

# Media Bill Briefing

December 2022

## Context

The Communications Act 2003 was the last update to broadcasting legislation. In 2003 most people had access to only five TV channels – the Public Service Broadcasters (PSBs) - unless they had Sky or a cable service. Since then many more channels have become available on Digital Terrestrial TV (DTT) and now we have streaming services which allow time-shifted viewing. Over 75% of households now use a VOD or video-on-demand service (those provided by the PSBs and SVODS such as Netflix).<sup>1</sup>

In addition to the need for new legislation to cover online viewing, there is a concern that 'global giants' are crowding out UK PSBs which could lead to less culturally-specific content being available free to British audiences. The global giants are the streaming platforms and huge global production companies which have come about due to consolidation in the independent production market.

The Media Bill has been delayed by changes in government since a White Paper earlier in 2021. The Bill was in the Queen's Speech, so it should be introduced this Parliamentary year. The DCMS says that the Media Bill is ready but they are waiting for a slot in the legislative programme.

There have been suggestions the new government may be reconsidering privatisation of Channel 4.

**Time Pressure:** ITV and Channel 5 licences expire at the end of 2024. They need to know with certainty what their PSB commitments will be if they are to sign new licences. This puts some pressure on the need for the Media Bill to be passed into law.

**Ofcom recommendations:** Ofcom concluded in its PSB Review (2020) that the PSBs are central to the UK creative economy and remain the largest commissioners of content from across the UK – they spend around £3bn each year on new programmes across a broad range of genres. It also concluded that UK-commissioned content which was less commercially viable (eg regional news, or minority language and religious programmes) would not be widely made without the PSBs. Ofcom recommended that prominence should be ensured for the PSBs and that the PSBs and platforms should be allowed to negotiate terms of carriage but that if those failed Ofcom could step in.

## Existing PSB Remit

Currently the PSBs must provide content which *taken together* fulfils the PSB purposes – to inform, educate and entertain; to support cultural activity in the UK; to facilitate civic understanding and well-informed debate; to satisfy a wide range of sporting and other leisure interests; to include programmes which deal with science, religion and other beliefs, social issues, matters of international significance; content for young people and children; content which reflects the lives of the whole population of the UK. The BBC's remit is set out separately in the BBC Charter and Channel 4's remit is more extensive than that of ITV and C5; it is set out in the 2003 Communications Act and the Digital Economy Act.

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<sup>1</sup> DCMS, [Up Next: The Government's vision for the broadcasting sector](#) (PDF), 28 April 2022, p11 (accessed 13 June 2022)

## Proposals in the White Paper<sup>2</sup>

- introduce a new “public service remit” for the UK’s public service broadcasters (PSBs): the BBC, ITV, STV, Channel 4, S4C and Channel 5.
- pursue a change to private ownership for Channel 4.
- give Ofcom powers to introduce a video-on-demand code to protect audiences from harmful material.
- reform the listed events regime for broadcasting events of national interest.
- update the “prominence” rules so that viewers can easily find public service channels on online TV platforms (eg smart TVs, pay TV services, streaming sticks and set top boxes).
- review the independent TV production sector “to make sure it remains effective for promoting growth”.
- continue to engage with the radio industry to gain a better understanding of the policies and practices of smart speaker platforms.

A consultation is due on ‘embedding the importance of distinctively British content’ into the existing quota system.

## VLV Concerns

- **Citizens’ Interests:** VLV considers that the interests of UK industry are well represented in the white paper and citizens’ interests are only met in some instances, mostly when they coincide with the interests of industry.
- **Choice:** in the White Paper the government states that *choice in programming is no longer a problem*. VLV is concerned that this could be an argument to de-regulate further and not reinforce the PSB system. VLV would argue while there is greater choice in drama/ entertainment and some genres of factual as a result of the streaming services, much of it is not UK culturally specific and choice in ‘market failure’ genres has declined significantly in the past 20 years.
- **PSB Remit:** There is a risk that the PSB remit will be watered down – the implication is that the new remit will focus on news and current affairs, UK produced content (a benefit to the UK creative economy), UK culturally relevant content.
- **Delivery of the PSB remit** – the PSBs will have greater flexibility in delivering public service media which means they can put it online/on demand as well as on their broadcast platforms. Online it be less discoverable and have less societal impact; this will allow the PSBs to prioritise more commercial or popular content in their linear schedules.
- **The digital divide** – the PSBs are being urged to improve digital delivery but 6% of UK households (1.6m) do not have access to the internet at home, rising to 14% in lower socio-economic groups and 20% of those aged over 65<sup>3</sup> – are we going to be neglecting a whole sector of the UK population if more PSB content is put online?
- **Universality** is a key aspect of PSB which should be free at the point of use. This means it has to be available on Digital Terrestrial TV and not behind a subscription paywall.
- **Channel 4 privatisation** – VLV’s concerns regarding this proposal can be found [here](#).

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<sup>2</sup> [Government White Paper](#) – April 2022

<sup>3</sup> *Modernising the BBC’s Operating Licence*, Ofcom, 22 June 2022, paragraph 3.5

- **PSB Provision** – In its most recent PSB Review Ofcom recommends that public service media should be available from companies other than the PSBs. Will this undermine the institutional status and strength of the PSBs? Will this also lower the bar in terms of high quality PSB content? How will quality control be maintained?
- **Radio** – There are only 3 clauses in the White Paper which relate to radio. They all suggest a further relaxing of regulation for commercial radio. There is no reference to public service content. Should there be provisions to ensure public service radio is provided outside the BBC?
- **BBC** – While the BBC is governed separately by its Charter, in the White Paper the government says it *will support the BBC to become more commercially successful and less reliant on the licence fee* which VLV finds concerning. If the BBC becomes more commercially motivated this is likely to distort its public service motivation.
- **VOD regulation** – This is intended to be ‘light touch’ – will it be too light touch to protect citizens from disinformation and harmful content?
- **Legitimacy of TV Licence** - The legitimacy of PSB is dependent on it being popular enough – especially among younger audiences. There is declining support for universal funding, partly due to campaigns by competitors of the BBC and those who oppose it for political reasons.
- **Decriminalisation of non-payment of the TV Licence.** The current and previous Secretary of State both expressed concerns about non-payment being a criminal offence. If non-payment is decriminalised it's estimated this will cost the BBC c.£200m in annual income.

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