to be applied to commercial PSBs it needs to be proportionate, flexible, and allow for transmission across related services (non-PSB channels such as CiTV, and online services). For some programmes (for example *Thunderbirds*) online distribution may not be possible if broadcasters do not hold the relevant licences, but this is unlikely to be an issue for most UK-originated content targeted at a UK audience.

The third issue relates to investment. In some countries (notably Australia) there is evidence that broadcasters may meet origination quotas, but seek to do this by investing as little as possible themselves. If quotas are to be effective they may need to be tied to spend.³⁸

However, commercial PSBs might be incentivised to invest in children’s content if there was a source of alternative funding in the form of the contestable fund. In the spirit of encouraging innovative

³⁷ Under ITC rules derived from the 1990 Broadcasting Act ITV was required to transmit 10 hours a week of children’s programmes. The ITC also agreed targets with ITV to secure the provision of original productions and commissions including 75 hours of drama, 52 hours of information and 70 hours of preschool programming a year. Channel 5 had a transmission quota of at least 3 hours and 30 minutes a week. ITC Notes: Children’s Television. This was dropped with the 2003 Communications Act

³⁸ ACTF 2017; Steemers and Awan, 2016

content for publication on digital platforms (including YouTube) as well as broadcast, this could be for low cost innovative short-form content, starting at £500 a minute. However, there is then a risk that only low-cost content will be commissioned, and while it may lead to more commissions, it may not necessarily result in significantly more investment by commercial PSBs. The contestable fund is also limited to three years, which begs the question what happens next? If government decides to continue it by 'top-slicing' the licence fee, producers, including producers of children's content may see their options diminish at the BBC. There is a need for a more joined-up approach which connects approaches to the BBC, quotas, time-limited interventions like contestable funding and a clear rationale for public service content provision.

Although Ofcom does not ask any direct questions about the criteria it thinks are necessary for the provision of public service children's programming, it does have the power to set conditions on commercial PSBs including quotas. These are specifically mentioned in the amendment, but only once in the consultation document. One would expect the issue of quotas to be addressed alongside other measures including the contestable fund, tax breaks and ongoing initiatives to deal with children's content online. Given the scope of Ofcom's powers of intervention, it may have to negotiate with commercial PSBs to secure a minimum volume of UK originated content. This is an opportunity that was afforded in the Digital Economy Act, and it would be a shame to let it pass. Quotas do not have to be the same as they were before 2003, but there should be an emphasis on under-represented genres (either long or short-form) for distribution on any platform (broadcast or online), which children can freely access. Ofcom might vary criteria to suit particular age groups, emphasising preschool content for Channel 5, 6-11s for ITV and content for older children at Channel 4.

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