

Review of public service broadcasting in the United Kingdom: the debate between Ofcom and the BBC

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- *This article analyses the public service review carried out by Ofcom, the regulatory body for the broadcasting and telecommunications market in the United Kingdom. The Ofcom Review of Public Service Television Broadcasting was a consultation carried out in three phases from 2004-05 based on an analysis by Ofcom that contained some liberalising proposals. This led to intense ideological debate with the BBC, contained in this article, and shows the need for decisive public intervention in the broadcasting sector. Finally, this review concluded, among other issues, that it was necessary to maintain the public service nature of all television broadcasters, whatever their type of ownership. titularitat.*

Keywords

Public service, digitalisation, Ofcom, BBC, United Kingdom, broadcasting market

Overall context of the broadcasting sector in the United Kingdom

Until the nineties, it could be said that the British television model was a hybrid between the system of continental Europe and the USA. In the countries of the (at that time) European Community, television was a service controlled by public monopoly, while in the USA a private system of oligopoly was established from the start, with limited competition. Liberalisation in the nineties, prior to digitalisation, got rid of the public monopolies in the European states and multiplied the number of television channels on offer in the USA.

In the United Kingdom there is a very powerful public sector (BBC), used to competing with the private sector (ITV, since 1954) since it was established. In 1981 a new licence was granted to Channel 4, a public limited company financed, however, through advertising. Since the start of broadcasting in the United Kingdom, legislation established that it was a public service, whoever owned the broadcaster. So both public television broadcasters (BBC, Channel 4 and S4C) and private television broadcasters (ITV and Five) are public services by law and are subject to regulations that list their specific obligations.

The BBC, Channel 4 and S4C have free access to use the radio spectrum (a limited public resource), a circumstance that imposes on them extra requirements with regard to production and programming. For their part, ITV and Five have a subsidised access to the spectrum (paying less than the price the government could make them pay in accordance with the return they might make on it). In 2003, ITV paid a total of 239 million pounds (358 million euros), while Five paid 33 million (49.5 million). The public service obligations held by these broadcasters, although expensive, are less demanding than those of the BBC or Channel 4. On the other hand, the BBC is the only broadcaster that receives a

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direct subsidy by means of a licence fee which, according to Ofcom data, in 2004 totalled 3,000 million pounds (4,500 million euros).

S4C is the Welsh language channel, created in 1982, which broadcasts some hours in the day using the frequency of Channel 4 in Wales. It receives a direct subsidy from the Department of Culture, Media and Sport of the British government.

But as a result of digital migration or the *switchover*, in British terminology, the public service model valid for fifty years brought up some unknown factors. Digitalisation reduces the value of using a limited resource such as the spectrum (a privilege that, on the other hand, obliges broadcasters to comply with expensive public service obligations). Moreover, commercial broadcasters (ITV and Five) compete in an increasingly more fragmented

Table 1. Main characteristics of the British television system up to 1996

	Year created	Ownership	Funding	Spectrum access
BBC	BBC1: 1922-27 * BBC2: 1964	Public	Fee	Free
ITV	1954	Private	Advertising	Subsidised
Channel 4	1981	Public	Advertising	Free
Five	1996	Private	Advertising	Subsidised
S4C	1982	Public	Subsidy and advertising	Free

Source: Ofcom.

* The British Broadcasting Company (sic) was created in 1922. The first Royal Charter (the BBC's licence that establishes its duties and obligations) came into force on 1 January 1927 and established its definitive name, British Broadcasting Corporation.

Table 2. Total spend on programming of the five PS broadcasters (BBC, ITV, Channel 4, Five and S4C) (In millions of pounds and 2002 prices. £1 = €1.5)

	1998	1999	2000	2001	2002
Network peak-time	1,219	1,255	1,260	1,327	1,418
Network non-peak	967	1,025	1,095	1,100	1,150
Regional all hours	296	321	342	363	384
TOTAL	2,482	2,601	2,697	2,790	2,952

Source: Ofcom.

advertising market and are suffering from reduced income and therefore a reduction in their capacity to produce the public service as established by law.

Notwithstanding this, public service channels increased their spending on programming by 19% in real terms between 1998 and 2002. But if we exclude sports and film rights (where prices soared), growth in spending was only 8% in real terms. Consequently, some areas have reduced their budgets, such as art and culture, religion, children's programming and education. In total, the British television industry generates revenue of over 9,000 million pounds (£9bn) and invests almost 5,000 in programming, 2,500 of which is for the original production of programmes by the five main channels (see tables 3, 4 and 5).

The Communications Act 2003 and the definition of public service broadcasting

On 17 July 2003, the British crown passed the Communications Act 2003 (CA 2003)¹, an initiative by Blair's government to unify and update legislation on broadcasting. One of the novelties of this act was the creation of a single regulatory authority, the so-called Office of Communications (Ofcom). Ofcom has authority both in broadcasting and in telecommunications and has therefore taken on the functions of the earlier regulatory bodies, which were dissolved.

In chapter IV, CA 2003 defines public service (PS) as a public policy that must be widely implemented in the British broadcasting market. This includes legislation, regulation and public funding of the service. PS also covers all those terrestrial channels with a licence, as well as the kind of

Table 3. Total spend by genre of the five PS broadcasters (BBC, ITV, Channel 4, Five and S4C). 2002
(In thousands of pounds. £1 = €1.5)

