

*Championing
excellence and diversity
in broadcasting*

Founded in 1983 by Jocelyn Hay CBE



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RESPONSE BY THE VOICE OF THE LISTENER & VIEWER TO THE DCMS PUBLIC SERVICE BROADCASTING CONTESTABLE FUND CONSULTATION

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INFORMATION ABOUT THE VLV

The Voice of the Listener & Viewer Limited (VLV) represents the citizen and consumer interests in broadcasting and speaks for listeners and viewers on the full range of broadcasting issues. It uses its independent expertise to champion quality and diversity in public service broadcasting, to respond to consultations, to produce policy briefings and to conduct research. VLV has no political, commercial or sectarian affiliations and is concerned with the issues, structures, institutions and regulations that underpin the British broadcasting system. VLV supports the principles of public service in broadcasting. It is a charitable company limited by guarantee (registered in England No 4407712 - Charity No 1152136).

EXECUTIVE SUMMARY

1. VLV welcomes the opportunity to respond to this consultation, however we have a number of concerns about whether such an intervention will significantly benefit audiences.
2. While this project will not reduce licence fee income designated for the BBC, if it is decided to continue the contestable fund beyond the pilot phase, VLV is concerned that there is a risk it will be funded from licence fee income. As VLV has made clear in the past¹, we would not support the creation of a fund for public service content if it is to be funded from income derived from the licence fee. We oppose any licence fee income being distributed to commercial companies which have a stronger imperative to pass profits onto their shareholders rather than deliver public service benefits to licence fee payers.
3. VLV believes there are many potential sources of additional funding for the provision of public service content which no recent Government has researched fully. These include levies on hardware, levies on platforms which benefit from original content, levies on telcos which also benefit from original content because it drives their businesses, and the National Lottery.
4. VLV is concerned that the proposed duration of the project of between 2-3 years may be too short to achieve its goals, therefore it should not try to achieve all things for all people because this will dilute its impact. VLV believes it should focus on a limited number of genres given the short time span and limited funds available.
5. VLV believes that the aim of the project should be very clear if it is to succeed. If its primary goal is to ensure that audiences have access to an increased volume of high quality content which otherwise would not be created, VLV supports this ambition. If, as a result of the fund, a secondary benefit is that it supports the UK's independent production sector, VLV views that as a positive outcome, but it should be absolutely clear that the primary objective of the fund is focused on the needs of UK citizens to have access to a plural range of high quality content.
6. VLV proposes that the contestable fund pilot should focus on the provision of culturally specific UK content for children aged 10-14 years old and for the development of programme

¹ VLV Response to the BBC Charter Review Green Paper, para 175. (8 October 2015) <http://www.vlv.org.uk/broadcasting-files/VLV-Submission-to-DCMS-Charter-Review-Oct-2015-FINAL.pdf>

ideas by smaller, less established producers prior to them being submitted to broadcasters. As younger audiences are increasingly viewing content on online platforms, it would be beneficial if the fund supported the provision of engaging content on television platforms for 10-14 year olds because this might help increase their use of traditional DTT platforms, thus supporting its sustainability as a delivery method.

7. VLV believes that any content supported by the fund should ideally have a guaranteed slot on a linear broadcast channel in order for the content to have adequate impact and reach to achieve the Government's ambitions. However, without regulatory interventions to encourage existing commercial broadcasters to broadcast additional public service content VLV does not believe that there will be significant enough take-up from commercial broadcasters to ensure the reach of content supported by the fund. This could undermine its impact.
8. VLV believes that the pilot administration model should be decided upon once the type of content being funded and the platforms it is hosted on have been decided. A decision on whether the BFI is the appropriate lead candidate to administer the fund cannot be made until this time because the administrator may need to have expertise in a certain area of content or platform delivery.
9. In light of the fact that the contestable fund has been devised to provide support for content which is in market failure, additionality is a crucial criterion.

