

*'Working for quality
and diversity in
British broadcasting'*
9FY
338716

Founded in 1983 by Jocelyn Hay CBE



PO Box 401, Gravesend, Kent DA12
Telephone: 01474 338711 / 01474

Fax: 01474 325440

E-mail: info@vlv.org.uk
Web: www.vlv.org.uk
Twitter: @vlvuk

Ref: 0117:12

Voice of the Listener & Viewer's
Response to
Department of Culture, Media & Sport
Consultation on
COMMUNICATIONS REVIEW 2012

September 2012

**Response by Voice of the Listener & Viewer (VLV) to DCMS's
Communications Review 2012**

Introduction	2
Seminar 1 The Consumer Perspective	3
Seminar 2 Competition in Content Markets	4
Seminar 3 Spectrum	5
Seminar 4 Seminar 4 – Driving Investment and Growth in the UK's TV Content Industries	6
Additional Sources of Funding	8

September 2012

Response by Voice of the Listener & Viewer (VLV) to the Government's Communications Review 2012

Voice of the Listener & Viewer (VLV) is an independent, non-profit-making association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British broadcasting system.

Introduction

- 1.1 Representatives of VLV attended the first, second and fourth Communications Review seminars held by the Department of Culture, Media and Sport and our submission reflects content at these seminars. VLV requested to attend the third seminar on Spectrum issues but was not granted an invitation which we regret. We have arranged our response under headings of each seminar where possible.
- 1.2 VLV welcomes the opportunity to contribute to the debate in the run up to the Government's Communications Bill and to highlight some of the concerns of those who both consume and ultimately, in one way or another, pay for these services.
- 1.3 We welcomed the placing of the five seminars in the public domain by publishing videos of the seminars, transcripts and reports online.
- 1.4 VLV believes that original free to access UK content is a crucial aspect of public service broadcasting (PSB) because the social, cultural and economic benefits of content produced in the UK for British citizens are undeniable. VLV urges the Government to safeguard the provision of free to access PSB in the future.
- 1.5 We would urge the Government to include measures in the forthcoming Communications Bill which ensure that commercial PSBs must, as part of their licences, commission an appropriate amount of UK produced public service content.
- 1.6 We believe that this requirement should now also be applied to satellite and cable broadcasters targeting British audiences. Whilst the EU requirement of 51% of broadcast content to be of original indigenous production may not be practicable, an appropriate contribution would bring considerable benefits both to UK audiences, the industry and

national economy. It should be noted that exports from the four PSBs bring a welcome surplus to the UK balance of payments but that surplus is negated by imports by the cable and satellite companies.

- 1.7 UK produced content is essential for the UK as an informed, democratic society because it is produced from a UK perspective, reflecting the world we live in from a British point of view. We welcome the Government's ambition to encourage growth in this market by developing legislation which removes barriers to growth, but VLV believes that there should not be de-regulation at the expense of public service broadcasting content. There still needs to be legislation to ensure the future provision of high quality public service content on television and radio which might otherwise not be provided.
- 1.8 VLV wishes to see a Communications Act which will ensure that the BBC funding model is not subject to further raids, and that the position of Channel 4, ITV and Channel 5 as PSBs with definite remits is preserved. While welcoming recent increases in UK commissioning by BSkyB and other cabsats, it is currently the situation (as referred to at the seminar by John McVeigh of PACT) that 90% of UK originated programmes are funded, commissioned and transmitted by the PSBs. This underlines the importance for the foreseeable future of ensuring that their position is not undermined.

2.0 Seminar 1 - The Consumer Perspective

- 2.1 Whilst the DCMS seminar paper for Seminar 1 begins by recalling that *'citizens and consumers were at the heart of the 2003 Communications Act'*, this session almost completely ignored the rights of the citizen and the centrality of broadcasting to supporting citizenship issues. The real focus of the seminar appeared to be on the commercial importance of the internet and related services.
- 2.2 VLV recognises that consumers and business need to have access to high speed broadband technology, however VLV is very concerned that not everyone wants to access content online and that this Communications Act should not focus on broadband to the detriment of broadcasting.
- 2.3 We share the worries mentioned in the seminar that whilst more and more public information is being made available in digital form and online there is a substantial section of the population not yet accessing digital information for a variety of reasons: cost, education and culture. Traditional radio and television broadcasting are widely available and

hugely popular. These services need to be protected because they are still central to the flow of information and are likely to be so in the coming years.