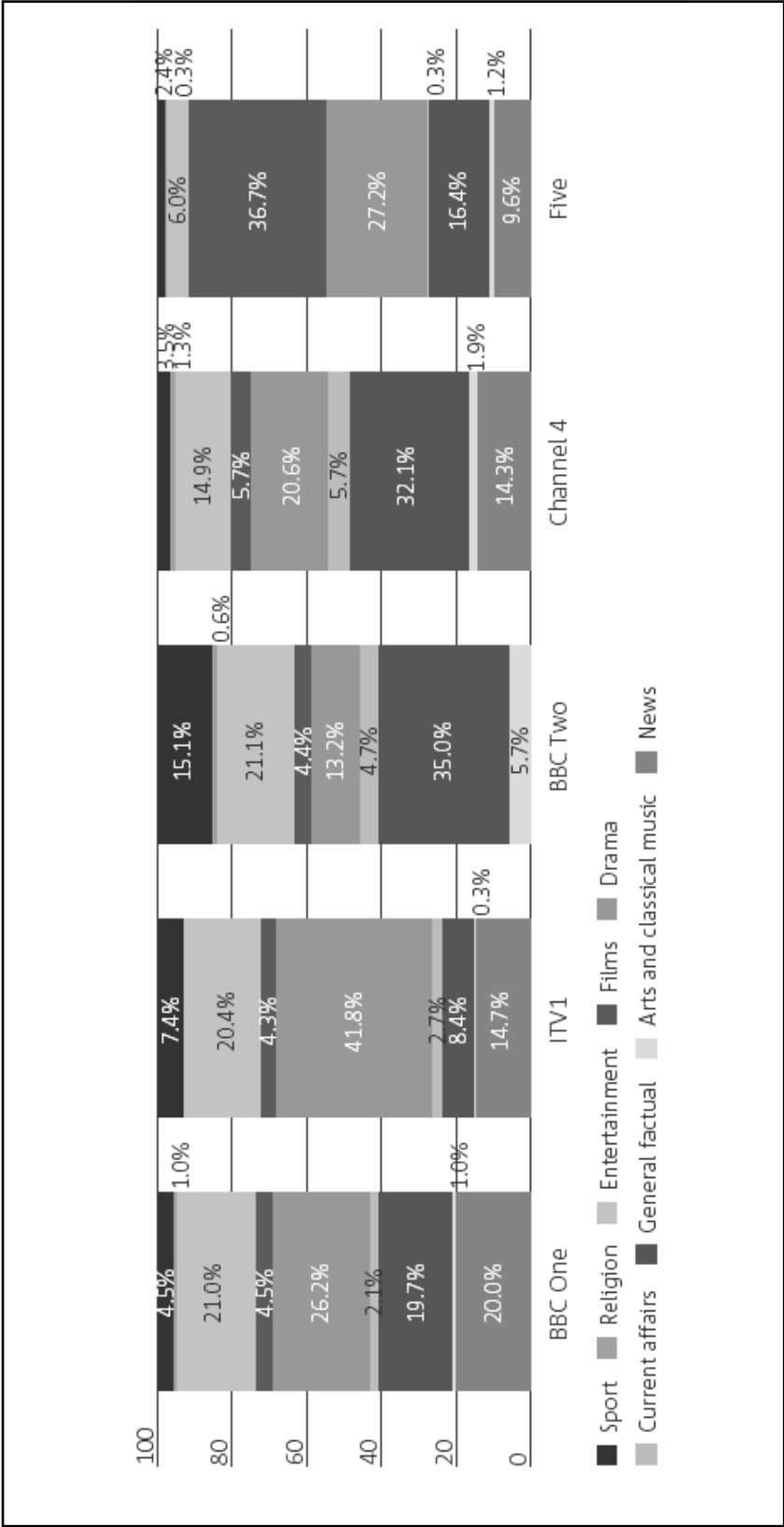
Genre	Total spend	Spend/ hour *	% variation since 1998
News	175,000	34	13%
Current Affairs	84,000	62	8%
Parliament	8,000	44	10%
Arts	49,000	93	-1%
Children's	111,000	23	-7%
Religion	19,000	49	-20%
Factual	357,000	58	0%
Education	8,000	3	-58%
Drama	669,000	129	16%
Films	165,000	30	3%
Entertainment	411,000	80	12%
Sport	512,000	102	90%

Source: Ofcom.

* Average cost of spend of producing programmes by the five channels: 61,000 pounds per hour.

1 Communications Act 2003. <<http://www.opsi.gov.uk/acts/acts2003/20030021.htm>>

Table 4. Television genres by channel in peak-time. 2002 (excluding regional output)



Source: Ofcom.

programmes these channels must produce and broadcast in accordance with the licence they have been given.

The proposals for PS broadcasting established by the CA 2003 are:

- High quality: the production of programmes must have high quality standards.
- Diversity: the programming must deal with a wide range of themes.
- Multicultural: the languages and social groups of the United Kingdom must have access and representation on public service broadcasting.
- Decentralisation: broadcasting policies must reinforce production outside the M25 area (London). Centralised studies and vertical integration in production might be a consequence of the old duopoly.
- Originality: content must be first-run and British produced and not repeats or programming acquired from abroad.
- Attractive nature: if the programming receives public fun-

ding, it must reach a wide majority of citizens, it must be accessible and entertaining.

- Mass audience: broadcasting as a whole must serve the widest audience possible across the different timebands of the day and by means of different kinds of programmes (peak-time in Britain is from 6pm to 10.30pm).
- Innovation: programming must offer new ideas or reinvent already established approaches and not copy old programmes or approaches.
- Challenging: it must always make viewers think.

As in other states of the European Union, the United Kingdom applies a policy of quotas that Ofcom must supervise flexibly. The following types of programming are supported and monitored:

- Programming that reflects the cultural activity of the United Kingdom (be it through drama, comedy, culture, music or film).

Table 5. Production quotas per calendar year. Terrestrial analogue channels (% of hours)

	BBC1	BBC2	ITV	Channel4	Five
Independent	25%	25%	25%	25%	25%
Total original ⁽ⁱ⁾	70%	70%	65%	60%	51% ^(v)
Original in peak-time	90%	80%	85%	70%	42%
Regional production ⁽ⁱⁱ⁾	25% across all BBC channels	see BBC1	33%	30%	10%
Regional production (% of expenditure)	30% across all BBC channels	see BBC1	40%	30%	10%
Regional programmes made in and for the region ⁽ⁱⁱⁱ⁾	95% BBC1 and BBC2 together	see BBC1	90%	-	-
European production ^(iv)	50%	50%	50%	50%	50%
European independent production	10%	10%	10%	10%	10%

Source: Ofcom.