INTRODUCTION

10. VLV welcomes the opportunity to respond to this consultation and welcomes the Government's ambition to expand audience choice, encouraging *exciting new PSB content, supporting new and more diverse voices*.²
11. However, VLV has a number of high-level concerns regarding the proposals for a contestable fund which we lay out below.
12. We note that the Government's BBC Charter White Paper determined that while there would be a pilot of a contestable fund, the funding for it would not be taken from the BBC. We note that Ministers have not ruled out the possibility that if the fund continues beyond the pilot phase it might be sourced from core BBC revenues in future and that if the pilot phase of the fund follows the intended timescale, the decision on the fund's future may coincide with Government's consideration of the next licence fee settlement for the BBC in 2021-2.
13. It is VLV's view that the pilot of the contestable fund could result in recipients becoming dependent upon it and that they will in due course lobby for an ongoing subsidy.
14. VLV believes that if it is decided to continue with the contestable fund to support the provision of public service content following this pilot phase, the resources to pay for this should be additional to the licence fee or this will undermine the delivery of public service content by the BBC.

² *Public Service Broadcasting Contestable Fund Consultation*, para 2.2 (DCMS, December 2016)

15. Ofcom highlighted this point in its Third PSB Review when considering additional sources of funding to support PSB content:

Introduce contestable funding – Parliament could introduce this to address under-provision of certain types of programming, such as children’s content or nations and regions programming, should this be desirable, but it would require additional funding to be identified – any use of current PSB funds would reduce other forms of provision.³

16. As VLV has made clear in the past⁴, we would not support the creation of a fund for public service content if it is to be funded from income derived by the licence fee. We oppose any income derived from the licence fee being distributed to commercial companies which have a stronger imperative to pass profits onto their shareholders than deliver benefits to licence fee payers.

17. VLV believes there are many potential sources of additional funding for the provision of public service content which we do not believe any recent Government has researched fully. These include levies on hardware, levies on platforms which benefit from original content, levies on telcos which also benefit from original content because it drives their businesses, and the National Lottery.

Scope of the pilot

18. As a pilot it needs to be recognised that this project is an experiment to test whether a fund will increase choice for audiences in key PSB genres which are in decline.

19. The fund should therefore not try to achieve all things for all people because this will dilute its impact. VLV believes it should focus on a limited number of genres given the short time span and limited funds available.

20. Following the pilot phase, before a permanent fund is established it will need to be clearly demonstrated:

- a) that the methods of distributing the fund are efficient
- b) what impact the fund has had
- c) whether the fund has increased the availability and consumption of the desired content
- d) that any challenges in running the fund can be overcome

21. A report on all the above issues should be published in the public domain following the pilot phase so that there can be further public consultation before the Government decides whether to institute a permanent fund following the pilot.

Project goal

22. While the primary motivation for creating this fund appears to be to increase audience choice in key public service broadcasting genres which are in decline, VLV believes that it is also

³ *Public Service Content in a Connected Society: Ofcom’s Third Review of Public Service Broadcasting*, page 118, para 6.62.5 (December 2014)

⁴ VLV Response to the BBC Charter Review Green Paper, para 175. (8 October 2015) <http://www.vlv.org.uk/broadcasting-files/VLV-Submission-to-DCMS-Charter-Review-Oct-2015-FINAL.pdf>

driven by the need of the independent production community to obtain funding for content which may not be commercially attractive or commissioned by the BBC.⁵

23. VLV believes that the aim of the project should be very clear if it is to succeed. Is it to ensure that audiences have access to an increased volume of high quality content which otherwise would not be created? If this is the case, VLV supports its ambition. If, as a result of the fund, a secondary benefit is that it supports the UK's independent production sector, VLV views that as a positive outcome, but it should be absolutely clear that the primary objective of the fund is focused on the needs of UK citizens to have access to a plural range of high quality content.

Project duration

24. VLV is concerned that the proposed duration of the project of between 2-3 years may be too short to achieve its goals.
25. As well as obtaining European Commission state aid clearance, the fund managing body will need to be established, ideas need to be selected for development/production, match funding or co-production funding may need to be raised, the content will need to be developed and produced and it will need to be broadcast.
26. Since the funding and time period proposed for this pilot are both limited we consider that it should have a narrow rather than a broad focus, in order for it to have greater impact and not dilute its ambition by trying to support a range of different genres.

Unintended consequences

27. VLV is concerned that this project could inadvertently lead to a further decline in the existing investment in key PSB genres in the anticipation by broadcasters that public funding might be available to support such content. In this way the fund could exacerbate an existing problem.