- 2.4 VLV does support the concerns voiced in the seminar over broadening access to new technology for the disabled and welcomes the proposed co-operation between manufacturers, researchers and charities representing disabled groups. VLV has itself been involved in research into the problems of sound levels of speech and music for hearing-impaired audiences of television broadcasts. Similarly VLV is supportive of the working-party considering problems of the protection of children with regard to the internet.
- 2.5 If one concern of the process of reviewing the communications industry in the UK is to ensure consumer rights then the danger of individual commercial providers dominating the market for broadcast-type content is very real. The opposition of many of the leading daily newspapers to the proposed acquisition of BSkyB shares by News Corporation was because of the prospect of News Corporation offering BSkyB subscribers favourable rates for News Corporation newspapers to increase circulation and also offering advertisers favourable terms for placing their messages across the various platforms. VLV is consequently concerned that the whole issue of 'bundling' is considered within the wider framework of media plurality.

3.0 Seminar 2 - Competition in Content Markets

- 3.1 It is VLV's view that this seminar was too focussed on competition between platforms and service providers online, rather than competition between the broadcasters and suppliers of content, i.e. commissioners and producers.
- 3.2 VLV commend Chris Goodall, of Enders Analysis, because he made some of the most telling points. Regulation has been ineffective in relation to BSkyB's dominance in the marketplace, and his belief that BT's attempt to compete would fail has since been confirmed by the recent ruling against Ofcom by the Competition Commission.
- 3.3 In relation to production, Chris Goodall also pointed out that producers of drama have to find a way in through one of only three gatekeepers, which means competition in the PSBs has diminished since the days of the ITV federal system.

3.4 This seminar failed to address the need to preserve healthy competition of quality programming in the multi-channel digital world, where the financial strength (and therefore the ability to commission) of the advertising-dependent PSBs is likely to diminish.

4.0 Seminar 3 - Spectrum

4.1 VLV takes a close interest in the implications of any changes in spectrum use for citizens and consumers. We therefore wished to contribute to the Spectrum seminar but were not offered an invitation.

4.2 We acknowledge the importance of efficient and effective use of spectrum and the role that spectrum can play in business innovation and in economic development more generally. However, we are greatly concerned by the potential negative impact of the new 4G services on DTT users.

4.3 We think that the Government's decision to go ahead with the auction of spectrum for 4G services, in the certain knowledge that this will have a negative impact on large numbers of existing users of digital terrestrial television is neither responsible nor ethical (reference, letter from the Minister Ed Vaizey to Ed Richards, Chief Executive of Ofcom of 10 July, 2012). We also question the propriety and legality of the decision. We fear that the Government's action may have been driven more by the needs of the Treasury than by the needs of viewers using the DTT network.

4.4 Ofcom has indicated that harm (in the form of loss of television signal) could be done to some 2.3 million households in the United Kingdom. And since the remedies proposed only apply to the main television set many more second and third television sets will be adversely affected.

4.5 In VLV's view, and based on a close reading of various reports, we do not think that the proposed forms of mitigation are proportionate or appropriate and believe that the amount of money that has been set aside to provide remedies for those adversely affected is insufficient.

4.6 We also fear that up to now there has been insufficient piloting and testing of the likely consequences of the proposed 4G changes in spectrum use; more of this work should be undertaken as a matter of urgency.

4.7 Finally, in respect of due process by Government we are concerned that it has been implied in some quarters that it is Ofcom and not Government that is responsible for making fundamental decisions about spectrum use. It is our understanding that this is not the case and that - despite Ofcom's extensive powers - the regulatory body does not have the right to make these fundamental decisions. Even though, as an expert body, it is responsible for exploring and explaining a variety of options.

4.8 We applaud the Government's foresight in seeking to enable more flexible uses of spectrum but we urge Ministers to re-consider the decision to proceed with the 4G spectrum auction at the present time.