(i) Includes repeats.

(ii) Production outside the M25 (London), including repeats.

(iii) Percentage of all regional programming.

(iv) The Televisions Without Frontiers directive excludes news, sport and game shows from the quota for European production.

(v) By 2009 it must be 60%.

Table 6. Programme quotas per channel per week (including repeats). Terrestrial analogue channels (In hours:minutes)

	BBC1	BBC2	ITV ⁽ⁱ⁾	Channel4	Five ⁽ⁱⁱ⁾
Network (not regional)					
News & weather	26: 28 ^(v)	No quota	7: 00 ^(vi)	4: 00 ^(vi)	9:00 ^(vii)
Current Affairs ⁽ⁱⁱⁱ⁾	7: 00 ^(viii)	^(viii)	1: 30	4: 00	2: 30
Religion			2: 00	1: 00	1: 00
Children's total			7: 30 ^(ix)		10: 56
Children's drama			1: 26		0: 46
Children's information			1: 00		9: 10 ^(x)
Pre-schools			1: 21		^(x)
Documentaries ^(iv)			1: 45		2: 00
Education ^(iv)			1: 45	7: 00	3: 00
Arts ^(iv)			0: 45		0: 30
Schools				6: 20	
Multicultural				3: 00	
Network total	33: 28 ^(viii)	^(viii)	22: 15	25: 20	29: 40
Network peak-time					
News	5: 16	No quota	2: 24	4: 00	2: 41
Current Affairs	2: 00 ^(viii)	^(viii)	0: 40	1: 32	0: 12
Regional	126: 12 ^(viii)	^(viii)			
News			5: 30 ^(xi)		
Current Affairs			0: 26 ^(iv)		
Other regional			2: 34 ^(iv)		
Regional total			8: 30 ^(iv)		
Regional peak-time			3: 17 ^(xii)		

Source: Ofcom.

(i) All programming (except external production) transmitted from 9.25am to midnight, except for Religion, which includes transmissions up to 1am.

(ii) All programming (except external production) transmitted from 6am to midnight.

(iii) Excludes consumer programmes.

(iv) Indicative targets only for ITV and Five.

(v) Includes *Breakfast news*.

(vi) Excludes *Breakfast news*.

(vii) Includes *News Headlines*.

(viii) BBC1 and BBC2 together, all regions.

(ix) Children's programmes including acquired should amount to not less than ten hours per week on ITV.

(x) Includes pre-schools.

(xi) First-run programmes only, shown between 9.25am and 12.30am. These figures are for a typical English region. Each ITV Nation and Region has specific quota obligations, some of which are higher than these standard hours. The BBC regional programme quota applies in total across all Nations and Regions with no individual quota requirements set, although some separate targets are given in the *BBC Statement of Programme Policy 2005-06*³, in the section "Nations & regions".

(xii) This figure includes the requirement for a regional or sub-regional news programme of 30 minutes' duration each week-day plus the commitment to a number of other slots in peak-time on weekdays and weekends as specified in the ITV Charter.

- News and current affairs (British and international).
- Sport and leisure.
- Education.
- Science.
- Religion (including liturgical acts).
- Programmes about social and international issues.
- Children's programming.
- Programming that reflects the different communities, interests and traditions within the United Kingdom (including aspects of local communities).

The BBC

As established by section 198 of the Communications Act 2003, Ofcom regulates the BBC in accordance with the precepts of the *Royal Charter* and of the *Agreement*. The *Charter* is the royal licence defining the obligations of the

British public corporation. The *Agreement* is the detailed agreement between the BBC and the government deriving from the *Charter*, recognising the editorial independence of state media and detailing public service duties.

The *Charter* is valid for 10 years, which allows the government to redefine the role, functions and structure of the BBC after a certain period of time. The eighth *Charter* was approved in 1996 and ended on 31 December 2006. In order to renew the BBC's licence, on 9 March 2005 the House of Lords created the committee to draw up the new attributions for the Corporation. This committee carried out a series of consultations with the people involved, among whom of particular note was the BBC itself, Ofcom and the Department of Culture, Media and Sports of the British government, the ultimate political body responsible for the Royal Charter³. Her Majesty Queen Elizabeth renewed the licence on 19 July 2006 and it came into force on 1 January 2007. This document has around thirty pages listing the general

Table 7. Production quotas per calendar year for the BBC digital channels (% of hours)

	BBC3	BBC4	CBeebies	CBBC	News 24	Parliament
Total original *	80%	around 70%	around 80%	70%	90%	90%
Original in peak -time **	70%	50%				
European	90%	around 70%	around 90%	around 75%		
Independent	25%	25% across all remain ing channels				
Regional production	25% across all channels					
Regional production (% of expenditure)	33% ***	30% across all remaining channels				

Source: Ofcom.

* Original programming on CBeebies, CBBC, News 24 and Parliament includes repeats of commissioned programming first shown on any BBC public service channel. On BBC Three & Four it excludes such repeats.

** 'Peak-time' for BBC3 and BBC4 is defined as 7pm to midnight. Elsewhere it means 6pm to 10.30pm.

*** Since 2004, BBC3 has a specific commitment to 33% regional production expenditure.

3 Documentation on the renewal of the *Royal Charter*: BBC: <<http://www.bbc.co.uk/thefuture/charter/charter.shtml>>
Department of Culture, Media and Sports: <<http://www.bbccharterreview.org.uk/>>
Specific website: <<http://www.bbccharterreview.org.uk/>>

principles that must govern the BBC. In any case, serious debate on the future of British public television revolves around the nature of its funding. And this was one of the key issues of Ofcom's consultation.