Viable platforms with reach

28. VLV is concerned that the contestable fund may be ineffective unless it has the support of the commercial public service broadcasters. We believe that it is unlikely public service broadcasters will opt to broadcast content funded by the contestable fund unless it fulfils their requirement to attract significant audiences.
29. Commercial broadcasters, even the public service broadcasters, are not driven wholly by PSB imperatives. Commercial broadcasters are primarily motivated by the requirement to generate profits because they have a responsibility to their shareholders to provide a return. In this context it would be difficult for them to justify broadcasting content, even if it is externally funded, unless it attracts significant audiences. The type of public service content the fund is aiming to support is in decline just because it does not attract such audiences.
30. We agree with the conclusion by Frontier Economics in their report in April 2016 relating to children's content:

We consider that the fundamental reason why other PSB broadcasters find it unattractive to commission children's content is the weak profitability in programming of children's content. Advertising revenues are insufficient when compared to the opportunity cost of broadcasting other genres and other providers already have the opportunity to exploit international rights and are not taking them up. While

⁵ *Public Service Broadcasting Contestable Fund Consultation*, page 8 (DCMS, December 2016).

*contestable licence fee funding will lower the cost of broadcasting children's content from the other PSBs' point of view, it will also bring complications in the form of increased burden of accountability, which may limit the attractiveness of the fund.*⁶

31. Without regulatory interventions to encourage existing commercial broadcasters to broadcast additional public service content VLV does not believe that there will be significant take up from commercial broadcasters to ensure the reach of content supported by the fund.

Contestable Funds elsewhere

32. VLV questions the relevance of the research cited in the document relating to contestable funds in New Zealand and Ireland as it pertains to children's content. Both countries are much smaller than the UK and the introduction of contestable funds has not introduced greater diversity of providers and greater plurality in public service provision, because there is little demand for domestic children's content from either broadcasters or online providers. In New Zealand contestable funding of children's content has been directed to two free to air channels, and a small number of producers making long-running magazine shows used as packaging for imported animation.⁷ In Ireland contestable funding for children's content, administered by the Sound and Vision scheme, has tended to prioritise RTE commissions and animation programming.⁸

Question 1) (i) Should the fund be broadly or narrowly focused?

33. Ofcom's Third Public Service Broadcasting Review highlighted that a fall of 17.3% in investment in first run UK originations since 2008 by the public service broadcasters *would be a significant concern if that trend were to continue and result in a noticeable reduction in the volume, range or quality of output.*⁹ It also highlighted that there are *significant pressures on arts, classical music, current affairs, children's, religious programmes, regional news, nations news and nations non-news programming.*¹⁰ This decline in key PSB genres is largely due to the fact that these genres are not as commercially attractive as other genres such as drama and entertainment.
34. As stated above, VLV does not consider the pilot fund of £60million over 2-3 years as large. If its focus is divided to supply funding for a number of different genres or aspects of content, this will lead to its impact being diluted. VLV believes that the fund, therefore, should be narrowly focused in order to be effective.

(ii) On which genres and audiences should the fund be focused?

35. VLV believes that UK specific children's content merits special mention. All the genres/types of content suggested as worthy for consideration in the consultation document are already provided to a certain degree by the existing PSB system which is over-reliant on the BBC for its output. They are all highlighted by Ofcom as genres which are facing market failure (children's, religion, arts) or aspects of content which need improvement (diversity, nations/regions). In some instances there is a noticeable lack of plurality of provision, as is the case with children's content, where the BBC has a near-monopoly on UK specific content.

⁶ *Contestable Licence Fee Funding, An Appraisal of Potential Impact*, April 2016, Frontier Economics

⁷ Steemers and Awan (2016) *Policy Solutions and International Perspectives on the Funding of Public Service Media Content for children*.