5.0 Seminar 4 - Driving Investment and Growth in the UK's TV Content Industries

5.1 While VLV welcomes the recent rise in investment from the cable and satellite channels referred to at the seminars, our focus is primarily on the public service broadcasters because they contribute 90% of the funding for UK-originated content.

5.2 We urge that any benefits derived from abolishing retransmission fees or prominence on the EPG should refer to **UK-originated public service content**, rather than simply UK-originated content. In this way social benefits will derive from the changes in legislation as well as economic benefits.

5.3 VLV welcomes the proposal for tax breaks for drama and high end TV production, although we believe it will be necessary to define in a more detailed manner the nature of 'high end TV production'. We believe this could lead to greater investment in UK production and thus will be beneficial in promoting a thriving broadcasting sector.

5.4 VLV believes that the Communications Act is an opportunity for the Government to ensure that carriage fees for the Public Service Broadcasters on cable and satellite platforms are abolished in return for guaranteed investment in **UK originated public service** content (as opposed to simply UK-originated content).

5.5 In order to ensure that such legislation results in an overall increase in investment in UK content, the amount of financial benefit to each broadcaster will need to be assessed, transparency will be required by the broadcasters and Ofcom will need to be given additional powers to ensure that this extra funding is used to produce public service content.

- 5.6 We base our argument for abolishing carriage fees for public service broadcasters on the clear evidence of the benefits to cable and satellite operators of transmitting the five PSB channels. Viewing to these channels in cab-sat homes comprises two thirds of all viewing if you include the PSB portfolio channels and makes them more attractive to consumers.
- 5.7 Additionally, other countries have acknowledged the importance of retransmission fees as a means of returning value to those channels which have invested in original local content, and the UK should follow suit.
- 5.8 On principle, VLV opposes any funding generated by the licence fee being paid to a private company for retransmission purposes.
- 5.9 As stated in the seminar paper, there is clear evidence that the public expects to have easy access to the five public service broadcasters and VLV strongly opposes any move which would reduce their prominence on the EPG.
- 5.10 Additionally, VLV welcomes the suggestion that EPG positioning could be used as a lever to encourage greater investment in UK-originated content but we urge that this policy should be used to encourage not just UK-originated content but **UK-originated public service content** otherwise there is little quantifiable benefit for the public.
- 5.11 VLV acknowledges that any legislation which implements changes to the rules for the EPG need to ensure certainty for broadcasters without which they will not be able to operate effectively.
- 5.12 **Additional Sources of Funding**
In addition to potential funding for public service content which could be raised through the abolition of retransmission fees and EPG positioning, there are a number of other funding options which have not been covered by the Communications Review seminars which VLV believes could be practicable and should be considered.
- 5.13 A number of other levy options have been suggested in the past, which follow the example of virtually every other European country and are based on the logical principle that those enterprises which exploit value from UK content creation should make some return to the creative pot.

These include re-use fees, fees levied on ISPs and mobile phone operators and search engine fees.

The revenue thus created would help to reduce the funding deficit for public service content and could be used to provide free-to-air high quality competition to the BBC. Unlike pay-TV, this content would be free at the point of consumption, a fundamental public service principle of UK broadcasting. All new levies will have benefits and disadvantages, but none have been the subject of systematic, independent investigation. Ofcom should be asked to make such an assessment as part of the new Communications Act process.

September 2012

Cover sheet for response to a DCMS consultation

BASIC DETAILS

Consultation title: Response by Voice of the Listener & Viewer to DCMS Communications Review

To DCMS: Henry Anderton

Name of respondent: Robert Clark, Secretary, VLV Board

Representing (self or organisation/s): Voice of the Listener & Viewer

Address (if not received by email): info@vlv.org.uk

CONFIDENTIALITY

What do you want DCMS to keep confidential?

Nothing **Name/address/contact details/job title**

Whole response **Organisation**

Part of the response which parts? **If there is no separate annex,**

Confidentiality Statement No part of this submission is confidential

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on DCMS's website, unless otherwise specified on this cover sheet, and I authorise DCMS to make use of the information in this response to meet its legal requirements. If I have sent my response by email, DCMS can disregard any standard e-mail text about not disclosing email contents and attachments.

Name **Robert Clark** **17 September 2012**

Signed (if hard copy)