By law, each home with a television set must pay a licence fee, which in 2004-05 cost 121 pounds (185.50 euros). Thanks to this tax, in 2003-2004 the BBC obtained a total of 2,820 million pounds (4,230 euros), 408 of which were from a direct subsidy from the government, which pays the fee for citizens aged over 75. In any case, as is always the case with taxes, there are pockets of fraud that are difficult to quantify.

The BBC's total expenditure in 2003-2004 was 2,994 million pounds, 4,491 million euros (this figure includes overheads, transmission costs and fee collection). The shortfall between the revenue from the licence fee (2,820 million pounds) and the expenditure (2,994 million pounds) is covered with commercial income and a deficit. With regard to television services, Ofcom calculates that expenditure totals 2,320 million pounds (£3,480 million).

It is within this context of technological changes, transformations in the market and with two reviews of public service that the BBC published its future positioning, *Building Public Value*. In this document, the BBC defines public

service targets along three lines:

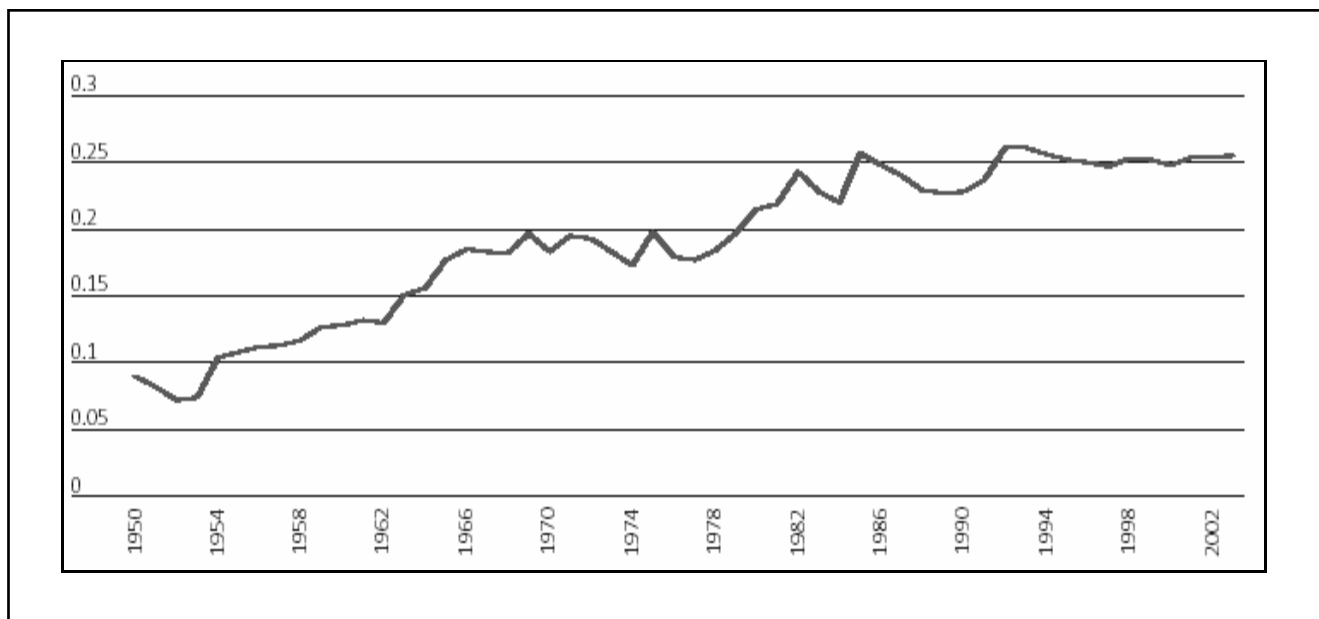
- Generating value for people as individuals.
- Generating value for society as a whole (for people as citizens).
- Generating value in the market by increasing its economic performance.

The BBC recognises the difficulties involved in measuring the public value of its services and proposes applying a number of alternative measures, such as weekly reach, programme diversity, audience appreciation, audience size and expert evaluation.

In an unregulated context of digitalisation, the BBC could become almost a monopoly supplier of public service. In Ofcom's opinion, this would not be a good evolution: the lack of competition in PS programming could lead to self-complacency, inefficient production, a lack of innovation, low quality programming, a lack of variety of points of view and loss of PS programming for certain groups. Given the need to maintain and reinforce PS quality, this scenario would not favour the interests of society nor the interests of the BBC.

On the other hand, the BBC must exercise a significant

Table 8. Percentage GDP of the United Kingdom used for fee (in percentages)



Font: Ofcom.

Table 9. Cost of BBC television services. 2003-04 (in millions of pounds. £1 = €1.5)

Costs per TV service *	
BBC 1	812.3
BBC 2	365.2
National and regional TV	212.3
BBC 3	99.4
BBC 4	35.2
Cbeebies and CBBC	46.2
BBC News 24	23.5
BBC Parliament	2.5
Interactive TV	15.3
Costs per programme	
News	73.5
Marketing, advertising and events	42.4
On-air trials and navigation	18.4
Market research	11.4
Special programmes (marathon, etc.)	64.2
Administration	258.9
Fee collection	119.8
Transmission costs	120.8
TOTAL	2,321.4

Source: Ofcom, from the BBC Annual Report 2003-04.

* BBC 1 is the Corporation's general open channel.

BBC 2 is the second open channel.

BBC 3 is the channel specialising in innovation, aimed at a younger audience.

BBC 4 is the cultural channel with more intellectual content.

Cbeebies is the didactic channel for children under 5.

CBBC is the channel for children aged between 6 and 12.

BBC News 24 is the news channel.

BBC Parliament is the channel with parliamentary information.