⁸ *Ibid.*

⁹ *Public Service Content in a Connected Society: Ofcom's Third Review of Public Service Broadcasting*, para 1.25.1 (December 2014)

¹⁰ *Ibid.* para 5.45

36. VLV would like to propose that the contestable fund pilot should focus on one area in which there has been a failure of provision in the past decade. There is little provision of culturally specific UK content for children aged 10-14 on any DTT platform in the UK. While Channel 4 has been making moves to provide such content, it is not a significant enough contribution at the time of this consultation to allay our concerns. As a result, this age group are increasingly viewing content online and deserting television as a platform. VLV believes that the contestable fund pilot could usefully focus on provision for this audience.
37. VLV believes that the type of content the fund supports for 10 – 14 year olds and on what platforms it is available should be decided following research among the target audience. Regardless of the platform, this provision should include drama, current affairs, factual programmes and entertainment.
38. According to their statutory responsibilities laid out in the Communications Act and the BBC Charter, all the UK's public service broadcasters should provide content which is demonstrably diverse and which appeals to the Nations and Regions, therefore we would not support extra funding to support content 'diversity' or Nations and Regions. Funding such provision could lead to the unintended consequence of abrogating the responsibility of the public service broadcasters to fulfil their existing commitments.
39. An area not suggested in the consultation which might merit some investigation is to provide funding for the development of programme ideas by smaller, less established producers prior to them being submitted to broadcasters. Large, successful, often transnational production companies have the resources and financial reserves to develop content, but smaller, less well established companies do not. Without such resources it is very difficult for new companies to engage with broadcasters. This means the supply of content from new entrants who might provide innovative, refreshing, new content is limited. VLV would support the provision of a fund for developing new content for 10-14 year olds alongside the production fund for content for this audience.

Question 2: (i) Should the fund extend to radio as well as TV?

40. VLV acknowledges that there is a significant lack of plurality in the provision of factual content on radio in the UK. The BBC has a near monopoly in factual content because commercial radio stations provide very little of such content. This can be accounted for by the fact that producing such content is more costly than producing music radio and that it is less commercially attractive because it attracts smaller audiences.
41. As stated above, VLV believes that the pilot for the contestable fund should have a narrow focus and should focus on broadcast provision for 10-14 year olds, therefore we would not support the fund being extended to radio for the pilot phase.
42. However, if the pilot proves to be a success and if sources other than the licence fee can be found to support a future permanent fund, then VLV would support extending the fund to radio as well as TV.
43. If this were to be considered, it must be noted that, as is the case with commercial television the opportunity costs of broadcasting factual content on commercial radio stations may outweigh the attractiveness of content supported by the fund. Any move to extend the fund to radio, therefore, would need to be explored in advance in detail to see whether

commercial radio stations would commission or broadcast such content to ensure it had adequate reach.

Question 3: With regards to ensuring that content is free-to-access and made widely available, what platforms should be available to content funded by the contestable pot?

44. The title of this consultation suggests that the contestable fund is for public service *broadcasting* content.
45. In an ideal world, it is VLV's view that the fund should support the provision of PSB content which is guaranteed to be broadcast in the first instance on a UK free to air linear TV channel and its associated on-demand platform because this would ensure that it is discoverable and achieves maximum potential reach.
46. As younger audiences are increasingly viewing content on online platforms, there would be an additional benefit if the fund focused on broadcast content for them, providing them with engaging content on television platforms because this might help increase their use of traditional DTT platforms, thus supporting its sustainability as a delivery method.
47. However, as stated above, VLV is not convinced that commercial broadcasters with significant reach will commission or broadcast content supported by the fund because of the associated opportunity costs, so this approach may not be viable.
48. If broadcasting on DTT is not viable VLV would support the provision of content on an online platform with a number of caveats, although this would not be ideal. Firstly, there needs to be extensive research to establish which online platform would be most effective at reaching a significant sector of the audience. Secondly, the platform would need to be well branded in order to be identifiable and engaging. Thirdly, this platform would need to be widely promoted to ensure its discoverability.

Question 4: Which of the following broadcasting/distribution criteria should be placed upon qualifying bids?

- a) **Broadcaster/platform guarantee not required in bid**
- b) **Broadcaster/platform guarantee required in bid**
- c) **Award permitted "in principle" subject to broadcaster/platform guarantee within a particular timescale**

49. As stated above, VLV believes that any content supported by the fund should ideally have a guaranteed slot on a linear broadcast channel in order for the content to have adequate impact and reach to achieve the Government's ambitions. Therefore a broadcaster guarantee should be required in all bids or an award could be made in principle subject to a broadcaster providing a guarantee within a six month time period.
50. This provision would not apply to funding provided for smaller companies to develop content ideas as suggested in response to Question 1. This funding should be made available without any platform guarantee but with a view to the content being developed being aimed at a free to air broadcast platform.