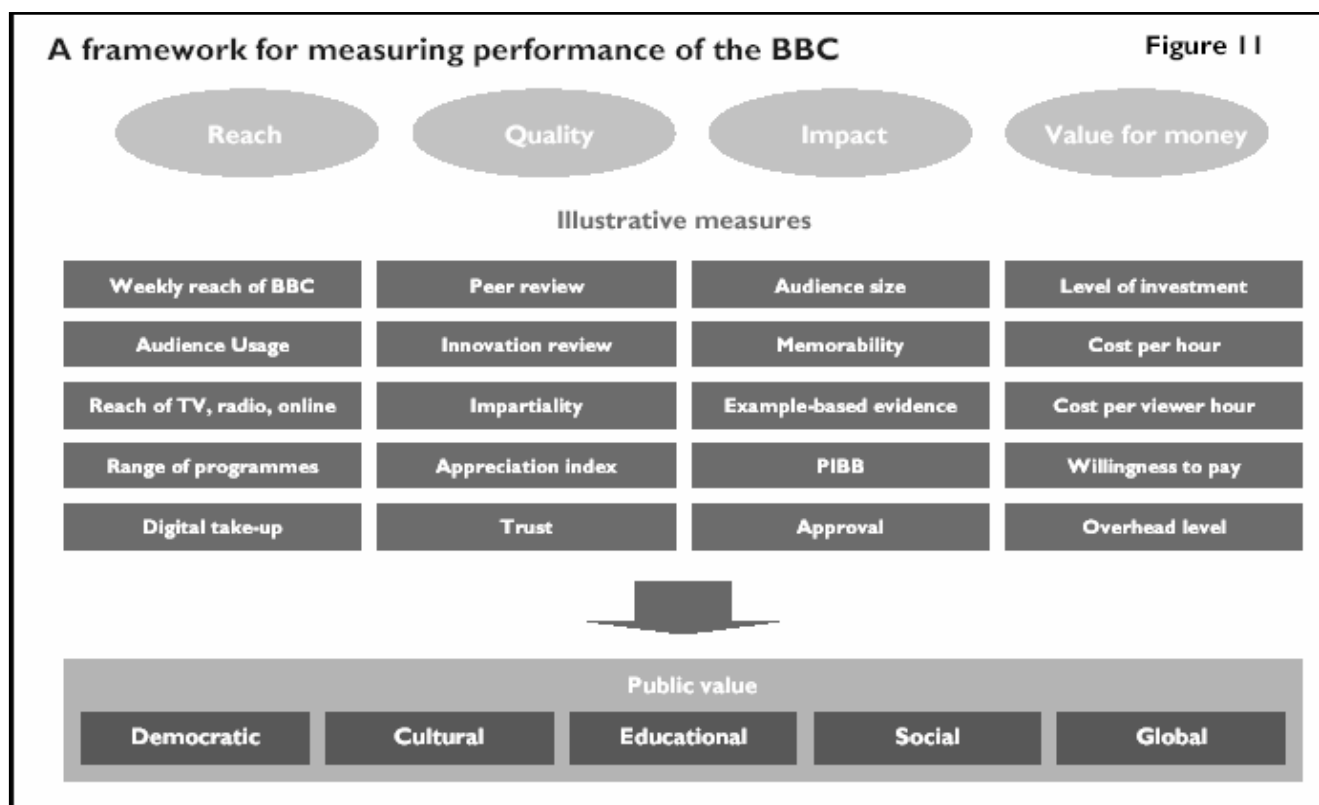
role in reflecting the nations and regions of the United Kingdom. In the early nineties, programming produced outside London for the BBC accounted for one fifth of its hours of transmission. In 2003, the percentage of production from the regions and nations reached 31% of all the Corporation's television services, accounting for 33% of production expenditure. However, this degree of decentralisation is not considered enough and the Board of Governors expressed their concern that the 2003-2004 did not broadcast enough material from the BBC Nations.⁴

One of the future commitments of the BBC is along these lines and this is explained in the document *Building Public Value*. The proposed local and regional content expressed by the Corporation is:

- Reinforcing services to Scotland, Wales and Northern Ireland, including an ongoing commitment to all languages of the United Kingdom.
- Sub-regional television news services for 50-60 cities and counties throughout the United Kingdom, initially provided on broadband and possible afterwards by digital television.

⁴ BBC (2004), *Annual Report and Accounts 2003/2004*.

Table 10. The BBC's proposal for measuring public service



Source: BBC, *Building Public Value. Renewing the BBC for a Digital World*.

Table 11. Comparison of the public service proposals of Ofcom and the BBC

Ofcom's PS targets	The BBC's PS targets
• Inform us, ourselves and others. • Awaken our interest and knowledge. • Reflect and reinforce our cultural identity. • Get us up-to-date with the different cultures and alternative points of view.	• Democratic value: provide reliable and impartial news and information. • Educational value: build a strong society in knowledge and skills. • Cultural and creative value: enhance the United Kingdom's cultural life. • Social and collective value: relate communities. • Global value: support the United Kingdom's role in the world.

Source: *Ofcom PSB Review* i *BBC, Building Public Value*.

- Creating more opportunities for citizens to participate and get involved in local communities, thanks to the possibilities offered by new technologies.

Point of departure for the OFCOM consultation: deregulating the market

Public service broadcasting in the United Kingdom has continued over the last half century thanks to a combination of institutions, funding and regulation that mutually reinforce each other. The point of departure for Ofcom's consultation suggested that this environment would change radically over the next few years. Digitalisation will increase the channels distributing broadcasting content (TDT, broadband, personal video recorder or PVR, etc.). This will lead to greater competition and a gradual fragmentation of the advertising market. In this context, the funds available to broadcasters to meet their public service obligations will decrease. Moreover, the fragmentation of audiences may weaken justification for public funding, direct or indirect, for broadcasters. How can funding be justified for a service that fewer people watch and consequently has less social impact? If the BBC's audience gradually diminishes, doubts could be raised as whether the Corporation should continue to be financed.

On the other hand, added Ofcom, digitalisation will transform broadcasting consumption habits, that will no longer be so uniform or attract such large audience numbers. It should be noted that, by way of example, non-one had a digital television at the beginning of 1996. In 2005, however, 50% of households had digital equipment giving them access to a wide supply on TDT, cable and/or satellite. And another relevant figure from 2004 is that the overall audience for digital supply was larger than any analogue channel to multi-channel homes.

A revealing figure is that, in 2005, the subscriber revenue for BskyB was greater than the BBC licence fee. The total revenue for the television industry increased 11% between 1998 and 2002, but for public service terrestrial channels their share of this revenue fell from 65% to 57%.

These trends in the advertising market create difficulties for the historic agreement on public service offered by private broadcasters. By virtue of this agreement, commercial

broadcasters such as ITV and Five were prepared to comply with the PS obligations and pay the government for broadcasting licences. In exchange, the broadcasters enjoyed the privilege of using the analogue spectrum at a lower price than the spectrum scarcity value. The economic value of this privilege is the implicit funding received by public service commercial broadcasters.

But as audiences become fragmented in a digital environment, the value of this privileged access to the analogue spectrum diminishes. Analogue advertising is no longer the only source of revenue for commercial broadcasters and perhaps isn't even the main source.

In any case, Ofcom's perception of the future is clearly optimistic. According to the British regulator, there have been two basic objectives to date that justified public intervention in the broadcasting sector:

- On the one hand, it was a question of guaranteeing that the market worked effectively, in order to guarantee **consumers'** right to access all the content they wanted to see.
- On the other hand, regulation had to ensure broad social values and objectives for British **citizens** as a whole (such as ensuring an informed democracy and cultural identity).

With regard to the commercial aspect, Ofcom argues that digitalisation will multiply consumers' options. So a competitive market will encourage broadcasters to provide quality, innovation, variety and the possibility to choose in their search for viewers and advertisers. According to the regulator, as the analogue shut-down comes closer, the United Kingdom's broadcasting market will work increasingly efficiently to provide what consumers want and can pay for. Market failures of the past, associated with broadcasting's "public good" nature, spectrum scarcity, the lack of direct payment mechanisms and the lack of consumer information will significantly decrease.

Moreover, Ofcom believes that the new digital technologies will probably have a profound effect on how we watch television:

- In the next decade, gradually digitalisation will mean that the whole British population will have access to at least 30 broadcasting services.
- It is increasingly probable that the population will want to

Table 12. Television audiences of the United Kingdom. 1998-2003 (in percentages).
Comparison between the overall percentage and that of multi-channel homes (MCH, receiving TV by satellite, cable and/or TDT)

	BBC1	BBC2	ITV	Channel4	Five	Other
1998						
Overall	29.5	11.3	31.7	10.3	4.3	12.9
MCH	21.5	6.7	24.5	6.8	3.2	37.2
1999						
Overall	28.4	10.8	31.2	10.3	5.4	14.0
MCH	20.8	6.5	24.5	6.9	4.3	37.0
2000						
Overall	27.2	10.8	29.3	10.5	5.7	16.6
MCH	20.0	6.6	22.3	7.2	4.2	39.8
2001						
Overall	26.9	11.1	26.7	10.0	5.8	19.6
MCH	20.2	6.8	20.5	7.0	4.3	41.2
2002						
Overall	26.2	11.4	24.1	10.0	6.3	22.0
MCH	20.0	7.1	19.7	7.1	4.6	41.5
2003						
Overall	25.6	11.0	23.7	9.6	6.5	23.6
MCH	19.3	7.0	19.2	6.9	4.7	42.9

Font: Ofcom.

choose the time, place and pace at which they want to watch television.

- Broadband and high-speed internet (more than 2 megabits per second) will allow on-demand broadcasting services and new types of interactivity.
- Improvements in digital compression technology will at least double the number of channels in the future.
- Wireless network communications will distribute the media throughout the home.
- Mobile devices will be increasingly used to watch television services.
- The perfecting of flat and plasma screens will improve vision and high definition TV will create new opportunities in the medium term.
- Homes will be equipped with multimedia servers that will personalise the content to be consumed and will allow efficient storage and access. Digital videos or personal

video recorders (PVR) will be increasingly common.

- Electronic programming guides (EPG), increasingly more perfect, will add new and powerful functions to TV consumption.
- The development of payment systems may create different types in which viewers pay according to the content they wish to access.
- In the medium and long term, traditional television programming may be displaced by totally on-demand services.

The BBC's response: regulation is necessary

The response of the BBC to Ofcom's optimistic predictions is particularly categorical and it is worth mentioning this in detail.⁵ The BBC says it understands the theoretical arguments of the consumer-citizen model proposed by the

⁶ The BBC's response is available at: <http://www.ofcom.org.uk/consult/condocs/psb/responses/a_c/bbc.pdf>

regulator but warns that this distinction should not be pushed too far for several important reasons.

Firstly, the BBC observes that all broadcasting services are "public goods", be they digital technology or analogue. From an economic point of view, they have very high fixed production costs and the marginal cost of supplying this good or service to successive individuals is effectively zero, once the original production costs have already been incurred. The Corporation gives the example of street lighting and national defence, which "share this characteristic with broadcasting". To give a specific example, the BBC quotes the programme *Blue Planet*, which cost £6 million (around 9 million euros) to make, but then the same amount to provide to 250 homes as to 25 million. And the fact that a viewer sees this programme does not stop others from seeing it as well. All this means that broadcasting is a non-rivalrous good, i.e. its consumption by one individual does not reduce its availability for others.