Question 5) (i) To what extent do you agree with the pilot administration model (figure 5)?

51. VLV believes that the pilot administration model should be developed once the type of content being funded and the platforms it is hosted on have been decided. Therefore at this stage VLV does not wish to comment extensively on the pilot administration model.
52. If the fund supports the provision of broadcast content VLV would suggest that funding rounds for the contestable fund would need to be announced following broadcaster commissioning rounds, and not at the same time as, as is proposed in the consultation document. We suggest this because, as stated above, we believe any content which receives support from the fund should have a guaranteed slot on a broadcast platform and this guarantee could only be provided once a broadcaster had committed to the programme idea as a result of its commissioning round having been completed.
53. We would also suggest that any *respected industry figures*¹¹ engaged to advise those running the fund should be appointed through a transparent and accountable process.
54. All award processes should also be transparent.
55. The financial operation of the fund should be transparent and subject to auditing by independent auditors. This transparency should apply to talent salaries as well as the overheads involved in administering the fund.

Question 6: To what extent do you agree that the BFI is a lead candidate to administer the fund?

56. It is VLV's view that the decision on whether the BFI is the appropriate lead candidate to administer the fund cannot be made until the focus of the fund is decided.
57. While there would be obvious advantages in commissioning a pre-existing organisation to administer the fund, the chosen organisation needs to have expertise in the funding and commissioning of the specific type of content which the fund is supporting.
58. If it were decided that the fund should support the provision of film content, for example, then VLV believes the BFI would be appropriate because of its expertise in this area. If not, then we question whether the BFI is the best candidate and would want to see further exploration of this issue.

Question 7: Which of the following conditions do you think should be placed on successful funding awards:

- a) **The fund should require matched funding from broadcaster/platform or other commercial partners**
 - b) **The fund should be able to recoup up to the amount granted to a successful programme**
 - c) **The fund should grant money by way of an equity investment**
 - d) **Other, please specify**
59. The conditions placed on successful funding awards should depend on what type of content the fund is aiming to support.

¹¹ *Public Service Broadcasting Contestable Fund Consultation*, page 19 (DCMS, December 2016).

60. If the fund restricts itself to funding broadcast content then VLV believes that it should require matched funding from the primary broadcaster. This would indicate a strong commitment from the broadcaster and would ensure that the content in question would be promoted by the broadcaster because to ensure its reach.
61. If the fund supports content which is provided on online platforms it is likely that the contestable fund would have to fully fund the projects unless appropriate commercial sponsorship.
62. VLV believes the fund should be able to recoup income from secondary sales of the content either through retaining an equity share in the finished programme or a recoupment clause in the agreement with the producer. In principle, in order to encourage producers to invest in content and grow, we would suggest that the fund does not recoup more than the original award.

Question 8: Which of the following criteria should the fund consider in respect of judging bids for funding?

- a) Quality
- b) Innovation
- c) Additionality
- d) Nations and Regions
- e) Diversity
- f) New Voices
- g) Other, please specify

63. VLV considers that all these criteria should be followed when judging bids for funding although it must be noted that judgements of quality and innovation are notoriously difficult to quantify.
64. As stated above, VLV proposes that the fund should support the provision of UK specific content for 10-14 year olds, ideally on free to air broadcast platforms. Such content should be high quality, innovative, it should reflect the nations and regions of the UK, it should appeal to a diverse range of audiences and fully reflect the diversity of the UK's population. It should also, through the creation of a programme development fund, provide the opportunity for audiences to be engaged with new talent and new voices.
65. In light of the fact that the contestable fund has been devised to provide support for content which is in market failure, additionality is a crucial criterion.

Question 9: How can "additionality" (i.e. ensuring the funding is not replicating funding that would otherwise have been available) best be assessed?

66. VLV considers that a primary method to assess additionality is to ensure that the content which is supported by the fund is not already available either prominently on online sites or on a broadcast platform, genuinely innovative and that it is genuinely public service content. With reference to VLV's suggestion that the fund should support content for 10-14 year olds, we believe the definition of public service content in this context is engaging and accessible content designed for the target age group which both informs and educates in a culturally specific manner. It should be content which is produced in the UK, with a UK-specific focus which is relevant to young people growing up across the UK today.