The problem, continues the BBC, with market determined prices for public goods is that the price will tend to be higher and the quality lower. As is obvious, this circumstance does not favour the consumer-citizen. Therefore, the proposal of a public good such as broadcasting distributed by means of a pay-per-view system is a contradiction that would distort the correct functioning of the broadcasting market to date: the consumer only has to pay individually for those goods and services that have high marginal costs (a watch, a specific financial audit, etc.)

But in the broadcasting sector, the (fixed) production costs for quality content remain invariable in a digital context, in the same way as (marginal) distribution costs will continue to be almost zero for each new viewer. Consequently, digitalisation will not change the framework nor will it require public service in broadcasting to be redefined, given that it will continue to be a public good in the economic terms employed.

And with regard to content, Ofcom's very conclusions state that there is a great coincidence between the type of

programme valued personally by viewers and that considered important by society. Moreover, as recognised by Ofcom itself, in order to comply efficiently with the public service proposals, broadcasters must achieve a critical mass of consumers that watch their programmes and are sensitive to their influence. It does not make much sense to have a PS that does not reach broad layers of the population or that acts on the periphery of the market: it could not comply with its ambitious public proposals. One of the strong points of television broadcasters such as the BBC and ITV is their capacity to attract large audiences with serious programming that invites people to think.

The BBC does not accept Ofcom's conclusion, according to which digitalisation will lead to an automatic improvement in how the market works, that it will weaken the justification for public intervention to guarantee the supply of public service. Ofcom's report states that the market will gradually provide the content demanded by consumers. As from this point, Ofcom believes, the laws of free competition will be more effective than large-scale public intervention in broadcasting. Ofcom bases its arguments on the fact that the end of spectrum scarcity (because of digitalisation) will reduce barriers to the market and that subscriber and pay-per-view technology will allow channels to charge for television content, just like other consumer products.

The BBC does not dispute that, all things being equal and transparent, competitive markets tend to lead to *economically efficient* outcomes for consumers.⁶ However, while the market operates well for allocating *normal* private goods, it does not do so for all goods. Once the economic conditions required for a free market fail to hold, market forces may no longer guarantee an optimal outcome for consumers. It is the failure of markets to function optimally under certain conditions that provides the rationale for significant public intervention on efficiency and consumer welfare grounds. Without such intervention, there is a real danger that consumers will receive less of what they value and pay more for it.

6 Economic efficiency requires a number of conditions to be met:

- A particular good or service should be *produced efficiently* i.e. a given quantity of a good of a given quality should be produced at the lowest possible cost.
- A good or service should be *used efficiently* - everyone who values a good or service more than its cost of supply, should consume the good or use the service.

And the potential for market failure exists in the broadcasting industry for a number of reasons:

- Economies of scale increase the value of investment and its returns, which create a tendency towards private oligopoly.
- Broadcasting involves the creation of externalities that are not fully reflected in market prices.
- In a free (or not sufficiently regulated) market, informational deficiencies and the lack of guarantees lead to sub-optimal levels of demand for quality output.

As the digital revolution unfolds, it is becoming clear that the reasons for market failure in UK broadcasting are likely to persist. This is primarily due to the enduring economic nature of broadcasting and the structural features of the UK market. In the BBC's opinion, Ofcom's assessment of the likely evolution of broadcasting in the digital age is incomplete and risks:

- Over-estimating the extent to which digitalisation will lower barriers to entry. Thanks to digitalisation, excludability will be reduced, but in no case will the market failures that require public intervention be overcome;
- Under-estimating the extent to which audience fragmentation is changing the economics of broadcasting and the implications this may have for programme quality and range;
- Being too optimistic about the extent to which the growth of pay-TV, which represents the increasing marketisation of broadcasting provision, will deliver an optimal outcome for consumers;

The BBC states that it is not convinced that the analytical framework contained in Ofcom's report is sufficiently detailed or comprehensive to provide a firm basis for its conclusions. The financial report, for example, appears to treat each market failure in isolation and gives no serious consideration to the complex interactions between them. The production and distribution of television occurs in the context of multiple market failures. The highly concentrated structure of broadcasting markets, for example, has clear implications for the public goods problem.

A key theme for Ofcom's conceptual framework is that the deficiencies currently associated with commercial television will be much less likely in an environment funded by

subscriptions, in which consumers will establish a direct transactional relationship with the broadcaster. Notwithstanding this, the BBC's sentence in this respect is clear: Ofcom's analysis has a long way to go to demonstrate that the growth of pay-TV will deliver an optimal outcome for UK consumers and sufficient investment in a range of original home-grown programming.

To date, argues the Corporation, digital platforms (TDT or satellite) have not added significantly to the sum total of UK original programming or investment in expensive genres such as high-end drama, serious factual and comedy. Ofcom's report and independent research for the BBC are clear that individuals as consumers greatly value such types of content and also expect a balanced diet of different types of programme; a high proportion of programmes made in the UK; and a high proportion of first-run programmes. Data repeatedly show that consumers rank British soaps, comedy and drama well above their American equivalents. There is a clear risk that the fragmentation of audiences and revenues across an ever-wider range of digital services will exacerbate rather than address this problem.

The situation around the world suggests that competition between pay-TV broadcasters is difficult to sustain in all but the very largest market, the USA. Most countries see rival platforms merge or collapse yielding one dominant pay TV broadcaster. The tendency for pay-TV markets to gravitate towards monopoly may well reinforce their bias away from investment in originated programming as the major incumbent broadcasters seek instead to enhance their margins.

Moreover, the data suggest that pay-TV may simply not be able to deliver sufficient levels of originated content even within a competitive market structure. Pay-TV markets tend to rely heavily on feature films and sport to drive penetration and revenue per head. While pay-TV might provide one useful outlet, among many, for feature films looking to recover costs across a range of distribution platforms, it has limited ability to cover the high fixed costs of domestic output made primarily for TV consumption. Even the much-praised HBO in the USA makes just 80 hours of original TV programming a year.

Most pay-TV channels in the UK are able to invest only modestly in original UK content and are heavily dependent on lower-priced imports and archive repeats. Pay-TV still has significant platform delivery and distribution costs that

reduce the proportion of monies paid that eventually finds its way back into programme investment. While the UK's traditional terrestrial broadcasters invest over 55% of their income in original UK content, the relatively developed British pay-TV sector invests only 3% of its revenues (or about £105 million per year; around 157.50 million euros)⁷ in original domestic content. In the USA, the leading subscription channel HBO recycles just 10% of gross revenues into new television programming.

Conclusions: the notion of public service is reinforced

First of all, it is interesting to note that both the Communications Act 2003 and all Ofcom's documentation make it clear that all television broadcasters, whatever their ownership, are a public service subject to conditions and regulations. The switchover to digital modifies significant aspects of the broadcasting market but at no time is it proposed that public service is an obsolete notion. Neither does Ofcom wish to create a *public service islet*, restricting this set of obligations to a single state-owned broadcaster. Quite the opposite - it insists that there must be a variety of public service suppliers.

The data obtained from the *Ofcom Review of Public Service Television Broadcasting* show that the public are in favour of the current level, variety and funding of public service provision. This guarantees that there are high original production levels in the United Kingdom at peak-time and a large audience for PS programming.

In any case, even if the television market offered all the programming consumers wanted and they are prepared to buy, it would probably not offer enough programmes with value for society as a whole. Consequently, public service will play a key role in an increasingly more complex society, with growing problems of cohesion, at a time when cultural identities are being reformed and when democratic processes are under pressure.

The aim of public service broadcasting is, in some way, comparable with education: underpinning an informed society, reflecting and strengthening cultural identity, stimulating the appetite for knowledge and in building a tolerant, inclusive society. The way to do so is through innovative and high quality programming.

But producing PS with these parameters is not enough. Public service must also reach wide groups of the population in order to justify the public funding it receives. This means that public service must dialogue with the audience's changing tastes in order to continue being a mass medium that contributes to cohesion.

From this point onwards, Ofcom states that defining public service by specific genres is a very narrow view and that it should rather be defined in terms of its overall purposes and characteristics. Many of the most successful examples of broadcasting over the past five years have defied traditional categorisation and have more to do with drawing up programming that attracts a mass audience and that, at the same time, transmits public service values. Mass audiences, one of the objectives to justify PS, are drifting away from specialist arts, religious and current affairs programming. For Ofcom, it is difficult to defend these programmes without audience as public service vehicles. Consequently, we might say that the **public service broadcasting is not a series of specific programmes but a programming strategy**.

Regulation must therefore establish and apply a broader, more flexible framework that measures more qualitatively if programme meets the requirements of public service. It would be an error to maintain the narrow obligations of quotas of programmes by genre at different timebands.

In general, Ofcom's consultation evoked broad consensus for certain points:

- Television provides significant benefits both for society in general and for individual consumers. The BBC's response to the consultation is in the document *Building Public Value. Renewing the BBC for a Digital World*⁸. On this point, it states: "Broadcasting is a civic art. It is intrinsic

7 Excluding news, sport and home shopping.

8 BBC (2004). *Building Public Value. Renewing the BBC for a Digital World* <http://www.bbc.co.uk/thefuture/pdfs/bbc_bpv.pdf>

sically public in ambition and effect. We may experience it individually, but it is never a purely private transaction. To turn on a TV or radio is to enter a communal space and to be constantly aware of and influenced by that fact. This shared experience may itself represent a significant public value – the communal glue which some call *social capital*.”

- Television broadcasters only partially comply with the public service requirements of the Communications Act 2003. There are significant deficiencies in this area.
- The market will continue without guaranteeing programming with citizen and social value.
- Public intervention is justifiable and sustainable in broadcasting.
- The BBC must continue to be a powerful public institution and the driving force behind quality and public service, by means of a wide range of activities. It must maintain its funding based on the licence fee, although the next *Royal Charter* must include mechanisms to assess the results and funding of the Corporation.
- Commercial plurality and competition in providing public service are an important factor. The idea that only the BBC should offer public service is not an efficient model.
- Greater decentralisation of broadcasting production is necessary with regard to London by means of a policy to encourage production in the regions and nations of the United Kingdom. Pluralism also has a territorial aspect.
- One fundamental aspect of pluralism lies in independent production of content. So a strong production sector with a wide variety of agents and suppliers is a source of creative competition that strengthens the plurality of points of view.
- A healthy environment should be guaranteed for children with a protected schedule. In any case, afternoon and evening programmes (including series) have an important social role with regard to dealing with complex and controversial issues.
- Digital technology has led to significant and permanent changes for the broadcasting industry and this situation will become more marked in the future. Ofcom should plan new ways to maintain and strengthen public service in the long term. In this respect, the idea is to create a Public Service Editor (PSE) conceived as a multimedia platform to produce and distribute digital content (TDT,

interactive TV, broadband, mobile TV and any other types that may appear in the future).

However, Ofcom's consultation generated points of disagreement among the participants:

- How to incorporate the new characteristics of public service into an applicable regulatory framework.
 - The criteria to measure the extent and impact of public service.
 - The capacity of commercial broadcasters to continue offering public service over the next 5 years and, especially, after the analogue switch-off in 2012.
 - The best strategy to guarantee plurality: promoting diversity in original productions, outsourcing to independent producers or encouraging the existence of many broadcasters?
 - Widening public funding beyond the licence fee and other forms of direct and indirect funding. If so, neither was there agreement as to the form this additional funding should take.
 - Criteria for an efficient and fair distribution of public funding.
 - How the requirements of public service can be balanced out between non-profit and commercial broadcasters?
- What is the future of Channel 4?

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